

1 CITY OF MORENO VALLEY PLANNING COMMISSION  
2 REGULAR MEETING  
3 CITY HALL COUNCIL CHAMBER – 14177 FREDERICK STREET  
4

5 Thursday May 28<sup>th</sup>, 2015, 7:00 PM  
6

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8  
9 **CALL TO ORDER**

10  
11 **CHAIR LOWELL** – Good evening ladies and gentlemen. I would like to call the  
12 May 28<sup>th</sup>, 2015 Regular Meeting of the Planning Commission to order. The time  
13 is 7:05 PM. Grace, can we have a rollcall please?  
14

15  
16 **ROLL CALL**

17  
18 **Commissioners Present:**

19  
20 Commissioner Ramirez  
21 Commissioner Korzec  
22 Commissioner Van Natta  
23 Commissioner Baker  
24 Vice Chair Sims  
25 Chair Lowell  
26 Alternate Planning Commissioner Lori Nickel  
27

28 **Staff Present:**

29  
30 Planning Official Richard Sandzimier  
31 Deputy City Attorney Paul Early  
32

33 **GRACE ESPINO-SALCEDO** – Commissioner Barnes will not be in today?  
34

35 **CHAIR LOWELL** – Correct.  
36

37 **GRACE ESPINO-SALCEDO** – Neither will alternate, Erlan Gonzalez?  
38

39 **CHAIR LOWELL** – Correct.  
40

41 **GRACE ESPINO-SALCEDO** – But, we do have Lori Nickel.  
42

43 **CHAIR LOWELL** – Okay. Thank you very much Grace. Carlos, would you like  
44 to lead us in the Pledge of Allegiance?  
45

1 **PLEDGE OF ALLEGIANCE**

2  
3  
4 **APPROVAL OF THE AGENDA**

5  
6 **CHAIR LOWELL** – Thank you. Would anyone like to motion to approve the  
7 Agenda for tonight’s meeting? Oh, the thing is not working.

8  
9 **COMMISSIONER BAKER** – I’ll move to approve the Agenda.

10  
11 **CHAIR LOWELL** – I’ll second it.

12  
13 **GRACE ESPINO-SALCEDO** – Because Commissioner Lori Nickel is not in the  
14 system, we will be doing a hand vote tonight.

15  
16 **CHAIR LOWELL** – Okay, easy enough, so we have a motion and a second?

17  
18 **VICE CHAIR SIMS** – Um-hum.

19  
20 **CHAIR LOWELL** – Can we have a rollcall vote please, Grace?

21  
22 **COMMISSIONER RAMIREZ** – Yes.

23  
24 **COMMISSIONER KORZEC** – Yes.

25  
26 **COMMISSIONER VAN NATTA** – Yes.

27  
28 **COMMISSIONER BAKER** – Yes.

29  
30 **DEPUTY CITY ATTORNEY PAUL EARLY** – Yeah, I’m going to butt in here. I  
31 didn’t know if you were aware of this. It is customary for a Commissioner who is  
32 not present for a prior meeting to abstain from votes on approving the minutes.  
33 You certainly, if you did attend the last meeting and read the minutes and wanted  
34 to vote to approve, you certainly have the ability to. But, I just wanted to let you  
35 know that that’s...

36  
37 **CHAIR LOWELL** – We are approving the Agenda right now.

38  
39 **DEPUTY CITY ATTORNEY PAUL EARLY** – Yeah, I know. I’m sorry. Either  
40 way, Agenda, Minutes, anything that you weren’t present for, an option you have  
41 is to abstain.

42  
43 **CHAIR LOWELL** – Thank you, Sir.

44  
45 **VICE CHAIR SIMS** – Yes.

46

1 **CHAIR LOWELL** – Yes. Now that we have approved the Agenda, we are  
2 moving on to the Consent Calendar, but I do not believe we have any Consent  
3 Calendar items?  
4

5 **COMMISSIONER VAN NATTA** – Before we do that could I ask, as far as  
6 procedure goes and we do have the alternate, should not that be something that  
7 is announced by the Chair at the beginning of the meeting that the alternate will  
8 be seated in place of whoever she is replacing rather than having the Clerk just  
9 ask her to sit down up here?  
10

11 **PLANNING OFFICIAL SANDZIMIER** – I think this is a good item to discuss, how  
12 we do it. I think what has just transpired is fine. I think that it actually kind of  
13 speaks for itself, but if you did want to do it as a formality in the future we could  
14 do that. That would be up to the Commissions desire on how you want to report  
15 that out.  
16

17 **CHAIR LOWELL** – Okay.  
18

19 **PLANNING OFFICIAL SANDZIMIER** – Because of the proposed rotational order  
20 of things, it is probably something that the Clerk will be maintaining the record of  
21 who would be the next person to call to, so it might be something you would  
22 defer to.  
23

24 **CHAIR LOWELL** – It is something that Grace could say well we have so and so  
25 who is available to fill in tonight, and then I would just call them up or something  
26 along those lines.  
27

28 **PLANNING OFFICIAL SANDZIMIER** – Yeah, it could be a part of the rollcall  
29 procedure.  
30

31 **COMMISSIONER VAN NATTA** – The more official way to do it is to have the  
32 Chair call the Alternate to be seated after the Clerk has advised who is available.  
33

### 34 **CONSENT CALENDAR**

35  
36  
37 *All matters listed under Consent Calendar are considered to be routine and will*  
38 *be enacted by one roll call vote. There will be no discussion of these items*  
39 *unless Members of the Planning Commission request specific items be removed*  
40 *from the Consent Calendar for separate action.*  
41

42 **CHAIR LOWELL** – Okay so we moved on to the Consent Calendar, but I do not  
43 believe we have any consent items.  
44  
45  
46

1 **APPROVAL OF MINUTES**

2  
3 None

4  
5  
6 **PUBLIC COMMENTS PROCEDURE**

7  
8 *Any person wishing to address the Commission on any matter either under the*  
9 *Public Comments section of the Agenda of scheduled items or public hearings,*  
10 *must fill out a “Request to Speak” form available at the door with our automated*  
11 *kiosk, which is down right now, and so we would actually be asking you to fill out*  
12 *a Speaker’s Slip. The completed form must be submitted to the Secretary prior*  
13 *to the Agenda item being called by the Chairperson. In speaking to the*  
14 *Commission, member of the public may be limited to three minutes per person*  
15 *except for the Applicant for entitlement. The Commission may establish an*  
16 *overall time limit for comments on a particular Agenda item. Members of the*  
17 *public must direct their questions to the Chairperson of the Commission and not*  
18 *to other members of the Commission, the Applicant, the Staff or the audience.*

19  
20 **CHAIR LOWELL** – We will move on to the Public Comments portion of the  
21 meeting tonight. Grace, do we have any Public Speaker Slips?

22  
23 **GRACE ESPINO-SALCEDO** – We do not have any, thank you.

24  
25 **CHAIR LOWELL** – Okay, do I need to close the Public Comment portion?

26  
27 **DEPUTY CITY ATTORNEY EARLY** – It’s not a hearing so you can just move on  
28 to the next Agenda item.

29  
30  
31 **NON-PUBLIC HEARING ITEMS**

32  
33 None

34  
35  
36 **PUBLIC HEARING ITEMS**

37  
38 None

39  
40  
41 **OTHER COMMISSION BUSINESS**

42  
43 **Rules of Procedures for Alternative Planning Commissioners (Report**  
44 **of: Community Development)**

1 **CHAIR LOWELL** – Moving on to Other Commission Business, which I have one  
2 item tonight which is Rules of Procedures for Alternate Planning Commissioners.  
3 Do we have the report by Staff today?  
4

5  
6 **PLANNING OFFICIAL SANDZIMIER** – Yes. Very quickly, while this is just  
7 mostly a discussion item amongst the Commission, we did take the liberty of  
8 putting together a simple Staff Report which is in your packet. The Staff Report  
9 indicates that, from summary standpoint, at your last Commission meeting you  
10 did form an Ad-hoc Committee made up of Chair Lowell, Commissioner Van  
11 Natta, and Commissioner Barnes. And, the sole purpose for the Ad-hoc  
12 Committee was to further investigate the Rules of Procedures that we want to  
13 consider with regard to the alternate Commissioners. There was also an  
14 intended purpose to try and meet with Council Members, so this evening it is our  
15 expectation that that Ad-hoc Committee will be reporting out their findings on that  
16 research and the meeting that they had with any Council Members. We also did  
17 include in your Staff Report the Rules of Procedure for the Commission as a  
18 whole. We would like to be amending those this evening. We also included a  
19 set of Rules of Procedure for the City of San Marcos, which were things that  
20 were discovered as part of the research by Chairman Lowell and follow-up to  
21 what we discussed at the last meeting. We also included the ordinance that was  
22 approved by the City Council for your information, so we believe that the  
23 information in the Staff Report and available to the Commission this evening  
24 adequately provides you with the information to take on the discussion this  
25 evening. We will be taking your discussion and adding them to another  
26 document that was circulated this evening on the dais. It is a Redline version of  
27 the current Rules of Procedure that were drafted in response to an earlier  
28 meeting this week with the Ad-hoc Committee; the City Attorney’s Office, Paul  
29 Early Representative; and myself and I would like to ask our Attorney, Paul Early,  
30 if he has anything else he would like to add.  
31

32 **DEPUTY CITY ATTORNEY EARLY** – Just that the draft Redline in front of you is  
33 just the result of the recommendations of that Ad-hoc Committee that I worked  
34 with them over the last basically 24-48 hours. We hashed out some proposed  
35 language here to bring before the Commission as a whole, and at this point I  
36 think the Committee might want to address their concerns and discussions with  
37 Councilmember Giba and then the Commission as a whole can provide any  
38 guidance or suggestions on how they may want this modified or if you would like  
39 to go forward in the docket as is.  
40

41 **CHAIR LOWELL** – Thank you everybody. As the Staff mentioned, we prepared  
42 an Ad-hoc Committee between Jeff Barnes, Meli Van Natta, and myself. We met  
43 with Councilman Giba this past Tuesday, and we discussed a couple items. One  
44 of them that Councilman Giba was involved with was possible revision to  
45 Ordinance #890. I do not have the revised ordinance. Do you guys happen to  
46 have that? Remember how we were going to try and add a fourth item?

1 **DEPUTY CITY ATTORNEY PAUL EARLY** – Yeah, we do not have the proposed  
2 revised ordinance yet.

3  
4 **CHAIR LOWELL** – The revised ordinance, we were very happy with the way it  
5 was written. We were going to add a 4<sup>th</sup> item. The ordinance reads: Alternate  
6 Members of the Planning Commission has an A, B and C. We relettered item C  
7 and inserted a new C. And, if I am not mistaken, that new C was referring to  
8 using an alternate to fill a permanent vacancy?

9  
10 **DEPUTY CITY ATTORNEY EARLY** – The additions that were proposed and  
11 supported by Councilmember Giba included language that cleared up that the  
12 Commission could continue to perform even if alternates were not available or  
13 vacant seats were up there, which was always the intent of both parties, but it  
14 was language just to clear that up. And, this additional provision that provided  
15 that if a seat became permanently vacant that the Council would select one of  
16 the two alternates to fill that until that seat became eligible for reappointment  
17 again, so a quicker way to semi-permanently fill that seat until the next turnover  
18 period came.

19  
20 **CHAIR LOWELL** – And that is just a formality we do not have the official revised  
21 ordinance yet because it has to go in front of City Council still, and we are still  
22 working on the language of that, I believe.

23  
24 **DEPUTY CITY ATTORNEY EARLY** – Correct, Councilmember Giba agreed to  
25 support it. He will need a 2<sup>nd</sup> Councilmember to put it on the Agenda, and we do  
26 not suspect that will be a problem. Then, assuming the entire account, I do not  
27 see any reason the Council would have any issues with those proposed  
28 changes. Sometime in mid June, we would expect those changes to come.

29  
30 **CHAIR LOWELL** – Then that moves us on to the Rules of Order. Our Planning  
31 Commission Rules of Procedure, I believe everybody has the revised items in  
32 front of you. It is pretty straight forward. In doing some due diligence, I did some  
33 research and spoke with the City of La Habra Heights. They have a Planning  
34 Commission that has, let me check my notes, I believe they utilize a 7-Member  
35 Planning Commission with two alternates. Negative. The City of La Habra  
36 Heights uses five permanent Planning Commissioners and one alternate. All six  
37 sit at the dais. All six get to participate in Commission discussions, hearing and  
38 answering public comments, but only five get to vote. The alternate just gets to  
39 sit up here, has a voice, but no vote. Similarly, the City of San Marcos uses  
40 seven Planning Commissioners like we do. They have two alternates, and the  
41 two alternates sit in the audience and only call up just like we did if the need  
42 arises. The City of San Marcos actually had some really good Rules of  
43 Procedures on how to address the alternates, which is what we have provided  
44 today. The Ad-hoc Committee discussed these in depth, and we have actually  
45 merged their Rules of Procedures, modified a few, and added our Rules of

1 Procedures. Does anybody have any questions or comments on the revolving  
2 alternates?

3  
4 **COMMISSIONER VAN NATTA** – Do other Commissioners get a copy of this  
5 ahead of time to look at it before the meeting?

6  
7 **DEPUTY CITY ATTORNEY EARLY** – Yeah, so if you have just gotten them,  
8 maybe I can review some of the highlights of some of those issues that we had  
9 discussed earlier and how we addressed them here. Would that be helpful?

10  
11 **CHAIR LOWELL** – I think we should just read through all the ones that we have  
12 changed to make sure that everybody is aware of what is going on.

13  
14 **DEPUTY CITY ATTORNEY EARLY** – So, on the 1<sup>st</sup> page, I just added that the  
15 organization consists of two alternates. But, then you'll see in Section C-1C a  
16 provision that was added that states that alternates cannot serve as Chair or  
17 Vice-Chair, so if the Chair position is vacant and an alternate comes to fill that  
18 seat, the Vice-Chair will run the meeting as the Chair. The alternate will fill the  
19 seat as a voting member but will not serve the duties in the capacity of a Chair or  
20 Vice-Chairman, so that is the first proposed change.

21  
22 **CHAIR LOWELL** – Similarly drilling down that line of thought, if both the Chair  
23 and Vice-Chair are absent, one of the regular-seated Commissioners would be  
24 Chair or run the meeting.

25  
26 **DEPUTY CITY ATTORNEY EARLY** – Correct, you would follow the procedure  
27 whereby the remaining members voted on who would be Chair for that meeting,  
28 and I suppose it is possible that an alternate could be selected by the body as a  
29 majority in that case, but it's not a case of....

30  
31 **CHAIR LOWELL** – This rule says you cannot do that.

32  
33 **COMMISSIONER VAN NATTA** – Would not be eligible to serve as Chair or Vice-  
34 Chair, so someone other than that alternate would have to be selected as Chair  
35 or Vice-Chair.

36  
37 **DEPUTY CITY ATTORNEY EARLY** – That would be the default, yes. You  
38 would have to change that by another vote, but that's the first substance of  
39 change there. So, alternates will come in as voting numbers, but they would not  
40 fill the seat they were filling in that capacity. Then, the rest of the changes  
41 appear in section 1G on Page 4. The first section, G1, I will read the whole thing.  
42 Alternate members of the Planning Commission should attempt to attend all  
43 meetings. In the event of an absence of a regular member, for all or any part of a  
44 meeting, an alternate member who is present shall be seated to serve as a full  
45 voting member of the Commission. If alternate members are not available to  
46 serve or are disqualified from serving for any reason, the Commission shall

1 continue with the remaining regular members as long as a forum is present. The  
2 Minutes shall reflect the attendance, seating, and voting record of any alternate  
3 member. This is mirroring the changes that were proposed to the ordinance to  
4 allow that they are only seated if they are present and that the regular  
5 Commission still can conduct business even in the absence of any voting  
6 member as long as there is a quorum present. Any other questions on that first  
7 section? Number 2: Alternate Members shall be called on a rotational basis if  
8 available. Each meeting will have a primary and secondary alternate, which  
9 assignment shall rotate every meeting. If there is more than one absence or  
10 vacancy, the secondary alternate may also be called to serve. The service or  
11 non-service of one or both alternate members at any meeting shall not affect the  
12 rotational order for any future meeting. For the first meeting after any  
13 appointment, the rotational order shall be established in alphabetical order by the  
14 last name of the alternate member. The intent here is that it switches who is the  
15 first name that is going to be called for every meeting, and that is regardless of  
16 who served at the last meeting. So, in this case if Ms. Nickel was the secondary  
17 today and she served, she'd be the primary at the next meeting and she would  
18 be the first name called again even though she served at this meeting. The  
19 rotation doesn't change. It is always the same. Any other questions on how that  
20 works?

21

22 **CHAIR LOWELL** – I like the way it rotates. It advises both alternates fairly.

23

24 **DEPUTY CITY ATTORNEY EARLY** – Yeah, whether they're absent or not, you  
25 can always count on who it is going to be. Section 3: If an alternate member is  
26 seated for any single item such alternate member shall continue to be seated for  
27 that item until the completion of the vote on that item without regard to the  
28 number of meeting dates the item is continued over. This is to resolve that  
29 multiple hearing Commissioner A, then Commissioner B, then Commissioner A  
30 problem. It will be A, B, B, B, B until the vote is taken.

31

32 **CHAIR LOWELL** – Or A, B, B, nothing.

33

34 **DEPUTY CITY ATTORNEY EARLY** – Correct.

35

36 **COMMISSIONER VAN NATTA** – Are we grammatically correct in ending the  
37 sentence with O?

38

39 **DEPUTY CITY ATTORNEY EARLY** – Probably not without regard to the number  
40 of meetings an item is continued. No, that would not be grammatically correct. It  
41 should just be period after continued. Thank you.

42

43 **CHAIR LOWELL** – Or which the item is continued.

44

45 **DEPUTY CITY ATTORNEY EARLY** – So, yes, even if the, oh, you got another  
46 one?



1 **COMMISSIONER VAN NATTA** – Right, it should be for which the item.

2  
3 **CHAIR LOWELL** – I think it should read, the very last line it says number of  
4 meeting dates for which the item is continued. It sounded a little more clear.

5  
6 **DEPUTY CITY ATTORNEY EARLY** – Okay, that change as well. So, as Chair  
7 Lowell noted, it could be if the alternate drops out after a period, so regular  
8 member, then an alternate member, and then it goes to a third and the alternate  
9 is not present for the third that seat just remains vacant. We don't revert back to  
10 the first member and we don't call a third alternate is the way I think we were  
11 intending that to be.

12  
13 **CHAIR LOWELL** – That's the clarified item, G5, where it says that if you are able  
14 to see or hear the transcripts you can sit.

15  
16 **DEPUTY CITY ATTORNEY EARLY** – Yeah G5 was the eligibility for that.

17  
18 **CHAIR LOWELL** – It seems like those two were kind of competing with one  
19 another. I'm trying to figure out how we should better clarify that.

20  
21 **DEPUTY CITY ATTORNEY EARLY** – Let's see, we skip to G5 and see?

22  
23 **CHAIR LOWELL** – Well let's just plow through number 4 first.

24  
25 **DEPUTY CITY ATTORNEY EARLY** – Okay, 4: Alternate member shall be  
26 deemed to be participating in meeting if they are seated for all or any part of a  
27 meeting. This is meant to clarify the language in the ordinance, which specifies  
28 that alternate member shall be paid if they are participating in a meeting, and  
29 we're just clarifying what participation means. Participation means that they are  
30 seated for, even if it is just for one item if they are seated on the days for an item  
31 or for an entire meeting, that that constitutes participation.

32  
33 **COMMISSIONER VAN NATTA** – Well, but that doesn't describe what being  
34 seated means.

35  
36 **CHAIR LOWELL** – We described it up in the beginning.

37  
38 **DEPUTY CITY ATTORNEY EARLY** – Seated as a voting Member?

39  
40 **COMMISSIONER VAN NATTA** – Seated as a voting Member, yeah, that would  
41 clarify that. They could just be seated?

42  
43 **CHAIR LOWELL** – Well, no, in G1 it says "in the event of the absence of a  
44 regular Member for all or any part of a meeting, an alternate Member who is  
45 present shall be seated to serve as a full voting Member of the Commission."  
46

1 **DEPUTY CITY ATTORNEY EARLY** – Yeah, I think adding as a voting Member  
2 is just further clarification, but yes it is identified with seated as in one.

3  
4 **CHAIR LOWELL** – Do you want to use the same language?

5  
6 **COMMISSIONER VAN NATTA** – No, it doesn't have to be that long.

7  
8 **CHAIR LOWELL** – To serve as a full voting Member of the Commission.

9  
10 **COMMISSIONER VAN NATTA** – Yeah.

11  
12 **CHAIR LOWELL** – Yeah.

13  
14 **DEPUTY CITY ATTORNEY EARLY** – So this purpose was just to clarify what  
15 the Council meant by participating. Section 5: If a hearing is continued and an  
16 alternate Commissioner is required for any subsequent hearing date, the  
17 alternate Commissioner shall make a statement on the record that they have  
18 attended all prior hearing dates, read all prior hearing transcript, or listened to the  
19 recording of all prior hearings on the item. If an alternate Commissioner has not  
20 met the aforementioned requirements, they shall be declared ineligible to be  
21 seated on the Commission for that item. If there are no eligible alternate  
22 Commissioners available, and I don't believe that should be apostrophe S, the  
23 hearing will continue as long as a quorum is present. So, in the case where  
24 somebody is absent for the first half of the meeting and they want to call an  
25 alternate for the second continued date on any given hearing, that alternate will  
26 have to have had the opportunity to either have attended the first meeting, read  
27 the transcripts, or listened to it. If it's continued to the next day and those  
28 transcripts aren't available or the video is not available and they could not do it,  
29 they would be ineligible to serve on that second day. And, procedurally what we  
30 will be asking to do to meet this is that when an alternate is seated midcourse on  
31 a hearing that they will make a statement to that effect on the record so that we  
32 have it in the record for any future.

33  
34 **PLANNING OFFICIAL SANDZIMIER** – If I may just add a clarification on item  
35 G3 and G5 since Ms. Nickel has taken a seat tonight. Under G3, if for some  
36 reason we were getting ready to do a public hearing this evening because she  
37 was seated as the alternate Member tonight and she would be the first  
38 Commissioner to hear the public hearing on the item that would come before  
39 you, if that public hearing was continued this evening even if Commissioner  
40 Barnes returned at the next meeting, the expectation would be for Ms. Nickel to  
41 take the seat when that item comes up on the next meeting or whenever that  
42 meeting was continued to, so that's because she is seated today where that first  
43 date was heard. Now, say we were in the midst of a public hearing that started  
44 at your last meeting and Commissioner Barnes was here and then now under G5  
45 Mr. Barnes is not here, so Ms. Nickel takes the seat. This is the point where she

1 would be declaring that she did go back listen to the tapes or read the minutes  
2 whatever before she took action on it.

3  
4 **COMMISSIONER VAN NATTA** – Or attended.

5  
6 **PLANNING OFFICIAL SANDZIMIER** – So that’s what we are talking about  
7 tonight so just using her as an example since she’s here tonight.

8  
9 **DEPUTY CITY ATTORNEY EARLY** – And with respect to the possible conflict  
10 that Chair Lowell mentioned, I would suggest adding the phrase to the very  
11 beginning of Section 5 that says: Notwithstanding the provisions of 1-G3, if a  
12 hearing is continued because the purpose here is what’s the more important  
13 one? The more important one is that the Commissioner is disqualified if they are  
14 not prepared, not that they continue serving until the vote. Is that the conflict that  
15 you were identifying?

16  
17 **CHAIR LOWELL** – I’m sorry, I was reading aimlessly.

18  
19 **DEPUTY CITY ATTORNEY EARLY** – Between G3 and G5 I thought that you  
20 had mentioned that you saw a conflict, and the one that I see is that G3 says that  
21 the person remains seated until there is a vote. G5 says, if they are not caught  
22 up, they are disqualified. And, they can’t be seated.

23  
24 **CHAIR LOWELL** – Well, no, what I was going for is that it says, if an alternate  
25 Member is seated they are going to stay seated for the rest of that hearing.

26  
27 **DEPUTY CITY ATTORNEY EARLY** – Right.

28  
29 **CHAIR LOWELL** – But, item Number 5 says, if there is a vacancy and an  
30 alternate says hey yeah I have heard everything, I have read all the meeting  
31 minutes, I have watched the video, and I am up to speed then that alternate can  
32 jump in, so...

33  
34 **DEPUTY CITY ATTORNEY EARLY** – I believe it is written the opposite, in the  
35 negative. It says that, if a hearing is continued and an alternate is required  
36 pursuant to G3, that alternate has to make a statement or they’ll be disqualified.

37  
38 **COMMISSIONER VAN NATTA** – Well I think that you’re reading something else  
39 in there.

40  
41 **CHAIR LOWELL** – What I was saying is that we had the scenario of  
42 Commissioner A, A, A throughout all the meetings or we had a Commissioner A  
43 with alternate B, B, or nothing. What if we had the situation where it went A, B,  
44 and we had a C scenario where say we had a third meeting and the alternate  
45 was unavailable but the second alternate became available and they were there  
46 for meeting one and meeting two, according to G5, that alternate #2 could jump

1 in on the third day because they technically were there at the meeting, or they  
2 saw the video, or they read the minutes, I am just trying to clarify that we are  
3 going with an A, B, and B only situation, or do we have the option of an A, B, and  
4 a C?

5  
6 **PLANNING OFFICIAL SANDZIMIER** – My understanding in the, of the,  
7 interpretation of G3 is that, once an alternate takes the seat and starts to hear an  
8 item as long as you are continuing that item whether it's one more meeting, two  
9 more meetings, five more meetings, that alternate is the one who has to stay  
10 involved with that particular project until the vote.

11  
12 **CHAIR LOWELL** – Correct, but what if on the next meeting we had to continue  
13 it?

14  
15 **PLANNING OFFICIAL SANDZIMIER** – If the next meeting they are not there,  
16 the other alternate cannot step in to replace the other alternate who is not there  
17 anymore. You just, so long as you have a quorum, then that item can continue to  
18 be discussed.

19  
20 **CHAIR LOWELL** – But what I was trying to debate on is that it says.

21  
22 **DEPUTY CITY ATTORNEY EARLY** – Right, he thinks 5 might provide a conflict.

23  
24 **CHAIR LOWELL** – I think that 5 says that if there is availability.

25  
26 **DEPUTY CITY ATTORNEY EARLY** – Let's clarify first before we tweak 5, I  
27 would want to clarify that that is in fact what the intent what everybody wants.

28  
29 **CHAIR LOWELL** – I like that. It adds continuity. It adds the option of one  
30 substitute and then you're done, and I thought that would be the intent.

31  
32 **DEPUTY CITY ATTORNEY EARLY** – That was going to be my suggestion, is  
33 that we include language that specifically says that if that's the direction then only  
34 one alternate can be seated for any given seat.

35  
36 **CHAIR LOWELL** – I think that would be the most fair for the applicant, for  
37 everybody involved, and there will be more continuity. Then, if we had to use a  
38 substitute, it would stop at that substitute. We wouldn't add more fluctuation or  
39 variability to the scenario, so I think it goes A throughout or A, B and that's it.

40  
41 **COMMISSIONER VAN NATTA** – Okay, I have a question. Okay, now I can see  
42 let's just say you have a three night scenario, one item being held over three  
43 nights, and Commissioner is there for night one and for some unforeseen reason  
44 he is not there for night two so the alternate takes over. So ideally then the  
45 alternate would continue through night three and finish out. Now, let's say

1 something happens and for some reason that alternate cannot come in on night  
2 three, so our options would be Commissioner replaces?

3  
4 **CHAIR LOWELL** – The first one, the original.

5  
6 **COMMISSIONER VAN NATTA** – The Commissioner who began replaces comes  
7 back in, or it is blank nobody is there.

8  
9 **CHAIR LOWELL** – Um-hum.

10  
11 **COMMISSIONER VAN NATTA** – Which hopefully does not create a quorum  
12 problem, or another alternate is placed.

13  
14 **CHAIR LOWELL** – Correct.

15  
16 **COMMISSIONER VAN NATTA** – And so of those three, if the alternate who was  
17 there on night two is not available on night three, it seems to me that the most  
18 practical thing to do if the Commissioner that the alternate replaced is now  
19 available and can also certify that he listened to the transcripts or the video or  
20 whatever then that Commissioner then could come back and finish out the  
21 hearing. And, I think that would give more continuity than bringing in a second  
22 alternate without leaving a blank space that might end up with possibility of a split  
23 vote or lack of quorum or something like that, so how would we handle the  
24 verbiage?

25  
26 **DEPUTY CITY ATTORNEY EARLY** – Well, that's where we need to kind of get  
27 consensus of which of those three options the Commission wants to go with. All  
28 three of them are viable options for you that's why I want to kind of address that  
29 before we tweak the following ones because one is kind of dependent on the  
30 other, so you may want to have some discussion to see which way you go. My  
31 opinion from a legal standpoint, the less change the better, if from a challenging  
32 standpoint. So from a perspective solely for protecting against challenge, my  
33 preference is not to have an alternate at all. If we have to have an alternate, my  
34 preference is that once an alternate is seated they stay there forever, and then if  
35 that alternate is gone that not another layer of change is coming whether it is an  
36 alternate or an original Commissioner. Those will be my preferences from  
37 protecting against a legal challenge point of view, but all of them are viable, all of  
38 them are legal, I believe. And, it is really being left to you. The Council has kind  
39 of left that decision to you.

40  
41 **CHAIR LOWELL** – But, let me interject a little bit more. In following down that  
42 line of less change is better, would it be better not to have the option of seating  
43 an alternate half way through a hearing so if they miss day one and then an  
44 alternate wanted to jump in on day two, it wouldn't happen? So, basically what  
45 I'm saying is that, if Lori is here today and we had an item that was continued to  
46 our next meeting, Lori would be here regardless and there would be no option for

1 somebody to fill in. So, if I was absent at the next meeting and we were in the  
2 middle of an item, my seat would just stay vacant.

3  
4 **DEPUTY CITY ATTORNEY EARLY** – Yes, but let me qualify that with we  
5 already have a practice, and it’s fairly normal not just here but everywhere,  
6 without alternates being in the picture at all if a Commissioner was absent for the  
7 first half of the hearing they could come in on the second half if they have  
8 certified that they caught themselves up. So putting somebody in half way in and  
9 of itself isn’t a problem for me. I just want to reduce the amount of times that that  
10 happens.

11  
12 **CHAIR LOWELL** – Well what I was kind of hinting towards was continuity, so  
13 whatever governing body appear and heard the opening of the item should be  
14 there for the closing of the item, but no substitutes half way through.

15  
16 **COMMISSIONER VAN NATTA** – In other words, if there is someone who is  
17 vacant when the item is called, if the position is vacant when the item is called,  
18 you would call up an alternate. If the position was not vacant when the item was  
19 called, even if it becomes vacant during the process of multiple hearings, an  
20 alternate would not be brought in in the middle of the hearing item.

21  
22 **DEPUTY CITY ATTORNEY EARLY** – Right, you’ve certainly identified a fourth  
23 option there. I am looking back at the ordinance to make sure how it’s written  
24 and what that would allow or disallow, and it just states if a regular Member of the  
25 Commission is absent for any reason at all or any part of a regular or special  
26 meeting so it does not identify it by hearing. I would think that that’s an  
27 interpretation that is being left to the Planning Commission pursuant to that  
28 ordinance, so I would feel comfortable saying that that’s a fourth option.

29  
30 **CHAIR LOWELL** – Well, we would still have the option that if a Commissioner  
31 was absent and both alternates were absent and we had a completely vacant  
32 seat at the beginning of the hearing that either the regular Commissioner or  
33 either of the alternates when they became available at the following meeting  
34 would still have the option of reading, watching, or catching up to speed with  
35 what happened at the previous meeting and still be able to fill that vacancy half  
36 way through. But, it would not be a change of seat. It would just be filling a  
37 vacancy that was already vacant.

38  
39 **PLANNING OFFICIAL SANDZIMIER** – Let me make a suggestion just for  
40 consideration. If a regular Commissioner is absent from a meeting there is still  
41 all the other business on an Agenda, and sometimes there are multiple items on  
42 an Agenda, so an alternate could be called up to fill the seat that is vacant to  
43 conduct their business on all the items on the Agenda. But if there is a continued  
44 item on the Agenda one option would be for the alternate, if there still is a  
45 quorum, to recuse themselves from that particular continued discussion on that  
46 particular public hearing. That would be one option so they could participate in

1 the meeting for, say you got five items on there. They participate for four and  
2 one is a continued item. Since they did not participate in the first one, they'd just  
3 recuse themselves and there is just six members involved in that particular item.

4  
5 **DEPUTY CITY ATTORNEY EARLY** – We could certainly draft language for  
6 public hearing purposes.

7  
8 **CHAIR LOWELL** – As a point of clarity, if that was the situation, I think that the  
9 person that is sitting up in the vacant seat should still be able to participate in  
10 discussion but just not have a vote.

11  
12 **PLANNING OFFICIAL SANDZIMIER** – Similar to the way they do it maybe in  
13 San Marcos or was it La Habra Heights? The one that sits there. I think it's the  
14 one in La Habra Heights you said sits up there.

15  
16 **CHAIR LOWELL** – I have it written down. City of La Habra Heights.

17  
18 **PLANNING OFFICIAL SANDZIMIER** – They do participate in the discussion, but  
19 they do not have a vote.

20  
21 **VICE CHAIR SIMS** – You know, I'm going to bite my comments on this. Just for  
22 rule making, just jump in and do it. Just for the rule making procedures here, I  
23 think there has to be part of the transparency of the process of a public hearing is  
24 the interaction of the Planning Commissioners through the process of the  
25 Applicant, the Staff, hearing the public comments and so forth and so on. I think  
26 it's inherently difficult for any kind of transparency and continuity of process to  
27 have alternates come up that say, oh I reviewed the video but not been part of  
28 the participative process. So in the scenario that a public hearing starts, regular  
29 Commissioners are all present, goes and gets continued, goes to second  
30 meeting and regular Commissioner is gone, alternates get seated. That  
31 Commissioner regardless if they said yeah I looked at the thing we not part of the  
32 participative process. It is inherently unfair to the rest of the Commissioners  
33 because during the participative part of the thing one of the Commissioners I  
34 value the input from all of my Commissioners. We all come from different  
35 backgrounds and they will see something at a different spot and through the  
36 going back and forth and discussing they ask a question, or we question one  
37 another, the mind moves forward in the decision-making process. In the  
38 absence of that, the alternate does not get that opportunity. They may have a  
39 question, but they cannot ask and get answered. Second of all, if the alternate  
40 comes up in the continued meeting, then all the participants that were in the  
41 meeting that made it, the public, the applicant, their consultants, whoever may  
42 not be there to ask a particular question that upon review of the video the  
43 alternate couldn't ask and so it stymies due process of a public hearing. It just  
44 inherently is bad. It should be the policy the procedure has for business to be  
45 conducted by a quorum of the regular Planning Commission, and in the absence  
46 of that you know, if you don't have a quorum you don't have a meeting so I

1 personally think the ordinance is not a well thought out ordinance. I could go on.  
2 I'll reserve my comments because I can feel myself getting worked up. I just  
3 think we have to come up with rules, and so I will participate in the rule-making  
4 process so we can have a point of order to go forward. If we have a seating  
5 person, I do believe if they're not there for all of the public hearing they should  
6 not be sat in because it stymies the process. If they're not in, they're out at the  
7 beginning. If they're like, for instance tonight if Commissioner Nickel is here and  
8 we were in a public hearing process, then that Commissioner should stay on for  
9 the entire meeting. It's clean, it's done. The regular Commissioner just would  
10 have to sit out. It's just that simple. They are fully vested in the participant  
11 transparent procedure. That's my two cents.

12  
13 **COMMISSIONER VAN NATTA** – I think the easier way to address that, and I  
14 agree with you. I think that's correct, and it makes it a lot simpler, but we have to  
15 differentiate between the meeting and the hearing. You know, the item and the  
16 meeting as in the date that they're here. And, if we were to put in there that in  
17 order for an alternate to participate in an item they have to be seated at the  
18 beginning of that item and then they are the Commissioner for that seat for that  
19 entire item.

20  
21 **CHAIR LOWELL** – That's what Number 3 says.

22  
23 **COMMISSIONER VAN NATTA** – Yeah, but then that would take 5 where it says  
24 that they could be seated if they said that they had heard all of the rest of the  
25 earlier testimony they could be seated. And, I agree with you. I think there is a  
26 lack of transparency, a lack of process, if the person who is voting on that item  
27 was not actually a participant in that entire hearing. And so if you're going  
28 through an item, and it's continued to another night and the Commissioner is not  
29 available on that second night, you would not seat an alternate in the middle of  
30 hearing that one item.

31  
32 **CHAIR LOWELL** – Yeah, I'm thinking Number 5 needs to be either stricken or  
33 rewritten.

34  
35 **COMMISSIONER VAN NATTA** – The last sentence is good.

36  
37 **DEPUTY CITY ATTORNEY EARLY** – Yeah, and I am starting to hear a  
38 consensus, but I don't quite know if I have four yet to say that that's the direction  
39 we want to go is to close it off to allowing an alternate to be seated in the middle  
40 of a continued public hearing, which I think is the debate that I'm hearing.

41  
42 **CHAIR LOWELL** – I think the alternate is being confused that is seated at the  
43 beginning of a hearing for a specific item should be the person responsible for  
44 the entire duration of that specific hearing item.

45  
46 **VICE CHAIR SIMS** – I agree.



1 **CHAIR LOWELL** – I think changing seats in the middle of a hearing is a bad  
2 idea, and the more and more I wrap my brain around it I kind of like the idea of  
3 consistency throughout that specific item.

4  
5 **DEPUTY CITY ATTORNEY EARLY** – Alright, I'm seeing at least four nods there,  
6 so we can certainly address that.

7  
8 **PLANNING OFFICIAL SANDZIMIER** – What I'm hearing in there is the absence  
9 of a Commissioner doesn't mean the alternate can't be seated for the purpose of  
10 the meeting.

11  
12 **DEPUTY CITY ATTORNEY EARLY** – Correct.

13  
14 **PLANNING OFFICIAL SANDZIMIER** – On that particular item on the Agenda,  
15 like if they had a conflict, you would recuse yourself.

16  
17 **DEPUTY CITY ATTORNEY EARLY** – Correct.

18  
19 **PLANNING OFFICIAL SANDZIMIER** – Same process.

20  
21 **COMMISSIONER VAN NATTA** – Step down.

22  
23 **PLANNING OFFICIAL SANDZIMIER** – So just for that item, but they still  
24 participate in the rest of the meeting.

25  
26 **COMMISSIONER VAN NATTA** – Yes.

27  
28 **PLANNING OFFICIAL SANDZIMIER** – So anything that is an original item on  
29 the Agenda basically.

30  
31 **DEPUTY CITY ATTORNEY EARLY** – Yeah.

32  
33 **CHAIR LOWELL** – So say we had a full body of all seven Commissioners up top  
34 and meeting one they're all present, but a hearing item was continued to day two  
35 and for whatever reason on day two the Planning Commissioner was absent for  
36 the entire meeting, an alternate would be called up to sit for that entire meeting.  
37 But, on that specific hearing item, wouldn't be allowed to vote. They could  
38 participate but just not vote.

39  
40 **COMMISSIONER VAN NATTA** – Well they wouldn't even be participating. I  
41 would be like a recusal where they would step down for that item and not be a  
42 participant for that item and then come back for the rest of the meeting. I don't  
43 think they'd need to physically leave like you do in a conflict of interest scenario.

44  
45 **CHAIR LOWELL** – I think participation would be okay, but I think for continuity, I  
46 think voting should be nulled. But I'll defer to rest of this.

1 **VICE CHAIR SIMS** – I don't think they should be able to even participate in it. If  
2 they are not part of the original part of the public hearing that is being held, they  
3 should not be able to participate with the whole.

4  
5 **COMMISSIONER VAN NATTA** – Yeah, I agree.

6  
7 **VICE CHAIR SIMS** – Because it mucks it up for the process. I think from a legal  
8 standpoint it's just fraught with potential for challenge, and there are going to be  
9 procedural problems. It's all going to be the devil in the detail on any kind of  
10 challenge on a significant project that we're self-building challenges into our  
11 procedural process. I still don't understand why we're doing this because it's  
12 very clear we can continue with business as a city with a quorum of the regular  
13 Commissioners. But, anyhow, so be it. It's just the less that we have of  
14 fluctuation, and you have transparency in the participation, I think is less  
15 susceptible to challenge.

16  
17 **COMMISSIONER KORZEC** – Could I say something? I think if you have  
18 someone visually sitting up here not being allowed to vote, it sends a very  
19 conflicting message to the people in the audience. Everyone sitting there is  
20 going to think well why is that person sitting there? They can't vote. I think  
21 visually it sends a message of some sort of inconsistency. And, if they're not  
22 allowed to vote, I think the seat should be empty.

23  
24 **PLANNING OFFICIAL SANDZIMIER** – Okay, so what I think I am hearing there  
25 is they can leave the dais. They don't necessarily have to leave the room.

26  
27 **CHAIR LOWELL** – Correct.

28  
29 **PLANNING OFFICIAL SANDZIMIER** – They can sit in the audience. Like in a  
30 recusal when you have a conflict you actually have to leave the room, but in this  
31 particular situation what I think I'm hearing is the Commissioner would step down  
32 and sit in the audience. Now, one other thing that was brought up was if an  
33 original Commissioner is there and was absent at a second meeting, but it goes  
34 to a third, in this particular situation it sounds like to me that the original  
35 Commissioner would resume the seat at the third hearing if they're available for  
36 that meeting so long as they also brought themselves back up to speed on  
37 whatever took place at the second hearing, or whatever meeting they missed if  
38 there were multiple meetings. Is that something you were considering also, or  
39 once a Commissioner misses the second of possibly multiple meetings, are they  
40 out?

41  
42 **CHAIR LOWELL** – No. I think the rules would still apply where you could catch  
43 yourself up and be reseated for the rest of the items, which is the way we've  
44 been operating.

1 **PLANNING OFFICIAL SANDZIMIER** – And that will also apply to the alternate  
2 so the alternate started and the alternate wasn't available for the second  
3 meeting, but it went to a third meeting and the alternate brought themselves up to  
4 speed, they still continue with that item.

5  
6 **CHAIR LOWELL** – Correct. I believe that's what we were going for.

7  
8 **DEPUTY CITY ATTORNEY EARLY** – Yeah, you would have to treat it that way if  
9 you were going to go down this path.

10  
11 **COMMISSIONER VAN NATTA** – Well and that brings the question of does that  
12 constitute participation in that center portion. Let's say we have something that  
13 goes three nights. Someone is here for the first night. They are not here for the  
14 second night. They are back for the third night because I know we talked once  
15 before about attendance, you know, by telephone or by Skype or something like  
16 that.

17  
18 **CHAIR LOWELL** – They would have every option that all the rest of us do to  
19 attend via telephone at a remote location.

20  
21 **COMMISSIONER VAN NATTA** – Would that be the way that the attendance for  
22 that missing meeting would be satisfied, or would the option of listening to the  
23 tape or reading the transcript be an option for the missed portion of the meeting  
24 for either a Commissioner or an alternate?

25  
26 **CHAIR LOWELL** – I think the rules should apply globally.

27  
28 **COMMISSIONER VAN NATTA** – Yes.

29  
30 **CHAIR LOWELL** – If we have specific rules saying that if a Commissioner wants  
31 to attend the meeting remotely, an alternate Commissioner would have that  
32 same ability should the situation arise where it's a continued meeting and they're  
33 used. But, in order to be initially seated for an item, they have to be physically  
34 present. If they are not physically present, we cannot.

35  
36 **DEPUTY CITY ATTORNEY EARLY** – It doesn't matter because you can  
37 agendize the telecommunication, which has to be done in advance so that  
38 wouldn't be an issue. It would have to be physically present for an alternate to  
39 be served.

40  
41 **CHAIR LOWELL** – But, as far as using an alternate over multiple dates, if they  
42 miss one they can catch up to speed again as long as it is that same person for  
43 the entire hearing.

44  
45 **DEPUTY CITY ATTORNEY EARLY** – It would be treated the same as a regular  
46 Commission Member.

1 **COMMISSIONER VAN NATTA** – But, is that an option that regular  
2 Commissioner Members have now under our current Rules of Procedure?

3  
4 **DEPUTY CITY ATTORNEY EARLY** – Yes.

5  
6 **COMMISSIONER VAN NATTA** – To catch up?

7  
8 **DEPUTY CITY ATTORNEY EARLY** – Yes.

9  
10 **COMMISSIONER VAN NATTA** – Rather than to remotely attend?

11  
12 **DEPUTY CITY ATTORNEY EARLY** – Yes, and the rules as they are being  
13 suggested right now would be furtherance of that because if you were present at  
14 the first and absent for the second, and it went to the third, there wouldn't be an  
15 alternate that would be placed in their spot so it would still be the one-body rule  
16 or the one person per hearing. But, you could have two different people sitting in  
17 a seat over the course of a meeting.

18  
19 **COMMISSIONER VAN NATTA** – Yes.

20  
21 **DEPUTY CITY ATTORNEY EARLY** – Because of that you might have an  
22 alternate that comes up because she was the one who was at the first part of that  
23 public hearing portion of that meeting, so you could have some musical chairs  
24 that occur during any given meeting rarely. But that would certainly and, as  
25 some of the Commissioners have stated, would be legally cleaner.

26  
27 **VICE CHAIR SIMS** – So, while I'm hot, can I warm up? I think I'm warmed up,  
28 before I get hot.

29  
30 **COMMISSIONER VAN NATTA** – Did we get that pretty well covered to where  
31 you know?

32  
33 **DEPUTY CITY ATTORNEY EARLY** – I think I have a pretty good idea of what I  
34 need to do with respect to items G3 and G5 to meet those concerns. I'm going to  
35 go back and look at ordinance 890 as well since we already have that on the  
36 table with the Council. We may want to make sure that the language of that  
37 further supports this so that we don't have a situation where we are in conflict  
38 with what the Council's intent was. And, since we've already got a Council  
39 Member who is looking at supportive of those amendments, it's a good time to do  
40 that.

41  
42 **CHAIR LOWELL** – Just out of curiosity, item G5 where it's talking about being  
43 able to catch up to speed on an item, I don't see that in our regular Rules of  
44 Procedure for everybody else.

45  
46 **COMMISSIONER VAN NATTA** – I didn't either. That's why I asked.

1 **DEPUTY CITY ATTORNEY EARLY** – I was looking for it as well. It's not there.  
2 It's covered by case law, so it does exist. It does happen.

3  
4 **CHAIR LOWELL** – Specifically call that in our rules.

5  
6 **DEPUTY CITY ATTORNEY EARLY** – Right, but we can add that to our rules for  
7 all Commissioners as a blanket statement.

8  
9 **COMMISSIONER VAN NATTA** – I think quite likely when the rules were first  
10 written many years ago some of these options were not always available.

11  
12 **DEPUTY CITY ATTORNEY EARLY** – Right.

13  
14 **CHAIR LOWELL** – In digging out a rabbit hole a little bit further, item number G6  
15 where it says alternate Members may participate in discussion and debate of an  
16 Agenda item only if seated as a voting Commissioner, I forgot what I was going  
17 to say.

18  
19 **VICE CHAIR SIMS** – Oh, no.

20  
21 **CHAIR LOWELL** – Dang it.

22  
23 **VICE CHAIR SIMS** – Oh, no.

24  
25 **ALTERNATE COMMISSIONER NICKEL** – Can I make a...

26  
27 **CHAIR LOWELL** – Yeah, by all means.

28  
29 **DEPUTY CITY ATTORNEY EARLY** – Yes.

30  
31 **ALTERNATE COMMISSIONER NICKEL** – Okay. I just want to make sure that  
32 when an alternate is not seated and voting and not in the course of the debate  
33 with fellow Commissioners that they still have the right to public comment on a  
34 public hearing item.

35  
36 **DEPUTY CITY ATTORNEY EARLY** – Any Commissioner or alternate, same  
37 goes for a Council Member, always has the right to leave the dais and go make  
38 public comment. It is an absolute right as a citizen that you do not give up by  
39 becoming a Commissioner or a Council Member or anything else.

40  
41 **ALTERNATE COMMISSIONER NICKEL** – Alright.

42  
43 **DEPUTY CITY ATTORNEY EARLY** – However, as is always the case with us  
44 lawyers.

45  
46 **ALTERNATE COMMISSIONER NICKEL** – Yes.

1 **DEPUTY CITY ATTORNEY EARLY** – I advise strongly against it because, once  
2 you do that, you are creating an appearance of bias if not an actual bias for  
3 which you will not be able to adjudicate should you be called as an alternate at a  
4 future date.

5  
6 **ALTERNATE COMMISSIONER NICKEL** – Good point.

7  
8 **DEPUTY CITY ATTORNEY EARLY** – You’re somewhat disqualifying yourself by  
9 doing that in some cases, so it’s an opportunity that you have lawfully to do to get  
10 up at public comment on an item. But, by doing so, you may be foreclosing your  
11 opportunity to serve on an item that comes...

12  
13 **CHAIR LOWELL** – But what we just discussed is that, if that item is already up  
14 for public comments, the Commissioners that are seated up here would be the  
15 permanent body for that specific item. So, if an alternate is in the audience, they  
16 could still talk and they wouldn’t have any option to vote.

17  
18 **DEPUTY CITY ATTORNEY EARLY** – Yes, but as you know sometimes the  
19 same or similar item or similar developer or similar project will come before the  
20 Commissioner for which they may be called as an alternate and that comment  
21 from the past may be related.

22  
23 **CHAIR LOWELL** – The bias, gotcha.

24  
25 **DEPUTY CITY ATTORNEY EARLY** – So, again, you can do it. I just don’t  
26 suggest it.

27  
28 **ALTERNATE COMMISSIONER NICKEL** – I would defer to the Attorney and  
29 Staff.

30  
31 **PLANNING OFFICIAL SANDZIMIER** – Well one thing I would also throw out  
32 there is, if any Commissioner or Council Member chose to do what the attorney  
33 said here, they are going to be limited to public speaking once in an item. The  
34 same amount of time of anyone else from the public, so they wouldn’t be treated  
35 as you guys as Commissioners get to debate and go back and forth and might  
36 have multiple times to speak. I would hope that you guys are understanding that,  
37 whether you as a Commissioner or an alternate was to go down at the podium,  
38 they can’t come back and forth and participate multiple times.

39  
40 **DEPUTY CITY ATTORNEY EARLY** – And, I’m going to carry that one step  
41 further. Thinking in terms of conflict of interest, if you have a project that you’re  
42 within the radius of for conflict purposes even if you’re an alternate, I would  
43 suggest that you leave the room as a regular member would do. Even if you’re  
44 not being seated and you don’t speak on the item because even as an alternate  
45 you may be, and this is uncharted territory for me legally just because the  
46 alternate thing isn’t widely used so we don’t have the case law to tell us what

1 would happen, but my interpretation is that you would be treated the same as  
2 any other member of the body even as an alternate.

3  
4 **ALTERNATE COMMISSIONER NICKEL** – Yes, I would concur with that.

5  
6 **DEPUTY CITY ATTORNEY EARLY** – Mr. Sims.

7  
8 **VICE CHAIR SIMS** – A couple things. I think I had comments the last time about  
9 this when we were talking about this, but typically in a business or any kind of  
10 organization where you're establishing policy you're working towards a strategic  
11 rationale or business case why you would make policy or why are we going to do  
12 something. So I was remised for not raising my hand to be part of the Ad-hoc  
13 Committee, but primarily I would have asked the question of the Council what  
14 was the intent? Why? It's because there's nothing in the ordinance that leads  
15 you to understand the rationale for doing this. From a policy standpoint, I mean I  
16 think the attorney has clearly provided that there are issues with this. You know,  
17 it could be worked out. Apparently, there have been cities that have established  
18 rules, 30-year-old rules, with some kind of procedure for alternates. But, at the  
19 end of the day, I am going to repeat myself from what I said the last time. In the  
20 absence of knowing why we're doing this, you have to look at things in the  
21 extreme. If it was legally possible, how does the City Council conduct business  
22 when one of the regular Council people is not in attendance. If there is a quorum  
23 or the Council, they continue doing their business regardless if it's a public  
24 hearing, regardless if it's public comments, regardless if it's a consent item. It  
25 just goes forward. I don't understand what that is. If you could have an alternate  
26 Councilperson for each of the divisions maybe that, but look at it in the extreme.  
27 Second of all, the ordinance is strictly applicable only to the Planning  
28 Commission. There are many other Commissions that the city does business  
29 through that provide discretionary advice to the council to consider in making  
30 business with the city. No of the other Commissions are prescribed to have  
31 alternates. I think it is inherently discriminatory. It makes no commonsense.  
32 Third, if you take it to the extreme, if we had a public hearing tonight and this is a  
33 very good night for this, regular Commissioner Barnes is absent. Alternate  
34 Commissioner Nickel's is here. I forgot the other alternate Commissioner's  
35 name, but he's absent tonight. I get sick right now. I can't make it. What  
36 happens? Do we stop business if the intent was you're supposed to have a  
37 seated Commissioner in every one of these chairs? We've defeated the purpose  
38 of the alternates because now we have an empty seat. It just seems we're sitting  
39 here picking fly specks from pepper on rules that we don't have any  
40 understanding of the intent of what the purpose is for this. It just seems  
41 incredible to me. Anyhow, I'm done. I'm off my soapbox. I'll go back to sleep.

42  
43 **CHAIR LOWELL** – I think the ordinance should be removed, but...

44  
45 **VICE CHAIR SIMS** – Well it can be. It can be repealed, and I'm not so  
46 guaranteed that, if we repeal the ordinance they're superseded, we could do that.

1 We're talking about doing an amendment. They can amend this thing to  
2 supersede it and resend it.

3  
4 **CHAIR LOWELL** – Correct and currently we're trying to figure out how to deal  
5 with the cards we were dealt so.

6  
7 **COMMISSIONER BAKER** – Chairman, I want to make one comment. When this  
8 first came up, and excuse my voice here, the idea of this was like to have a  
9 couple ordinances ready to go when somebody either moved on to another  
10 venue or whatever, not this voting alternate deal. That wasn't the way I  
11 understood this. When we discussed this, it was to have one or two people in  
12 the wings that's already been vetted ready to come up here to take whether it  
13 would have been Jeff Giba's place or when the gal left, Amber Caruthers. That's  
14 the way I thought it was supposed to be, not to have an alternate to come in here  
15 to fill in the meeting but to fill in a vacancy. Am I wrong on this? That's the way I  
16 understood it.

17  
18 **COMMISSIONER VAN NATTA** – That was when we first talked about it.

19  
20 **COMMISSIONER BAKER** – Back when we first talked. Not this rotating deal in  
21 and out, and I'm not against that. But, I think this is really complicated. I mean,  
22 I'm sitting up here and I don't totally understand, and I don't know how the public  
23 would. That's just my opinion on it.

24  
25 **PLANNING OFFICIAL SANDZIMIER** – If I may just interject. I believe in the  
26 meeting we did have with Councilmember Giba that question was somewhat  
27 asked and I think the reply, though it wasn't real detailed, was that an opportunity  
28 for more participation from the city that there was an expressed interest that  
29 there's a lot of people I guess that want to be engaged in city business, and this  
30 was perceived as an opportunity for that. I think the Commissioners that might  
31 have been present may have heard it and interpreted it differently, but that's what  
32 I did hear. Just for the benefit of the Commission, I have asked the question.

33  
34 **CHAIR LOWELL** – That's, that's the way I interpreted it also. The original intent  
35 when we originally talked about this months and months, maybe even a year or  
36 so ago, was the idea to have an alternate sitting in the wings not to participate in  
37 the regular meetings but to be readily available to fill a seat should a permanent  
38 vacancy happen. And, in my tenure on the Commission, we've had two seats  
39 vacant for a grand total of, I think, 12 or 13 months so we've had one seat  
40 permanently open for the better part of a year. But, these alternates, it would be  
41 nice to pick one out of the wings and set them up here. But, that original intent  
42 has been extrapolated upon and now we have revolving alternates for random  
43 items. But, I'm not going to argue that point. But, I think what we're doing today  
44 trying to figure out how to accommodate the cards we are dealt, I think we've  
45 made good headway. The Ad-hoc Committee, I think we did a decent job talking  
46 to Councilmember Giba and yourself, and I think we've made good headway.



1 **ALTERNATE COMMISSIONER NICKEL** – Chairman Lowell, I believe there is  
2 an advisory committee that two alternates. Is that the Emerging Leader’s Staff  
3 now?  
4

5 **PLANNING OFFICIAL SANDZIMIER** – I’m not aware of the makeup of that  
6 particular body.  
7

8 **ALTERNATE COMMISSIONER NICKEL** – Yeah, okay.  
9

10 **VICE CHAIR SIMS** – It just seems if the council is going down a path to have  
11 alternate Commissioners, if it’s good for one Commission it should be good for all  
12 Commissions. If it’s good for the Commissions, why isn’t it good for the council?  
13 I think it just, when you, when you look at public policy and setting up  
14 governments, you have to look at the extremes. You have to look at the far ends  
15 of the bookshelf to see if you fit in between those bookends. This is very  
16 complicated, you know, and...  
17

18 **ALTERNATE COMMISSIONER NICKEL** – Commissioner Sims, I believe the  
19 reason you don’t have alternates for council members is the fact that the council  
20 members are voted in and elected to office.  
21

22 **VICE CHAIR SIMS** – I understand that but you could, perhaps the attorney will  
23 probably tell me I’m full of wet noodles, but you know it could be you do a city  
24 charter and create your own chart. I don’t know if that’s even possible in the  
25 Constitution of California, but anyhow I’m just using it for illustrative purposes, if  
26 it’s good for one Commission why isn’t it good for all the Commissions if the idea  
27 is you’re trying to conduct business? If it’s going to be for greater participation  
28 then we should have alternates for all the Commission. We should just have a  
29 procedure for all of it.  
30

31 **CHAIR LOWELL** – How about we propose that when a councilmember is absent  
32 the Planning Commission Chair gets to sit in.  
33

34 **VICE CHAIR SIMS** – Amen. I like that.  
35

36 **DEPUTY CITY ATTORNEY EARLY** – Be careful what you ask for.  
37

38 **COMMISSIONER VAN NATTA** – Actually in...  
39

40 **DEPUTY CITY ATTORNEY EARLY** – We have our alternates from the Planning  
41 Commissioners on an alphabetical basis.  
42

43 **COMMISSIONER VAN NATTA** – Actually when in speaking to having the more  
44 participation that we were talking about to have more participation in City  
45 Government and so forth, there was a point which we could of gone to more  
46 Council Districts when the vote was put out there for to have an elected Mayor. It

1 was like okay we have five Council Districts, are we going to four or are we going  
2 to go to six so that we still have an even number? That would have been a good  
3 opportunity to allow more participation by more people, but when it comes right  
4 down to it, I would have preferred that we not have to deal with this ordinance at  
5 all. I felt like if it ain't broke, don't fix it. We have not had a problem with not  
6 having enough members here for a quorum the entire time I've been sitting on  
7 this Commission, but as our Chair so aptly said, this is the hand we're dealt. We  
8 have to deal with it and work out the details and make it work as best we can.

9  
10 **PLANNING OFFICIAL SANDZIMIER** – If I could just jump in real quick. I  
11 checked real quick and...

12  
13 **COMMISSIONER VAN NATTA** – Thank you.

14  
15 **PLANNING OFFICIAL SANDZIMIER** – And there are two alternates identified  
16 for the Emerging Leaders Council, along with seven members so.

17  
18 **CHAIR LOWELL** – I had a comment on item G, Order of Meetings G1B. We  
19 were talking about, on the previous set of items.

20  
21 **PLANNING OFFICIAL SANDZIMIER** – Okay, yeah.

22  
23 **CHAIR LOWELL** – Where we have...

24  
25 **PLANNING OFFICIAL SANDZIMIER** – Okay, you're in Section 2 now?

26  
27 **CHAIR LOWELL** – Correct, Section 2-Meetings.

28  
29 **PLANNING OFFICIAL SANDZIMIER** – Moving on? Page 6?

30  
31 **CHAIR LOWELL** – Section 2B1B, page 6. The very last line of the item read, on  
32 part B, where it says members present and absent shall be recorded including  
33 any alternate members. Alternate members shall be seated on the Commission  
34 if necessary. If all regular Commissioners are present and no conflicts of interest  
35 have been announced or appear to be likely the alternate member may be  
36 excused and review the video or transcripts of the meeting in lieu of attendance.  
37 I think the last half of that last sentence where it says and review the video or  
38 transcripts of the meeting in lieu of attendance, is that going towards being able  
39 to substitute should you be called upon or is that just...

40  
41 **DEPUTY CITY ATTORNEY EARLY** – I believe that was Commissioner...

42  
43 **COMMISSIONER VAN NATTA** – That goes, that goes back to the paragraph  
44 that says they shall attend all meetings.

45  
46 **DEPUTY CITY ATTORNEY EARLY** – Okay.

1 **COMMISSIONER VAN NATTA** – That’s in the current...

2  
3 **CHAIR LOWELL** – So that’s a way of letting them go home and not having to sit  
4 here for the entire meeting?

5  
6 **DEPUTY CITY ATTORNEY EARLY** – That was my understanding. I believe that  
7 was...

8  
9 **CHAIR LOWELL** – Yes.

10  
11 **DEPUTY CITY ATTORNEY EARLY** – Commissioner Van Natta’s suggestion  
12 was that if we knew that they were that they were not going to be needed for an  
13 entire that they would be given the option to stay, or if they wanted to leave they  
14 could leave and watch it from home or later; do what they wanted to do.

15  
16 **COMMISSIONER VAN NATTA** – Of course it would be nice if the primary one  
17 stayed just in case something did come up and...

18  
19 **DEPUTY CITY ATTORNEY EARLY** – Everybody is comfortable with that one?

20  
21 **CHAIR LOWELL** – Thoroughly beaten this one.

22  
23 **DEPUTY CITY ATTORNEY EARLY** – We got one major issue left to discuss and  
24 that’s one page 9, 11 and this that alternate members shall not be used to count  
25 towards a quorum. The concern here was that if there were two regular  
26 members present and we sat two alternate members would that constitute a  
27 quorum able to conduct business, and the feeling of the subcommittee was that,  
28 no, they wanted to ensure that there were at least four regular members were  
29 present at any given hearing and that the alternates would be used to fill the  
30 remaining vacant chairs but not to constitute a quorum, so that is how this was  
31 proposed to you at this point. That’s the only other significant item I think that  
32 we’d like to get your feedback on.

33  
34 **CHAIR LOWELL** – I think that works.

35  
36 **PLANNING OFFICIAL SANDZIMIER** – I’m okay with it.

37  
38 **DEPUTY CITY ATTORNEY EARLY** – Okay, we will leave that as is. Alright so  
39 the only change that I have, and it is a significant one so we’ll want to redraft this  
40 and get it circulated and back out, but it was with respect to the use of alternates  
41 in the middle of a continued Public Hearing. And, it will modify the language of  
42 1G3 and 1G5 to how to handle those situations in such a way that whoever starts  
43 a Public Hearing whether it’s nobody, a regular member, or an alternate member  
44 will be the way the Public Hearing is finished.

45

1 **CHAIR LOWELL** – Do we have the option, if the hearing is continued and the  
2 original vacant one seat was vacant, do we have an option of filling that with the  
3 regular Commissioner?  
4

5 **DEPUTY CITY ATTORNEY EARLY** – That would be a decision, that's not the  
6 direction I currently have, but if that's the way we want to go, I'll certainly draft it  
7 that way.  
8

9 **CHAIR LOWELL** – But if it was blank to begin with do we want to leave it a  
10 vacant seat, or do we want to have the option of filling it with the regular  
11 Commissioner?  
12

13 **COMMISSIONER KORZEC** – If you're not there for the initial one, you shouldn't  
14 be there. That was the whole discussion of that continuity.  
15

16 **DEPUTY CITY ATTORNEY EARLY** – That will make the entire thing very easy.  
17

18 **COMMISSIONER VAN NATTA** – I think that's important because when it, when  
19 the item is opened is when we have the Staff Report, it's when you have the, the  
20 applicant's report. It's when the, the meat of it is, if there is a continuance it's  
21 usually so that you can hear public comment, which can be listened to on video  
22 or right on the transcript.  
23

24 **DEPUTY CITY ATTORNEY EARLY** – Well then what you'll see is a much  
25 simpler approach because it will apply evenly whether you're an alternate or a  
26 regular Commissioner, so it'll just to be in the Public Hearing sections with that  
27 generalized statement.  
28

29 **COMMISSIONER VAN NATTA** – Now but that will still... You'll still have  
30 something, we were talking about something that isn't in here about if a portion of  
31 the meeting is missed after the initial, which you're going to take care of, if a  
32 portion of the meeting on a continued meeting is missed, but the person was...  
33

34 **DEPUTY CITY ATTORNEY EARLY** – The A blank A situation?  
35

36 **COMMISSIONER VAN NATTA** – Yeah, the A blank A. Yeah, you know what I'm  
37 talking about.  
38

39 **DEPUTY CITY ATTORNEY EARLY** – Still allowing for that which...  
40

41 **COMMISSIONER VAN NATTA** – Still allowing for that either with an alternate or  
42 with the Commissioner...  
43

44 **DEPUTY CITY ATTORNEY EARLY** – Whoever starts it finishes it, but they can  
45 fill in for an absence.  
46

1 **COMMISSIONER VAN NATTA** – Yeah, as long as they have an opportunity to  
2 listen to the video or read the transcript.

3  
4 **DEPUTY CITY ATTORNEY EARLY** – Sounds good to me. I get nods all  
5 around, or at least four of them? I gotcha, okay.

6  
7 **CHAIR LOWELL** – Any other comments or discussion on this item?  
8

9 **PLANNING OFFICIAL SANDZIMIER** – Mr. Chairman, while you were talking  
10 about the Rules of Procedure at the last meeting, we had talked a little bit about  
11 large crowds and big meetings. Since we are talking about the Rules of  
12 Procedure, and we do have the alternates here and we do have the likelihood of  
13 a big item coming up, I just want to let you know that you are open to discuss  
14 some of these things for clarification like under Rules of Testimony. But I wanted  
15 to point out a question that had come up before about the amount of time  
16 allocated to a speaker. We did look through our ordinances and our Municipal  
17 Code. We did not find anything that specifies that Speakers are granted or  
18 guaranteed a certain amount of time, except that on our posted Agendas if you  
19 look on the bottom of the posted Agenda this evening under Public Comments  
20 Procedure as a rule, there is kind of a rule of thumb so to speak. We have  
21 always included in that little disclosure at the bottom that the members may be  
22 limited to three minutes. There is no requirement for the few minutes and we  
23 also on our Speaker Cards do have the same kind of disclosure. Under the  
24 Rules of Testimony, the Commission as a whole, does have some flexibility on  
25 how to control testimony or how to kind of manage the large volume so I just  
26 wanted to throw those out there tonight in case that is still in the interest of the  
27 Commission.  
28

29 **CHAIR LOWELL** – Correct that was my understanding also that as a body we  
30 have the option of seeing whose in the audience and can adjust the public  
31 speaking time accordingly. So, if we have ridiculousness, say we had a  
32 thousand people wanting to speak on a specific hearing item instead of having  
33 the time limit set to three minutes, we have the flexibility to adjust it to say two  
34 minutes or two-and-half minutes. Whatever we decide or we could even extend  
35 it to four or five minutes if we choose. It's depending on the way the audience  
36 feels and what our interpretation of how the meeting is going to progress.  
37 Similarly, if people wanted the exact same thing again and again and again, we  
38 could ask everybody to kind of group together and say these 25 people want to  
39 say that the sky is blue and fine. We understand 25 people say that, and it's a  
40 way of expediting that specific comment to us in seeing the amount of people  
41 that share the same voice. There's a couple other items in here, but yeah I  
42 agree that we have the flexibility of kind of harnessing that amount of time that is  
43 spent during public comments.  
44  
45

1 **PLANNING OFFICIAL SANDZIMIER** – So the only thing that I would throw out  
2 there is that if you look like you might need to establish some different rules to  
3 kind of maintain or keep the meeting going, you want to establish those rules up  
4 front if they're going to be somewhat modified. Like if you want groups of  
5 speakers to come up before you start considering the item or before you start  
6 hearing the public testimony. Say you hear the public testimony and it seems  
7 like it's going longer then all of a sudden you say let's revisit how we're going to  
8 do this. It may be too late at that point. So just, just keep that in mind because  
9 that's coming up. And, I just want to make sure that the alternates that may be  
10 coming and going have the same understanding. So since we have  
11 Commissioner Nickel here this evening any comments or, or thoughts that you  
12 guys want to bring up on that would be fair tonight.

13  
14 **VICE CHAIR SIMS** – Can I make a...

15  
16 **CHAIR LOWELL** – Go for it.

17  
18 **VICE CHAIR SIMS** – I just suggest that for consistency with process that the  
19 community is used to that we stick with the three minutes, and we strictly enforce  
20 that as best as we possibly can. Just because I think if you know there will, if for  
21 instance this large potential project that is coming to the Commission, I think if  
22 you did less than that you can't weigh in. Yeah, you just can't win, so I think you  
23 just stay with quorum with custom and we try to strictly adhere to it. What I would  
24 propose, you know, is that we put some kind of time limit that the meeting is not  
25 going to go beyond a certain amount of hours.

26  
27 **CHAIR LOWELL** – Three o'clock in the morning.

28  
29 **VICE CHAIR SIMS** – No, like 10:30, 11:00 at night and/or something like that. I  
30 mean it's not fair to people that want to participate to stay up to the wee hours of  
31 the morning. They get burned out. They fall asleep or they just doze off and  
32 they can't stay on point. Well we won't be able to stay on point, you know, we'll  
33 get fatigued listening to this and so Staff has to be able to respond. And I just,  
34 you know, if any of you go to any kind of trial as a juror or if you go to jury duty  
35 and you get sat as a juror it's slow time on a trial because they only actually work  
36 maybe an hour-and-a-half or two hours in the morning and then two hours in the  
37 afternoon. The rest of the time is this, that, and the other thing, breaks and stuff.  
38 You know, I think it's just the amount of attention span that us as a body can take  
39 and have meaningful participation in. I think it's just unfair to expect people that  
40 want to participate or watch the thing to have to stay up and watch it or  
41 participate here. So I would suggest that we put in our rules, if we do it in our  
42 Rules of Procedure that no meeting will go past a certain date at, you know, four  
43 hours or something like that.

44  
45

1 **DEPUTY CITY ATTORNEY EARLY** – You can also mirror what the Council does  
2 and limit the amount of public comment at the beginning of the meeting to a  
3 certain amount of time and then put that on the backend too. That seems to be  
4 very effective for the Council as a lot of people just tend to go home after they  
5 don't want to wait until 10:00, 11:00. If they don't get it in the first 45 minutes,  
6 which I think is the amount of time they allot. I also wanted to remind the  
7 Commission as a whole that these Rules of Procedure we're required to bring  
8 them back to you in July of every year, so if you do have other thoughts that you  
9 might want to send you can forward them to Rick and we can agendize them for  
10 that July meeting as well but go beyond the ones we're talking about right now.  
11 That's only two months away that we'll be revisiting these rules again to see what  
12 needs to be tweaked.

13  
14 **CHAIR LOWELL** – I think we've talked about these Rules of Procedure every  
15 meeting this year.

16  
17 **DEPUTY CITY ATTORNEY EARLY** – Well maybe that July one will be very  
18 quick and easy; yes, everything's fine.

19  
20 **VICE CHAIR SIMS** – Well I mean I personally, maybe it's because the latter we  
21 can't talk about doing changes beyond what we're talking about or I would  
22 assume that if it's an Agenda item for Rules of Procedure, this is Rules of  
23 Procedure for Alternate Planning, so if we're overstepping the Brown Act  
24 because it's not noticed for other rules within, then we can't. But, I would  
25 propose if we're making changes that we consider a time limit for the meeting  
26 and establish that so we don't get caught into a spot like, as the Planning  
27 Director was saying, it would be too late at the meeting to say time out we're you  
28 know...

29  
30 **CHAIR LOWELL** – We can adjourn any time we want to. I mean...

31  
32 **VICE CHAIR SIMS** – If there's a flow to a meeting that, you know, that is, I think  
33 if you give people Rules of Procedure that they have four hours people will  
34 understand that and then the Folks, Applicants or their Consultants, or Staff  
35 allocate their presentations to fit that.

36  
37 **CHAIR LOWELL** – Okay, but we've frequently gone until midnight. It happens.  
38 It's not fun, but it does happen. In that instance, if we closed it off at 11:00, we'd  
39 have to come back for another meeting just to hear that last hour so...

40  
41 **VICE CHAIR SIMS** – What happens if it goes until 3:00 in the morning?

42  
43 **PLANNING OFFICIAL SANDZIMIER** – If I may...

44  
45 **CHAIR LOWELL** – We can continue the meeting any time we want.

46

1 **PLANNING OFFICIAL SANDZIMIER** – If I may introduce a thought what I’ve  
2 seen in other jurisdictions is not necessary to set a limit on the overall meeting  
3 but to set a designated time for when the Chair would look at the time and look at  
4 the balance of the items on the Agenda and decide what to do. So, if you said at  
5 11:00 at every meeting we’re going to take a pause if it looks like the meeting is  
6 going to go longer, you as a Commission would have some Rules of Procedures  
7 that says we can stop and pause at 11:00 and say okay we’re going to go for  
8 another half an hour or we’re going to go one more hour and then we’re going to  
9 call it quits. Or, we still see that this item or five other items on the Agenda would  
10 go longer so just for anybody waiting around we’re going to end our meeting  
11 within a half an hour or an hour, and we’re going to continue all other items to the  
12 next meeting.

13  
14 **CHAIR LOWELL** – I like that idea.

15  
16 **PLANNING OFFICIAL SANDZIMIER** – That would give you some options to  
17 kind of control the meeting and it gives the public the benefit of not wondering  
18 how much longer am I going to stay here. Am I going to have to be here until  
19 3:00 in the morning?  
20

21 **CHAIR LOWELL** – Is that something that we should modify the rules and  
22 procedure for, our Rules of Procedure, or is that something that we can just say  
23 we’re doing?  
24

25 **DEPUTY CITY ATTORNEY EARLY** – If you wanted to make that a regular rule  
26 that at every meeting at that time, then that’s something you would do for the  
27 Rules of Procedure. For the upcoming meetings where you may run into these  
28 issues, my advice is along the lines of what Vice Chair Sims was saying. It’s not  
29 something you want to do in the middle of the meeting, but you could do it the  
30 very first action of the meeting. If you see that you’ve got a packed house and  
31 you see that it’s going to probably do that, somebody could make a motion to say  
32 we’re going to establish the following time periods for tonight, and you could  
33 handle it in the short-term that way. But as a Rule of Procedure for ongoing we  
34 can...  
35

36 **PLANNING OFFICIAL SANDZIMIER** – I would suggest that it would be under G,  
37 Order of Meetings. You know you would just insert a new letter in there in at the  
38 appropriate place we can look for it and we’ll just say at this particular time at the  
39 meeting, if the meeting is still going I guess the Commission would decide.  
40

41 **CHAIR LOWELL** – That would be page 6, I believe?  
42

43 **PLANNING OFFICIAL SANDZIMIER** – Yeah, page 6 and 7. I mean it’s pretty  
44 precise in terms of it’s telling you how to take your seat and how to start the  
45 meeting, and it just seems like that would be the right section to put something  
46 like that in.



1 **VICE CHAIR SIMS** – So why can't we just do that here? While we're making  
2 revisions, why can't we revise it so we're set to go for the next meeting?

3  
4 **DEPUTY CITY ATTORNEY EARLY** – We can put something into the draft for  
5 you to review at the very onset of the meeting.

6  
7 **CHAIR LOWELL** – But I still think we need to address it at the beginning of the  
8 meetings. Say, hey look, this is a rule change. We're going to be reevaluating  
9 this meeting come around 11:00 tonight. We're going to see how the meeting is  
10 progressing and we will use that as a timeframe to say yep we're going to  
11 continue it or no we'll just finish it up tonight.

12  
13 **VICE CHAIR SIMS** – I like it.

14  
15 **CHAIR LOWELL** – So I think we should make that rule change.

16  
17 **DEPUTY CITY ATTORNEY EARLY** – Do you have a time in mind?

18  
19 **CHAIR LOWELL** – I think 11:00 is fair enough because that only gives us an  
20 hour before midnight.

21  
22 **VICE CHAIR SIMS** – Yeah.

23  
24 **CHAIR LOWELL** – A little bit of a buffer before it goes to a 2:00 a.m. meeting.

25  
26 **VICE CHAIR SIMS** – Yeah, then...

27  
28 **COMMISSIONER VAN NATTA** – The bars are still open at that time.

29  
30 **VICE CHAIR SIMS** – I only work one day a week, or one day a day.

31  
32 **DEPUTY CITY ATTORNEY EARLY** – Alright, we'll incorporate that into the draft  
33 for the next meeting.

34  
35 **CHAIR LOWELL** – And we'll still address it at future meetings until we finalize it.

36  
37 **DEPUTY CITY ATTORNEY EARLY** – What I'm going to propose is that we do  
38 similarly that we did this time. I'll send out the rewrite to the Subcommittee and  
39 the Planning Official for comments so that hopefully we have a clean version  
40 ready to go on June 11<sup>th</sup> that you can act on first thing.

41  
42 **CHAIR LOWELL** – Excellent.

43  
44 **DEPUTY CITY ATTORNEY EARLY** – So that they will become effective  
45 immediately and be your rules for that meeting.

1 **CHAIR LOWELL** – Okay.

2  
3 **COMMISSIONER VAN NATTA** – Okay while we’re on the Order of Meetings, as  
4 far as the timing for the seat and the decision of which alternate is going to be  
5 seated and so forth, that needs to be done at the beginning of the meeting.  
6 Should that be part of our Order of Meeting Procedure or in some way  
7 designated there that after taking, for example, after taking the rollcall and we’re  
8 told who is available as an alternate that at that time if there is a vacancy on the  
9 day is that the Chair would call up the alternate to be

10  
11 **DEPUTY CITY ATTORNEY EARLY** – That is there.

12  
13 **COMMISSIONER VAN NATTA** – Officially seated?

14  
15 **DEPUTY CITY ATTORNEY EARLY** – That’s under Order of Meetings. That’s  
16 G1B.

17  
18 **PLANNING OFFICIAL SANDZIMIER** – The one scenario I’d like to throw out...

19  
20 **DEPUTY CITY ATTORNEY EARLY** – In the rollcall.

21  
22 **COMMISSIONER VAN NATTA** – Yeah, but it just says alternate meetings shall  
23 be seated on the Commission. But, like what happened tonight, the Clerk  
24 announced and asked the alternate to come up. Should that not be a function of  
25 the Commission and maybe the Chair because tonight it was obvious there was  
26 only one here and there was obviously a vacant seat, but there might be times  
27 where there’s other things involved.

28  
29 **CHAIR LOWELL** – We don’t know that that needs to go in the rules but during  
30 rollcall I can ask does anybody foresee a conflict of interest or the need to recuse  
31 themselves for any item. In that point, I will say yes we have one person  
32 recusing themselves. We’ll see if there is an absence, and then I’ll call up an  
33 alternate.

34  
35 **PLANNING OFFICIAL SANDZIMIER** – So, under that scenario, I just wanted to  
36 point out that at the beginning of the meeting you may have all seven  
37 Commissioners here seated. You may get to item four or five on the Agenda and  
38 one of your Commissioners has to recuse themselves, so you won’t want to have  
39 dismissed the alternates knowing that somebody at a later item has to recuse  
40 themselves so you want them to stay so they could fill that seat.

41  
42 **COMMISSIONER VAN NATTA** – Well that’s why we put in here if all  
43 Commissioners are present and no conflicts of interest have been announced or  
44 appear to be likely.

45  
46 **PLANNING OFFICIAL SANDZIMIER** – Okay.

1 **COMMISSIONER VAN NATTA** – And that would be if he could identify that at  
2 the beginning of the meeting

3  
4 **CHAIR LOWELL** – During rollcall I would ask and say is there any conflict of  
5 interest during this meeting.

6 **COMMISSIONER VAN NATTA** – Is anyone going to be recusing themselves.

7  
8 **CHAIR LOWELL** – Just come out and ask it and then could address whether or  
9 not the alternates would be required during that meeting.

10  
11 **DEPUTY CITY ATTORNEY EARLY** – They're not required to leave. That's  
12 simply at their discretion.

13  
14 **PLANNING OFFICIAL SANDZIMIER** – And under Commissioner Sims scenario  
15 you might want to ask them is everybody feeling well. No one is going to get sick  
16 this evening?

17  
18 **CHAIR LOWELL** – You look a little green there Mr. Sims.

19  
20 **VICE CHAIR SIMS** – I feel like you, ah.

21  
22 **CHAIR LOWELL** – Okay, moving on. Well, before we move on, do you need  
23 anything else from us or have we beaten this horse?

24  
25 **DEPUTY CITY ATTORNEY EARLY** – I think I have the direction from the  
26 Commission.

27  
28 **CHAIR LOWELL** – That was under Other Commissioner Business.

29  
30  
31 **STAFF COMMENTS**

32  
33 **CHAIR LOWELL** – Do we have any Staff comments?

34  
35 **PLANNING OFFICIAL SANDZIMIER** – I do have two comments. One is a  
36 question. I've got a potential applicant who is looking at meeting dates out in  
37 July, and they would like to see if they didn't have to wait until the second  
38 meeting in July if the Commission would be available on July 9<sup>th</sup> to have a  
39 meeting so I'm just throwing it out there. It would be the second Thursday of the  
40 month. Considering this is the vacation month sometimes I just wanted to throw  
41 it out there that they might see that as a problem.

42  
43 **CHAIR LOWELL** – I don't have anything scheduled just yet.

44  
45 **COMMISSIONER VAN NATTA** – I have nothing on my schedule for July.

46

1 **PLANNING OFFICIAL SANDZIMIER** – Okay.

2  
3 **VICE CHAIR SIMS** – As long as it doesn't go past 11 o'clock. I've got to be in LA  
4 that night.

5  
6 **PLANNING OFFICIAL SANDZIMIER** – Okay.

7 **VICE CHAIR SIMS** – At some point.

8  
9 **PLANNING OFFICIAL SANDZIMIER** – Okay. The only other staff  
10 announcements I'd like is you guys all know Allen Brock, but Allen Brock is our  
11 newly appointed Community Development Director so I wanted to give him an  
12 opportunity if he wanted to address the Commission. I put you on the spot Allen,  
13 but...

14  
15 **ALLEN BROCK** – Well nothing to really address. I've already introduced  
16 myself to all of you. I do know Mr. Barnes so I'll certainly chat with him when he  
17 comes back, but I'm glad to be here and I look forward to working with all of you  
18 in the future. We have some big projects coming as you know so it's an exciting  
19 time.

20  
21  
22 **PLANNING COMMISSIONER COMMENTS**

23  
24 **CHAIR LOWELL** – Okay, so it looks like we have we're moving on to Planning  
25 Commissioner Comments now. It looks like we have just over two weeks, one,  
26 two weeks until the World Logistics Center comes in front of us. I hope  
27 everybody is doing all your homework and reading up and studying.

28  
29 **COMMISSIONER VAN NATTA** – Oh yeah.

30  
31 **CHAIR LOWELL** – Anybody else have any comments? I think that I should use  
32 the machine; technologically intense.

33  
34 **VICE CHAIR SIMS** – So there is a lot of reading. One of the things that I would  
35 like to have, if it is possible, I was thinking to request a meeting with staff to go  
36 over traffic impacts of the World Logistics EIR and then how the Development  
37 Agreement relates, as well as the mitigation. I don't know if we could have a  
38 workshop. I don't know if the other Commissioners understand, maybe I'm just  
39 the one that is the slow guy here, but I would like somebody to walk me through  
40 the traffic study so I can understand that and how it impacts the traffic, how  
41 they're mitigated with the conditions for the project and how that relates to the  
42 Development Agreement, when the timing on the improvements are, what the  
43 trigger dates are, the triggers for the different improvements. I would find that  
44 very helpful for me, and you know I'm sure there is staff that has spent a lot of  
45 time considering that kind of analysis maybe they could just come and meet. I  
46 don't know if any of the other Commissioners would like that, but maybe if more

1 than one would like to have that kind of information it would be nice, maybe we  
2 could do that as part of the Staff Report that we have for the June 11<sup>th</sup> meeting. I  
3 don't know how to handle that.

4  
5 **PLANNING OFFICIAL SANDZIMIER** – If I may Mr. Chairman, I'd like to break  
6 them down into two separate questions with regard to the traffic analysis, or if  
7 there is any particular other subject on the project we would be happy to meet  
8 with any individual Commissioner. But, the one thing we would want to be  
9 concerned about is creating a serial meeting so we would the propose for that  
10 sort of a meeting, an individual meeting, would be basically to help you  
11 understand the information that is before you but not to sway you in any way or?

12  
13 **VICE CHAIR SIMS** – Exactly.

14  
15 **PLANNING OFFICIAL SANDZIMIER** – Other than just the facts that are in there,  
16 how to read them, and how to interpret them. With regard to the Development  
17 Agreement portion please understand that that's still a work in progress and so  
18 it's kind of a moving target. In fact, we've got probably half a dozen members of  
19 our team still over working on that this evening, so it's an ongoing process and  
20 our expectation would be to include information about that in the Staff Report.  
21 And to have individual meetings on something that is a work in progress could be  
22 problematic because one day we might meet with you and it may change a little  
23 bit the next day, so I would just say leave it the Staff Report that comes out and  
24 the presentation at the meeting that evening. That's probably the best approach  
25 on that particular item of the project.

26  
27 **CHAIR LOWELL** – Is the Development Agreement going to be finalized before  
28 our June 11<sup>th</sup> meeting, or is that something that has the possibility of being  
29 finalized way down the line like July, August, September, next year some time.

30  
31 **PLANNING OFFICIAL SANDZIMIER** – Well the expectation in our Municipal  
32 Code is that the Planning Commission is an advisory body on Development  
33 Agreement, so the expectation is that you would have the opportunity to consider  
34 the Development Agreement, provide input on it, consider any staff  
35 recommendations, or any input from the public, or any input from the applicant  
36 themselves on it. So there will be something available to you in your packet.  
37 Does it have to be the final Development Agreement? No. Because it's a work  
38 in progress, so based on your input and the input from the public the information  
39 that is presented to the City Council could change the Development Agreement,  
40 so you will see a version of it but it doesn't necessarily have to be the final  
41 version. I hope that answered your question.

42  
43 **VICE CHAIR SIMS** – When will the Staff Report be generated and sent out?  
44  
45

1 **PLANNING OFFICIAL SANDZIMIER** – Right now we’re aiming for getting it out  
2 on the 4<sup>th</sup> of, June, which is one week ahead of time which is generally what we  
3 try to target. The absolute deadline is meeting the 72 hour posting of the Agenda  
4 and having everything available, but we hope to have it out the week in advance  
5 so the 4<sup>th</sup>, and if not the 4<sup>th</sup>, hopefully put it in the mail by the 5<sup>th</sup> so.

6  
7 **CHAIR LOWELL** – Would our fellow Commissioners like to say anything?

8  
9 **COMMISSIONER VAN NATTA** – Good night.

10  
11 **CHAIR LOWELL** – As a point of clarity, the June 11<sup>th</sup> meeting will be held, I  
12 believe, in the Crystal Ballroom across the street?

13  
14 **PLANNING OFFICIAL SANDZIMIER** – It’s in the Grand Valley Ballroom.  
15 However, I will be broadcasting it here from the Council Chamber so it’s  
16 technically, when I talk to the media folks, there will be an opportunity for people  
17 to come here. There will be a sign that directs them to the Grand Valley  
18 Ballroom depending on how large the crowd is. This room could actually maybe  
19 serve as an overflow, but the primary meeting would be conducted across the  
20 way.

21  
22 **CHAIR LOWELL** – And our next meeting, it will be the June 11<sup>th</sup> meeting?

23  
24 **PLANNING OFFICIAL SANDZIMIER** – That’s the next date, yes.

25  
26  
27 **ADJOURNMENT**

28  
29 **CHAIR LOWELL** – Without any further ado, if there are no other comments for  
30 either Staff or Commissioners, I’d like to conclude our meeting. The meeting is  
31 now adjourned until our next regular meeting, which is June 11, 2015 at 7:00 PM.

1 **NEXT MEETING**

2 *Planning Commission Regular Meeting, June 11<sup>th</sup>, 2015 at 7:00 PM, City of*  
3 *Moreno Valley, Conference and Recreation Center, Grand Valley Ballroom,*  
4 *14075 Frederick Street, across from City Hall parking lot, Moreno Valley, CA,*  
5 *92533.*

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12  
13 \_\_\_\_\_  
14 Richard J. Sandzimier  
15 Planning Official  
16 Approved

\_\_\_\_\_ Date

17  
18  
19  
20  
21  
22  
23  
24 \_\_\_\_\_  
25 Brian R. Lowell  
26 Chair

\_\_\_\_\_ Date