



Sandoval County, New Mexico

Resolution No. 8-25-20.6B

OPEN MEETINGS ACT

WHEREAS, the Sandoval County Planning and Zoning Commission met in regular session on February 25, 2020, at 4:30 p.m., as required by law; and

WHEREAS, the Sandoval County Planning and Zoning Commission adopted Resolution 2-25-20.7 which established Open Meetings Act and Rules of Procedures for the Planning and Zoning Commission; and

WHEREAS, the Sandoval County Planning and Zoning Commission wishes to repeal Resolution 2-25-20.7 and any amendments, in order to separate the Open Meetings Act and Rules of Procedure into two (2) separate Resolutions;

WHEREAS, this Resolution 8-25-20.6B addresses the Open Meeting Act requirements for notice of public meeting and commission agendas;

WHEREAS, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, §10-15-1 to §10-15-4) states that, except as may otherwise be provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any board, council, commission, administrative adjudicatory body or other policy-making body of any state or local public agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act, at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs, shall be held only after reasonable notice to the public; and

WHEREAS, the Sandoval County Planning and Zoning Commission wishes to establish Open Meeting Act Compliance for determination of what constitutes reasonable notice of its public meetings and commission agendas.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Sandoval County Planning and Zoning Commissioners, Sandoval County (hereinafter referred to as the "P+Z Commission");

I. **OPEN MEETINGS ACT COMPLIANCE**

A. **Meetings**

3. In conjunction with the above election, a Vice Chair is also elected in a like manner. The Vice Chair continues to have all the rights, privileges and immunities of a member of the Commission.
4. In case of the absence or temporary disability of the Chair, the Vice Chair serves as Chair during the absence. In case of the absence or temporary disability of the Chair and the Vice Chair, an Acting Chair and Vice Chair, selected by members of the P+Z Commission, serves during the continuance of the absences or disabilities.

B. Public Meeting Order

1. The normal order of considering an application shall be as follows unless the P + Z Commission approves a motion to alter the order of presentation:
 - a. Planning and Zoning Staff presentation
 - b. Applicant's or Agent's presentation
 - c. Public Comment
 - d. Cross Examination
 - e. Rebuttal by staff or applicant
 - f. Floor is closed
 - g. Comments by the P+Z Commission, if any
 - h. Motions, including Findings and conditions, if applicable, as listed in the Staff Reports or/and any proposed by a member of the P+Z Commission.

C. Public Meeting Procedures

1. The applicant may present on their own behalf or may be represented by an agent.
2. A P+Z Commissioner may ask clarifying questions of any speaker at the public meeting at any time prior to closing the floor. The Chair has the discretion to allow additional comment and response while the floor is open.
3. At the beginning of the meeting the Chair shall ask for a roll call of the Commissioners in attendance. When a P+Z Commissioner joins or leaves a meeting that is in progress, the Chair shall announce that for the record as well as citing the time this occurs.
4. Any P+Z Commissioner may move to reopen the floor for discussion pertaining to the application under consideration by the P+Z Commission.
5. Cross Examination shall be afforded to persons with standing. Persons with standing include the applicant and persons who demonstrate a personal or pecuniary interest or property right that may be adversely affected by the P+Z

Commission's decision, which right or interest must be more than merely nominal or remote. Questions must be submitted to the Chair and asked through him except as directed otherwise by the Chair.

6. The Chair is responsible for the management and administration of the P + Z Commission meetings, which may include time limits on presentations and testimony are generally as follows:
 - a. 5 minutes for P + Z staff
 - b. 10 minutes for applicant's presentation
 - c. 3 minutes for each public speaker
 - d. 5 minutes for cross examination
 - e. 5 minutes for applicant's response
 - f. 5 minutes for staff response
7. The time limits may be imposed by the Chair and will be announced before the application is heard.
8. The Chair may grant additional time to any speaker as is appropriate. Individual speakers may not cede their speaking time to others.

D. General Rules of Conduct and Procedures:

1. A P+Z Commissioner shall recuse himself from hearing a matter if conflict of interest exists or appears to exist, including, for example, a direct or indirect financial conflict of interest, or if circumstances exist which would impair or appear to impair the independence of judgment of the P+Z Commissioner. However, the P+Z Commissioners have a duty to hear cases presented to them and recusal should only occur for good reason. A P+Z Commissioner who recuses himself from hearing and voting on a quasi-judicial matter shall not be present in the hearing room when the matter is heard.
2. A P+Z Commissioner shall not engage in Ex Parte communication about any filed or prospective application requiring a quasi-judicial proceeding with any person or organization interested in such an application. For purposes of these rules, an *ex parte* communication shall be defined as a substantive communication, outside the public hearing process, between a member of the P+Z Commission and any member of the public. Ex Parte communication by a P+Z Commissioner shall be grounds for recusal.
3. Communication with the Planning and Zoning or County Legal staff shall not be considered *ex parte* communications. Communication with Planning and Zoning

staff outside of an open meeting regarding the substance of a case shall be by email. This communication shall be made part of the record.

4. Any material received by a P+Z Commissioner from any person or organization shall be forwarded to the Planning and Zoning staff for distribution to the P+Z Commission.
5. The P+Z Commissioners are not subject to cross-examination.
6. In quasi-judicial proceedings, all communications, written or verbal, with P+Z Commission must be made through the Planning and Zoning staff, not directly with any member of the P+Z Commission
7. For applications that result in recommendations to the Board of County Commissioners, the P+Z Commission shall not have discussions with the County Commissioners about these applications while pending.
8. The P+Z Commission shall only hear actual applications and shall not consider hypothetical or what-if scenarios.
9. P+Z Commissioners shall not conduct independent fact finding investigations for any property that is subject to quasi-judicial proceedings before the P+Z Commission. However, driving by the subject property to familiarize themselves with the location and environs of such a property does not constitute an independent fact finding investigation and is permitted.
10. These rules may be amended by a majority vote of the P+Z Commission at a public meeting. Notice to the public shall follow the same advertisement schedule as required for quasi-judicial cases to be heard by the P+Z Commission. The notice shall announce that the P+Z Commission will be proposing to amend their rules but does not have to list the specific issues. Discussion shall take place at the hearing and the public and other interested parties can sign in to speak at that time.
11. P+Z Commissioners shall confine their remarks to the question under discussion or debate, avoiding personalities. No P+Z Commissioner shall engage in private discourse or commit any other act tending to distract the attention of the P+Z Commission from the business before it.
12. A P+Z Commissioner once recognized should not be interrupted when speaking unless to call said P+Z Commissioner to order. The P+Z Commissioner should

then cease speaking until the question of order is determined, without debate, by the Chair. If in order, said P+Z Commissioner will be at liberty to proceed.

E. Amendment of Rules

1. These rules, or any part thereof, may be amended, repealed, altered or rescinded by a majority vote of all P+Z Commissioners after two weeks' notice of his/her intention to amend. Such notice shall be presented in writing at a Regular Administrative hearing

F. Not Covered by Rules

1. Any matter not covered by these Rules shall be governed by Robert's Rule of Order (latest edition), or if not covered by Robert's Rule of Order, by a decision of the chair, subject to the right of appeal. A violation of Robert's Rule of Order brought to the attention of the P+Z Commission during the hearing and prior to a vote of the issue shall not be a basis of appeal.

G. Motions

1. No motion shall be entertained or debated until announced by the Chair, and every motion shall be seconded to be considered for action. When a question is before the P+Z Commission, only the following additional motion(s) shall be entertained and such motion(s) shall have precedence in the following order:
 - (a) To adjourn
 - (b) To recess
 - (c) To reconsider
 - (d) To table
 - (e) To move the previous question
 - (f) To postpone to a time certain (to defer)
 - (g) To amend or substitute
 - (h) To postpone indefinitely
 - (i) Any other motion
2. A motion to adjourn, to recess, to table, or move the previous question shall be decided without debate and cannot be amended.
3. A motion to move the previous question must be approved by a majority of those present and voting, and may apply to only the immediate pending question.
4. All other motions are debatable.
5. A motion to amend or substitute shall be clearly stated.
6. A motion to adjourn when no fixed time is set shall mean an adjournment to the next Regular Administrative meeting of the P+Z Commission.
7. The maker of a motion shall be entitled to the floor first for debate.

H. Voting

1. The votes during all P+Z Commission meetings should be transacted as follows:
 - a) Except for the election of the Chair and Vice Chair, when the Chair calls for a vote on a motion, every member, in the Commission Chambers, must give his/her vote.
 - b) The passage of any motion shall require the affirmative vote of at least a majority of the membership of the P+Z Commissioners who are present and eligible to vote. In case of a tie in votes on any proposal, the proposal shall be considered lost.
 - c) The New Mexico Zoning Act (3-21-1 et. seq.) requires certain votes of the P+Z Commission to be determined by more than simple majority of the P+Z Commission's quorum (e.g. 3-21-6; 3-21-14).
 - d) A P+Z Commissioner shall be allowed to change his/her vote, but only before the result has been announced.
 - e) Any P+Z Commissioner shall have the right to express dissent from, or protests against, any item being acted on by the P+Z Commission, and to have the reason therefore entered in the minutes.
 - f) If a motion is not carried by at least a majority of P+Z Commission's quorum, the proposal shall be considered lost.
 - g) A record of each P+Z Commissioners vote shall be entered in the minutes of each meeting.

I. Public Comment

1. So that freedom of speech is unrestricted:
 - a) Anyone will be allowed an opportunity to speak during the public comment period of the P+Z Commission public hearing meeting.
 - b) Speakers may discuss any subject not on the agenda during the public comment period.
2. In order to promote orderly efficient meetings respectful of everyone's time:
 - a) All individuals will be limited to three (3) minute comment period.
 - b) No individual will be permitted to speak more than one (1) time, or to donate any of their time to another individual; no rebuttals to the comments of others will be permitted.
 - c) The public comment period will be on the P+Z Commission's agenda for regular meetings.
 - d) Comments, applause and other interruptions from the audience are not allowed.
3. In order to promote orderly meetings so that attendees feel safe and secure in their attendance:
 - a) Threatening/abusive or personal attacks will not be allowed and the Chair of the P+Z Commission can impose additional restrictions as necessary.

- b) Comments by speakers will only be addressed to the P+Z Commission.

J. AGENDAS

1. Preparation of Agenda – Regular Administrative Meetings


- (a) The Planning and Zoning Department shall prepare and disseminate the agenda. The Chair, the Planning and Zoning Director or a majority of the members in a previous meeting (at the initiation of at least one member) may place an item on the agenda.
- (b) The Chair and Planning and Zoning Director will meet to discuss each agenda. Items for Final Action on an Administrative Meeting agenda may be placed on the Consent Agenda by the Planning and Zoning Director, after consultation with the Chair, if s/he believes that no discussion or amendment is needed. Thereafter, the Planning and Zoning Director shall finalize the agenda.
- (c) Any member of the P+Z Commission may make a motion to remove an item from the Consent Agenda for further discussion.

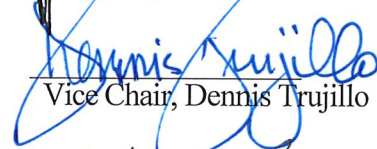
2. Agenda Material

A copy of the agenda and supporting materials shall be prepared for Commissioners and made available to them within a reasonable time before the hearing but no later than 72 hours prior to the Regular Administrative hearing. The agenda, as well as supporting documents that are part of agenda documentation, shall be available for review in the Planning and Zoning Department.


PASSED by the Sandoval County Planning and Zoning Commission, this 25 day of August 2020.

**SANDOVAL COUNTY
PLANNING AND ZONING COMMISSION**


Chair, Aparcio C. Herrera


Vice Chair, Dennis Trujillo

ATTEST:


Eileen Garbagni, County Clerk


Member, Keith Brown

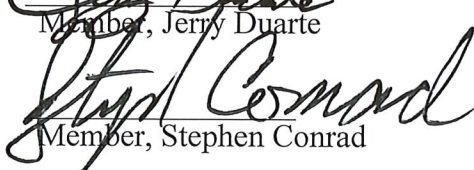
APPROVED AS TO FORM:


Robin S. Hammer, County Attorney


Member, James G. Maduena


Member, Geoffrey Stamp


Member, Jerry Duarte


Member, Stephen Conrad