



City Council Agenda Item Report

April 16, 2013

Contact – Chance Sparks, AICP, CNU-A, Director of Planning
512-312-0084 / csparks@ci.buda.tx.us

SUBJECT: DELIBERATION AND POSSIBLE ACTION REGARDING APPOINTMENTS TO THE HISTORIC PRESERVATION COMMISSION.

1. BACKGROUND/HISTORY

The HPC is both an advisory body to the Mayor and City Council and a deciding body for Certificates of Design Compliance, which appeals to the Mayor and City Council, within the Historic District and Central Business District. Its powers and duties per the Commission's enabling ordinance include:

- Advise the city council about uses of funds available from private and/or public sources for the benefit of local heritage and/or historic activities, projects or organizations serving the city and its citizens, as allowed by law;
- Review applications for certificates of design compliance in accordance with the city's Unified Development Code;
- Prepare rules and procedures of the commission, subject to approval by the city council;
- Adopt criteria for the designation of historic, architectural, and cultural landmarks and properties located in the city or historic districts therein, subject to city council approval;
- Conduct surveys and maintain an inventory of significant historic, architectural and cultural landmarks and properties located in the city or historic districts therein;
- Recommend the designation of resources as landmarks and historic districts;
- Establish subcommittees from among its members and delegate responsibilities to these subcommittees to carry out the purposes of this division;
- Develop and participate in public education programs to promote public awareness of the value of historic preservation in the city;
- Recommend the acquisition of landmark structures by the city where their preservation is essential to the purpose of this division but private preservation is not feasible;
- Accept on behalf of the city the donation of preservation easements, development rights, and other gifts of value for the purpose of historic preservation, subject to approval by the city council;
- Recommend to the city council tax abatement programs for historic landmarks or districts;
- Prepare design guidelines for the review of historic landmarks and districts, subject to approval by the city council;
- Provide for the design of signs and/or markers designating properties and historic landmarks or districts, subject to the approval of the city council;
- Recommend amendments to this division, to the city council as the commission deems necessary to effectuate the purposes of this division;
- Conduct studies regarding the protection, enhancement, restoration, perpetuation or use of local historic landmarks and historic districts, and submit reports and recommendations to the city council or other city agencies based on the studies; and

- At the request of the city council, prepare and submit an annual report to the city council summarizing the work of the commission performed during the previous year.

The membership characteristics of the HPC are:

- 7 members
- No more than 2 members may be residents of the ETJ
- 2-year staggered terms, with 4 appointed in January of even-numbered years and 3 appointed in April of odd-numbered years
- Maximum of 3 consecutive terms
- A member serving to fill an unexpired term shall be eligible for reappointment to serve 2 full 2-year terms
- The City Council shall consider individuals who show an interest, competence or knowledge in the architectural, archeological, cultural, social, economic, ethnic or political history and/or heritage activities of the city. Moreover, the city council may allow for preferential consideration of applicants residing along Old Black Colony Road from Cole Springs to FM 1626

2. FINDINGS/CURRENT ACTIVITY

Current membership and expiration for the Commission is as follows:

Historic Preservation Commission

Commissioner	Location	Term Expiration	Term Status/Eligibility	Application Status
Wayne Proctor	Creekside Park	4/2014	Eligible for 2 more terms	
Nancy Brinkley	Old Town	4/2014	Final Term	
Nate Wensowitch	Elm Grove	4/2014	Eligible for 1 more term	
Thomas Hughes	Old Town/Main Street	4/2013	Eligible for 2 more terms	Applied for Reappointment
J.B. Kolodzey	Coves of Cimarron (ETJ)	4/2013	Eligible for 2 more terms	Applied for Reappointment
Vacant		4/2015	Eligible for 2 more terms	
Vacant		4/2015	Eligible for 2 more terms	

In addition, there are already two members from the ETJ serving on the Commission, which means that for these appointments, all appointees must reside in the city limits.

For the four positions available, Staff has received three applications from the following:

- Reappointment request from J.B. Kolodzey, resident of Coves of Cimarron (ETJ)
- Reappointment request from Thomas Hughes, resident of Old Town/Main Street
- Application for Appointment from Bill Athearn, resident of Elm Grove

3. FINANCIAL IMPACT

N/A

4. ACTION OPTIONS/RECOMMENDATION

In the past, the City Council has requested sufficient applications to generate a competitive appointment process. Staff has not received enough applications to create such a scenario or fill all positions. City Council may appoint one of the applicants to the Commission, or choose to leave the position vacant.

5. ATTACHMENTS

Applications for Appointment & Reappointment
Bylaws and Enabling Ordinance



APPLICATION FOR APPOINTMENT TO CITY OF BUDA BOARDS AND COMMISSIONS

Name:	<u>ATHEARN</u>	<u>BILL</u>	<u>P</u>
	(Last)	(First)	(Middle)
Mailing Address:	<u>167 ROSEMARY HOLLOW</u>		<u>78610</u>
			(Zip)
Daytime Phone:	<u>512-295-0301</u>	Cell Phone:	<u>512-423-2258</u>
Employer:	<u>RETIRED</u>	Business Phone:	<u>NA</u>
Occupation/Position:		Fax Number:	
E-mail Address:	<u>ATHEARN1744@VAN50.COM</u>		

The City of Buda recognizes and supports the concept of balanced representation in regard to filling vacancies on Boards and Commissions. To this end, every effort is made to appoint members who represent Buda's diverse community, including citizens of all ethnic groups as well as people with disabilities.

- In which geographic area of Buda do you reside? ELMGROVE SUBDIVISION
- Are you a registered voter? Yes No
- Are you a City of Buda resident? Yes No
- Are you now or have you in the last three years registered/worked as a city lobbyist? Yes No

§ 8-16-4 of the City Code requires a person meeting the following criteria to register with the City Clerk as a registered lobbyist:

- (A) receives compensation of \$200 or more in a calendar quarter for lobbying;
- (B) receives reimbursement of \$200 or more in a calendar quarter to lobbying;
- (C) expends \$200 or more in a calendar quarter for lobbying; or
- (D) lobbies as the agent or employee of a person who:
 - (1) receives compensation of \$200 or more in a calendar quarter for lobbying;
 - (2) receives reimbursement of \$200 or more in a calendar quarter for lobbying;
 - (3) expends \$200 or more in a calendar quarter for lobbying.

- Do you or your employer have any business dealings with the City of Buda that might present a conflict of interest? Yes No
- Recognizing that serving on a Board or Commission is often time consuming, are you committed to attending all regularly scheduled meetings? Yes No
- Do you agree to complete any training necessary for the Board or Commission to which you are applying? Yes No

• If a position on the Board to which you are applying is not available at this time, please indicate if you would be willing to serve on any of the following Boards or Commissions:

Please check all that apply:

- Historic Preservation Commission - (Meets 1st Thursday of month @ 7:00 p.m.) Yes No
- Economic Development Corporation - (Meets 1st Monday of month @ 6:00 p.m.) Yes No
- Local Government Corporation - (Meets on an as needed basis) Yes No
- Planning & Zoning Commission - (Meets 2nd & 4th Tuesday of month @ 7:00 p.m.) Yes No
- Parks & Recreation Commission - (Meets 3rd Wednesday of month @ 6:30 p.m.) Yes No
- Zoning Board of Adjustment - (Meets on 3rd Thursday and on an as needed basis) ** Yes No
- Library Commission - (Meets 2nd Thursday of month @ 7:00 p.m.) Yes No

**Zoning Board of Adjustment applicants must live inside the City Limits

Describe any qualifications, expertise, or special interests that relate to your possible appointment, and why you would wish to serve:

34 YRS, MGT, POSITION LARGE AEROSPACE CO.

◦ RESPONSIBLE FOR ALL ASPECTS OF FACILITIES

◦ MATERIAL - ACQUISITION, STORAGE, ETC.

◦ MFG. OF TEST EQUIPMENT

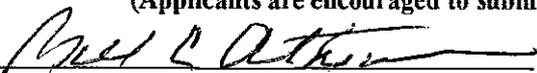
◦ AIR CRAFT ASSEMBLY & TEST

TO DO MY PART IN KEEPING BUDA HISTORIC

List past service on any boards or commissions. (Please includes dates of service)

NONE

(Applicants are encouraged to submit cover letter and resume along with their applications)


Signature

Date

OFFICE USE ONLY (Applications to be kept on file for a period of two years in the City Secretary's Office)
PLEASE RETURN TO THE CITY SECRETARY'S OFFICE

Date Application Received: _____

Date of First Contact: _____

Date of Second Contact: _____

Date new application mailed: _____

Still interested? Yes No

Still interested? Yes No

P. O. Box 1218/121 Main Street * Buda, TX 78610 * Phone (512) 312-0084 * Fax (512) 312-1889

Revised 07-22-10

HISTORIC PRESERVATION COMMISSION ENABLING ORDINANCE

Division 3. Historic Preservation Commission

Sec. 1.02.071 Purpose; subject to Unified Development Code

The City Council hereby declares that the purpose of this division is to preserve, protect and enhance areas of historical or cultural significance, including sites, structures, and landmarks within the City and its extraterritorial jurisdiction in order to promote the economic, cultural, educational and general welfare of the public. Where there is a conflict between any provision of this division and any provision the Unified Development Code, the Unified Development Code shall control.

Sec. 1.02.072 Definitions

For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Appurtenant feature. Features that define the design of a building or property, which may include, but are not limited to, porches, railings, columns, shutters, fences, sidewalks, driveways, garages, outbuildings, arbors, ponds and pools.

Certificate of design compliance. A certificate issued by the Historic Preservation Commission pursuant to this division and/or the City's Unified Development Code. The term includes a certificate of historic design compliance.

Commission. The Buda Historic Preservation Commission.

Designated historic district, historic district or district. A geographically defined area established pursuant to this division and/or pursuant to the City's Unified Development Code.

Designated historic landmark, historic landmark or landmark. Any site designated as a landmark pursuant to this division and/or the City's Unified Development Code.

Exterior features. Features that include the architectural style, general design, and general arrangement of the exterior of a building or structure, including type and texture of materials, and types and styles of all windows, doors, walls, roofs, light fixtures, signs, and significant trees and other foliage.

Person. An individual, group, corporation, political subdivision or government agency.

Significant trees. Trees which measure 24 caliper inches four feet above the ground, or those that are identified with historic personages or important events in City, county, state or national history.

Sec. 1.02.073 Created; appointment of members; terms

- (a) This division creates the Historic Preservation Commission ("Commission") appointed by the City Council. The Commission shall consist of seven (7) members who shall reside either in the City of Buda incorporated city limits or its extraterritorial jurisdiction.
- (b) The members of the Commission shall serve two (2) -year staggered terms, with four (4) members being appointed in April of even numbered years and three (3) members being appointed in April of odd numbered years.

- (c) On the initial Commission, four (4) of the members shall be appointed for one -year terms and three (3) of the members shall be appointed for two -year terms. Thereafter, all terms shall be two-year terms.
- (d) Unless otherwise approved by the City Council, members of the Commission shall serve a maximum of three (3) consecutive terms. After a member serves his or her three (3) maximum consecutive terms, such ex-member cannot immediately reapply for the Historic Preservation Commission; however, such ex-member can apply immediately for positions to other Boards or Commissions that may have vacancies or re-appointments. An appointment to fill a vacancy shall be for the unexpired term. A member serving to fill an unexpired term shall be eligible for reappointment to serve two (2) full two-year terms.
- (e) Unless otherwise required by state law, all members serve at the pleasure of the City Council and may be removed at any time with or without cause.

Sec. 1.02.074 Qualifications of members

- (a) Unless otherwise determined by City Council, at least five (5) of the members of this Commission shall reside within the corporate limits of the city and no more than two (2) members shall be residents of the City's extraterritorial jurisdiction. The City Council shall consider individuals who show an interest, competence or knowledge in the architectural, archeological, cultural, social, economic, ethnic or political history and/or heritage activities of the City. Moreover, the City Council may allow for preferential consideration of applicants residing along Old Black Colony Road from Cole Springs to FM 1626.
- (b) If a City resident member of the Commission ceases to reside in the City and his or her relocation reduces the number of City resident Commission members below four (4), that person shall give such notice of such fact and may be deemed to have resigned from the Commission as of the date his or her residence changed, and the City Council shall appoint a resident Commission member to fill the remainder of the resigning member's term. The temporary lack of four (4) resident members created by the vacancy shall not impair the ability of the Commission to perform its duties nor the actions taken by the Commission. If a resident Commission member moves to the City's extraterritorial jurisdiction and the relocation leaves at least four (4) resident members on the Commission, the relocated member shall continue to hold his or her place on the Commission. A quorum of the Commission shall be required to open meetings, conduct business and take action on any agenda items.
- (c) The City Council may take into consideration an applicant's history on delinquency in payment of any city taxes, utility bills, citations, municipal court judgments and assessments and so forth in qualifying the applicant.
- (d) Notwithstanding any city ad hoc committees or except where duplicate appointments are authorized by ordinance, City Charter or by state law, a person may not be appointed as a member of the Historic Preservation Commission if he or she is currently serving on the City Zoning Board of Adjustment, Planning & Zoning Commission, Parks and Recreation Commission, Library Commission, Economic Development Corporation Board of Directors, Local Government Corporation or any other permanent City Board or Commission.

Sec. 1.02.075 Officers; rules; meetings; quorum; record; conflict of interest

- (a) The Commission shall have a Chairperson and a Vice-Chairperson elected from its membership to serve for a one (1) year term. Officers shall be elected annually by the Commission. Such officers shall be residents within the city limits.

- (b) The Chairperson shall preside over the Commission and shall have the right to vote on all items before the Commission. The Vice-Chairperson shall fulfill the duties of the Chairperson when the Chairperson is not available for any reason.
- (c) The City Manager or his or her designee shall be an ex officio member of the Commission.
- (d) The Commission may establish rules or bylaws as necessary for the orderly conduct of its business, subject to approval by the City Council.
- (e) The Commission shall meet at least monthly, if there is business at hand, at a time and place established by the Commission. Special meetings may be called by the Chairperson or Interim Chairperson of the Commission, City Manager or his or her designee or upon the request of any three (3) Commission members. All meetings of the Commission shall be open to the public and shall conform with the Texas Open Meetings Act, Section 551 of the Government Code.
- (f) A quorum shall consist of a majority of the members of the Commission except that when a vacancy exists, a quorum shall consist of a majority of the remaining members.
- (g) The Commission shall keep a record, which shall be reasonably available to the public, of its resolutions, proceedings and actions.
- (h) A Commission member shall be required to complete any State-mandated training, to include but not limited to Open Meetings Act training, within ninety (90) days after appointment. Any training expenses incurred by the member may be eligible for reimbursement by the City subject to the City's Travel and Training Policy.
- (i) A Commission member having any potential conflict of interest, as defined by the City Code of Ordinances or State law, on any policy, decision, or determination before the Commission shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on such policy, decision or determination. In the event that the Commission member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the Commission's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in the City's Code of Ordinances.

Sec. 1.02.076 Powers and duties

The Commission shall have the following purposes and duties:

The Commission shall serve in an advisory capacity to the Mayor and City Council and shall have the following purposes and duties, as well as other duties as assigned by the City Council, as necessary to perform the business of the Commission:

- (a) Advise the City Council about uses of funds available from private and/or public sources for the benefit of local heritage and/or historic activities, projects or organizations serving the City and its citizens, as allowed by law.
- (b) Review applications for certificates of design compliance in accordance with the City's Unified Development Code;

- (c) Prepare rules and procedures of the Commission, subject to approval by the City Council;
- (d) Adopt criteria for the designation of historic, architectural, and cultural landmarks and properties located in the City or historic districts therein, subject to City Council approval;
- (d) Conduct surveys and maintain an inventory of significant historic, architectural and cultural landmarks and properties located in the City or historic districts therein;
- (e) Recommend the designation of resources as landmarks and historic districts;
- (f) Establish subcommittees from among its members and delegate responsibilities to these subcommittees to carry out the purposes of this division;
- (g) Develop and participate in public education programs to promote public awareness of the value of historic preservation in the City;
- (h) Recommend the acquisition of landmark structures by the City where their preservation is essential to the purpose of this division but private preservation is not feasible;
- (i) Accept on behalf of the City the donation of preservation easements, development rights, and other gifts of value for the purpose of historic preservation, subject to approval by the City Council;
- (j) Recommend to the City Council tax abatement programs for historic landmarks or districts;
- (k) Prepare design guidelines for the review of historic landmarks and districts, subject to approval by the City Council;
- (l) Provide for the design of signs and/or markers designating properties and historic landmarks or districts, subject to the approval of the City Council;
- (m) Recommend amendments to this division, to the City Council as the Commission deems necessary to effectuate the purposes of this division;
- (n) Conduct studies regarding the protection, enhancement, restoration, perpetuation or use of local historic landmarks and historic districts, and submit reports and recommendations to the City Council or other City agencies based on the studies; and
- (o) At the request of the City Council, prepare and submit an annual report to the City Council summarizing the work of the Commission performed during the previous year.

Sec. 1.02.077 Appointment of historic preservation officer

The City Council shall appoint the City Manager or his or her designee to serve as the Historic Preservation Officer. This officer shall administer this division and advise the Commission on matters submitted to it. The officer also is responsible for coordinating the City's historic preservation activities with those of county, state and federal agencies and non-profit organizations.

HISTORIC PRESERVATION COMMISSION BYLAWS

These Bylaws govern the Historic Preservation Commission of the City of Buda.

ARTICLE ONE ORGANIZATION

1. A. The Historic Preservation Commission (Commission) shall consist of seven (7) members in accordance with the enabling ordinance adopted by the City of Buda, as it may be amended from time to time.

B. If the enabling ordinance sets specific residency requirements, then those requirements must be observed, provided that if a vacancy occurs as a result of the death, incapacity, resignation, or change of residency of a member (as provided above), the Commission may continue its functions in the interim during the process of filling the vacancy.
2. Unless otherwise required by ordinance or other applicable law, all matters shall be decided by a majority vote of the members present and voting. Proxy voting shall not be permitted.

ARTICLE TWO MEETINGS

1. All meetings of the Commission shall be conducted in strict compliance with the Texas Open Meetings Act. All members shall attend and complete a state approved Open Meetings Act training program.
2. The general public, elected officials, the Commission, and city staff may request agenda items subject to approval by the Chairperson. Such items can be submitted via electronically, paper copy, agenda public comment.
3. A. The Commission shall establish a date and time for its regular meetings. It shall not be required to give notice of regularly scheduled meetings to members, other than compliance with the Texas Open Meetings Act.

B. Special meetings of the Commission may be called by:
 - (1) The Chairperson or Interim Chairperson of the Commission;
 - (2) The City Manager or his or her designee; or
 - (3) Three (3) Commission members.

Unless otherwise required by the enabling ordinance, UDC or state law, not less than three (3) days' notice shall be given by the City Manager or his or her designee of special meetings.

- C. Emergency meetings may be called in accordance with the Texas Open Meetings Act.
4. A member, who attends a meeting for any purpose other than objecting to the meeting because of lack of required notice, waives any objection to the meeting.
5. *Conflict of Interest.* A Commission member having any potential conflict of interest, as defined by the City Code of Ordinances or State law, on any policy, decision, or determination before the Commission shall disclose to each of the other members the nature of his potential conflict and shall abstain from voting on

such policy, decision or determination. In the event that the Commission member recognizes a conflict or clear potential for conflict of interest, he or she shall recuse him or herself from discussion and action on the topic involving such conflict. The disclosure shall be recorded in the Commission's minutes. Intentional or knowing failure to disclose a conflict of interest shall be governed under the general penalty section as set forth in the City's Code of Ordinances.

- (1) Any member of the Commission who does not legally have a conflict of interest but would like to avoid the appearance of a conflict of interest may elect to follow the procedure established in Section 5.
- (2) Members shall not represent any other person, group or interest before the Planning and Zoning Commission, the Zoning Board of Adjustments and Appeals, Historic Preservation Commission, Parks and Recreation Commission, Library Commission, Economic Development Corporation, Local Government Corporation or the City Council on any matter pending before such Board or Commission. This provision shall not preclude a member from representing an interest in his or her real homestead property. Members may represent the Historic Preservation Commission in reporting on the activities or decisions made of the Commission to the Zoning Board of Adjustments and Appeals, Planning & Zoning Commission, Parks and Recreation Commission, Library Commission, Economic Development Corporation, Local Government Corporation or the City Council.

ARTICLE THREE OFFICERS

Unless otherwise required by the enabling ordinance or state statute, the following provisions shall control the officers of the Commission:

1. The Commission shall have a Chairperson and a Vice-Chairperson elected from its membership to serve for a one (1) year term. Officers shall be elected annually by the Commission.
2. The Chairperson and Vice-Chairperson shall be residents within the city limits.
3. The Chairperson shall preside over the Commission and shall have the right to vote on all items before the Commission.
4. The Vice-Chairperson shall fulfill the duties of the Chairperson when the Chairperson is not available for any reason.

ARTICLE FOUR ATTENDANCE POLICY

Recognizing that members serve voluntarily and that the business of the Commission is advisory in nature, and keeping a proper balance between those principles and the important nature of the public business entrusted to the Commission, the following attendance policy shall apply to all members of the Commission:

- A. The voluntary absence of a Commissioner from three (3) consecutive regular meetings of the Commission will result in automatic resignation of the member from the Commission.

- B. The voluntary absence of a Commissioner from more than twenty-five (25) percent of the Commission's regular meetings during a calendar year will result in automatic resignation of the member from the Commission.

However, in no case shall a Commissioner, regardless of whether excused or voluntary, be absent from more than fifty (50) percent of the Commission's regular meetings during a calendar year. Such absenteeism will result in an automatic resignation of the member from the Commission.

- C. In this section:

(1) *Regular meeting* includes only regularly scheduled meetings, and does not include special meetings, workshops, or committee meetings of a board or commission.

(2) *Excused absence* means an absence that results from, including but not limited to:

- a medical reason of a board or commission member or a relative of the member,
- child care for a newly born or newly adopted child during the first eight weeks of the child's life,
- death of a family member,
- a scheduled vacation
 - More than one (1) scheduled vacation will be deemed a voluntary absence.
- business travel,
- school, or
- from an unexpected factor beyond the control of the Commissioner.

The City Manager or his or her designee shall be responsible for determining whether an absence is excused.

(3) *Voluntary absence* means an absence other than an excused absence.

- D. Members shall strive to notify the City Manager or his or her designee in advance of any known or planned absence to enable the City Manager or his or her designee to determine if a quorum will be present. Failure to give reasonable notice may be considered when determining whether an absence shall be excused.
- E. In the event where there is an automatic resignation, the City Manager or his or her designee shall coordinate with the City Secretary to provide a list of eligible candidates to the City Council for consideration of replacement for such vacancy.
- F. The City Manager or his or her designee shall keep abreast the City Council on such voluntary absences.

**ARTICLE FIVE
RECORDS**

All records of the Commission are public records. All such records shall be in the custody of the City Secretary but available to the members in the due course of their proceedings. The City Manager or his or her designee shall be responsible for the care and custody of the records while in the Commission's use.

All secretarial duties of the Commission shall be performed by City staff with the aid and assistance of the Chairperson.

ARTICLE SIX REGULATIONS

The Commission is not a regulatory body and has no authority to adopt regulations governing persons or properties, nor does it have authority to adopt rules implementing City policies. Should the Commission determine rules or regulations would provide a public benefit, those rules or regulations shall be submitted to the City Council for review and adoption.

ARTICLE SEVEN RULES OF DECORUM

1. A. The purposes of these rules are as follows:
 - (1) To ensure that meetings of the city boards and commissions are conducted in a way that allows the business of the city to be effectively conducted.
 - (2) To ensure that members of the public who attend meetings of the city council and of city boards and commissions can be heard in a fair, impartial and respectful manner.
 - (3) To ensure that meetings of the city boards and commissions are conducted in a way that is open to all viewpoints, yet free from abusive, distracting or intimidating behavior.
 - (4) To ensure that the rules governing decorum at meetings of the city boards and commissions are understood by persons attending the meetings.
- B. This section applies to meetings of boards and commissions whose membership is wholly appointed by the city council.
- C. Members of the public may address the city board or commission at the following times during a meeting:
 - (1) During citizen comment period, if such a period is on the agenda for the meeting;
 - (2) During a public hearing on an agenda item; or
 - (3) At other times with the permission of the presiding officer.
- D. Members of the public who wish to address a board or commission at any time during a meeting must complete a sign-in form prior to the meeting at the office of the staff liaison, for a board or commission meeting. Speakers must state their name and place of residence, and must limit their remarks to the specified time limit on the agenda unless otherwise determined by the presiding officer. The allotted time will commence from the beginning of the speaker's remarks and will include any time spent in discussion between the speaker and board or commission members. Issues taking longer to communicate can be addressed outside the meeting to the city staff or to individual members of a board or commission, or submitted in writing.
- E. All comments and questions by members of the public at a meeting will be directed to the presiding officer.
- F. During a citizen comment period, members of the public will be given an opportunity to speak, and they must observe the specified time-limit, unless otherwise determined by the presiding officer, under subsection D.

- G. The presiding officer and members of boards and commissions, will endeavor to ensure that meetings are conducted in a courteous manner, and in an atmosphere free of defamation, intimidation, personal affronts, profanity, or threats of violence.
- H. Members of the public shall not engage in any of the following in the meeting room during a board or commission meeting:
 - (1) Shouting, unruly behavior, distracting side conversations, or speaking out when another person is talking.
 - (2) Defamation, intimidation, personal affronts, profanity, or threats of violence.
 - (3) Audible use of phones, pagers, radios, computers or other electronic equipment notwithstanding the use during presentation purposes before a board or commission.
 - (4) Booing, hissing, foot stomping, parading, singing or other similar behavior that impedes or disrupts the orderly conduct of the meeting.
- I. The rules in this section shall be enforced in the following manner:
 - (1) The presiding officer will request that a person who is violating a rule cease the violation.
 - (2) If the violation continues, the presiding officer will warn the person that he or she will be required to leave the meeting room if the violation continues.
 - (3) If the violation continues, the presiding officer will order the person to leave the meeting room.
 - (4) If the person does not leave the meeting room, the presiding officer may order any peace officer at the meeting to remove the person from the meeting room.
- J. It is unlawful for any person to intentionally or knowingly resist removal from a meeting room by a peace officer under subsection I of this Article.

**ARTICLE EIGHT
MOTIONS AND MEETING PROCEDURES**

The motions and meeting procedures set forth herein are to guide Commissioners during meetings. Any errors and/or omissions by a Commissioner(s) on a procedure during such meeting shall not constitute the action to be illegal. Any motions and/or meeting procedures not expressly defined in this section or any procedures as set forth within the City Charter shall follow under the latest edition of Robert’s Rules of Order.

1. Motions. After a Commissioner obtains the floor, he/she may make a motion on the particular subject of discussion or a procedural point as permitted. A “Second” to the motion, if required, must be made by another Commissioner within a reasonable but brief time period. A “Second” merely implies that the seconder agrees that the main motion should come before the meeting and not that he/she necessarily favors the motion. Without a “Second”, if required, the motion dies.
2. Debate. Debate, if permitted, must be limited to the merits of the issue under discussion as stated by the presiding officer.
3. Motion Procedures. There are eleven (11) types of motions in three (3) categories: Meeting Conduct Motions (4 types), Disposition Motions (6 types), and Main Motions. When any motion is pending, any motion listed above it on the chart below is in order; those below it are out of order.

Motion	May Interrupt Speaker	Second Required	Debatable	Amendable	Resolved by Chair No Vote	Affirmative Vote by 3 Commissioners	2/3 Vote
A. Meeting Conduct Motions							
1.point of privilege	yes	no	no	no	yes	no	no
2.point of procedure or order	yes	no	no	no	yes	no	no
3.to appeal a ruling	no	yes	yes	no	no	yes	no
4.to recess	no	yes	yes	yes	no	yes	no
B. Disposition Motions							
5.to withdraw	yes	no	no	no	yes	no	no
6.to postpone	no	yes	yes	yes	no	yes	no
7.to refer	no	yes	yes	yes	no	yes	no
8.to amend	no	yes	yes	yes	no	yes	no
9.to limit; extend or close debate; or to “call the question”	no	yes	yes	yes	no	no	yes
10.to count the vote	no	yes	no	no	no*	no	no
C. Main Motions							
11.to take action or reconsider action taken	no	yes	yes	yes	no	yes**	no

* Mandatory if seconded; no vote required

** Unless a greater vote is required by the Charter or State law

4. Point of Privilege. A point of privilege, sometimes called a point of personal privilege, is a communication from a Commissioner to the presiding officer, drawing urgent attention to a need for personal accommodation. For example, the point may relate to an inability to see or hear, a matter of comfort, a matter of requested convenience, or an overlooked right of privilege that should have been accorded to the Commissioner(s). In essence, it is a call to the presiding officer for the purpose of assuring a Commissioner’s convenient and appropriate participation in the meeting. Because of its urgent nature, a point of privilege can interrupt a speaker. Because it is addressed to the attention and action by the presiding officer, it cannot be debated or amended, and no vote is required.

5. Point of Procedure or Order. A point of procedure, sometimes called a point of order, is a question addressed to the presiding officer, no seconding is required, and either inquiring into the manner of conducting business or raising a question about the propriety of a particular procedure. It is simply an inquiry and is resolved by correction or clarification by the presiding officer. A point of procedure can interrupt a speaker. Because it is addressed to the attention of and action by the presiding officer, a second is not required, and it cannot be debated or amended, and no vote is taken.
6. To Appeal a Ruling. Decisions or rulings of the presiding officer are final on questions of procedure, except that any ruling by the presiding officer's ruling can be appealed to a vote of the Commission. Whenever a Commissioner questions the appropriateness or essential fairness of the presiding officer, that member can appeal the ruling to a vote of the meeting. If, however, a motion is out of order as a matter of law (not a proper subject of the meeting, improper notice given etc.), the presiding officer's ruling cannot be appealed. A motion to appeal cannot interrupt a speaker. To prevent frivolous appeals, a second is required. The motion is subject to debate (which should be brief) and, by its nature, is not amendable. To overrule a procedural decision of the presiding officer, an affirmative vote of three (3) Commissioners is required.
7. To Recess. A motion to recess requests a brief interruption of the meeting's business, usually so that an ancillary matter can be addressed, or simply to provide a needed break. Unless stated in the motion, the period of recess is decided by the presiding officer. If necessary, a recess can extend the meeting from one day to another, subject to State law. The motion cannot interrupt a speaker, and a second is required. It is debatable, it can be amended, and an affirmative vote of three (3) Commissioners is required.
8. To Withdraw. Only the maker of the motion can make a motion to withdraw it. It is essentially a communication to the presiding officer that the maker is withdrawing his/her proposal. This is the maker's privilege; thus, it does not require a second. Because the withdrawal motion obviates discussion, it can interrupt a speaker. In addition, because another Commissioner later can make a similar motion, a withdrawal motion is not subject to debate, amendment, or vote. The presiding officer should simply state that the motion is withdrawn, and the meeting should proceed with a new treatment of the issue at hand – or a new issue.
9. To Postpone. This motion may arise from a need for further information, a matter of convenience, or for any other reason that will enable the Commission to deal with the issue more effectively at a later time. Unless otherwise specifically provided in the motion itself, a postponed motion can be renewed at a later appropriate time during the meeting or, if properly posted, at a later meeting. This motion cannot interrupt a speaker. It requires a second, it is debatable, and it is amendable (particularly as to postponement, timing), and an affirmative vote of three (3) Commissioners is required.
10. To Refer. A motion to refer is typically used to submit an issue to a committee, usually for study leading to a subsequent recommendation. Because it ordinarily disposes the motion for purposes of the current meeting, a motion to refer is subject to the same rules that apply to a main motion. (See Section 14.). This motion cannot interrupt a speaker, and a second is required. It is debatable and amendable, and an affirmative vote of three (3) Commissioners is required.
11. To Amend. A motion to amend proposes a change in the wording of a motion then under consideration. When a motion to amend is pending and an amendment to the amendment is proposed,

the presiding officer should focus discussion on the latest amendment, resolve that question, then proceed to the first amendment before continuing discussion on the main motion. Votes on amendments thus are in reverse order of the sequence in which they are proposed. A motion to amend cannot interrupt a speaker. It requires a second, and it is debatable and amendable. An affirmative vote of three (3) Commissioners is required for approval of the amendment. Note that State law may restrict amendments to proposals that are required to be set forth in the notice of the meeting.

12. To Limit, Extend, or Close Debate or "Call the Question". Because the extent to which an issue is discussed rests primarily with discretion of the presiding officer, it is the presiding officer who carries the burden of ensuring that adequate time and discussion are given to differing points of view. A motion to limit, extend, or close debate is therefore an overruling of the presiding officer's determination. A motion to close debate is the same as a motion to "call the question". Because this motion affects the most fundamental right of any Commissioner, the right to speak one's views, it is the only procedural motion that requires an affirmative vote of two-thirds of the participants voting.
13. To Count the Vote. A motion to count the vote should be limited to those circumstances where the convenient hearing of "yeas" and "nays" cannot clearly resolve the issue. It represents the right of a Commissioner to have a vote demonstrated by count. That count can be directed by the presiding officer either as a showing of hands or a standing of voting members while the vote is recorded. Upon completion of the count, the presiding officer announces the result-and final disposition of the issue voted upon. This motion cannot interrupt a speaker. It requires a second; it is neither debatable nor amendable; and, because of the importance of the matter, it should be considered mandatory; thus, no vote is required.
14. To Take Action or Reconsider an Action; Main Motions. These main motions state proposed policy or action on a substantive issue being considered by the Commission. As such, the motion can be an initial call to take particular action; to reconsider action taken; or to rescind a prior decision. Although lowest in precedence among all motions, main motions are clearly the most important: through their content, the business decisions of the Commission are determined. A main motion can be made only when a prior main motion has been disposed of. It cannot interrupt a speaker; a second is required; it is debatable and amendable; and an affirmative vote of three (3) Commissioners is required unless a greater vote is prescribed by the Charter or State law.