

Council Meeting of
June 10, 2008

Honorable Mayor and Members
of the Torrance City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: City Attorney – Adopt RESOLUTION amending the Council Rules of Order governing motions for reconsideration
Expenditure: None.

RECOMMENDATION

Recommendation of the City Attorney that City Council adopt a RESOLUTION amending the Council Rules of Order governing motions for reconsideration.

Funding

Not applicable.

BACKGROUND AND ANALYSIS

At the City Council meeting of May 20, 2008, the Council asked that an item be brought forward proposing modifications to the Council Rule of Order governing motions for reconsideration. The current rule governing motions for reconsideration states a motion to reconsider may only be made once at the meeting at which the matter was first considered, and once within the succeeding fourteen days. The Council expressed frustration with the fact that they did not have the option to reconsider items brought before them when there was not a subsequent meeting within the fourteen-day time frame.

Attached is a draft resolution that modifies the Council Rule of Order. The proposed language allows the Council to reconsider any action taken by them once at the meeting at which the matter is first considered and once within the succeeding two meetings. This allows the council one meeting at which to request the item be placed on the next agenda and the subsequent meeting to vote on the reconsideration.

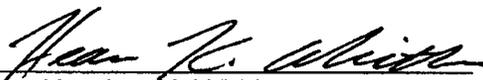
This same frustration has been expressed by the Planning Commission. The Planning Commission follows the Council rules of Order. While observed by most commissions, the Council Rules of Order were adopted with the City Council's meeting schedule in

mind. As such, the Planning Commission has found that there are difficulties in applying the Council Rule of Order governing motions for reconsideration. The Planning Commission meets the first and third Wednesday of the month. Therefore, frequently they are unable to reconsider items based on the limited time frame. As a result, the Planning Commission, at its meeting of February 6, 2008, voted to forward to the City Council a draft Planning Commission resolution that would adopt a separate rule for motions for reconsideration for the Planning Commission. A copy of that item and resolution is attached.

The draft City Council Resolution that is attached to this item, if adopted, will allow not only the City Council increased opportunity to reconsider matters previously heard by them, but will also provide those same opportunities to the Planning Commission. Consequently, the City Attorney recommends that the City Council adopt the attached City Council Resolution. If the Council does so, the Planning Commission will no longer need to adopt its own rule of order.

Respectfully submitted,

John L. Fellows III
City Attorney

By 
Heather K. Whitham
Deputy City Attorney

CONCUR:


John L. Fellows III, City Attorney

Noted:



Attachment A) Resolution
B) Redline resolution
C) Planning Commission Item (2/6/08), draft resolution and minutes

RESOLUTION NO. 2008-**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE AMENDING SECTION 3.6 OF THE COUNCIL RULES OF ORDER GOVERNING MOTIONS FOR RECONSIDERATION**

- WHEREAS, the City Council adopted the Council Rules of Order on January 6, 1987; and
- WHEREAS, the Council Rules of Order have been amended from time to time by Resolution Nos. 89-45, 90-92, 90-229; 2001-02; and 2002-28; and
- WHEREAS, the Council Rules of Order were repealed and restated as of August 8, 2006, by way of Resolution 2006-61; and
- WHEREAS, the Council Rules of Order were again repealed and restated as of August 15, 2006, by way of Resolution 2006-65; and
- WHEREAS, the City Council now wishes to amend the rules further to modify Section 3.6 governing motions for reconsideration.

NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY RESOLVE AS FOLLOWS:

1. That Section 3.6 of the Council Rules of Order is amended to read in its entirety as follows:

“SECTION 3.6. MOTION TO RECONSIDER.

- 1) A motion to reconsider any action taken by the Council may only be made by one of the council members who voted with the prevailing side or who was absent when the motion was voted on.
- 2) Tie votes are considered failed motions and may be reconsidered. Any council member may move to reconsider any action taken by the Council that resulted in a tie vote.
- 3) A motion to reconsider any action taken by the Council may only be made once at the meeting at which the matter was first considered, and once within the succeeding two meetings.

4) Any council member may second a motion to reconsider.

INTRODUCED, APPROVED AND ADOPTED this __ day of _____ 2008.

Frank Scotto
Mayor

APPROVED AS TO FORM:
JOHN FELLOWS III, City Attorney

ATTEST:

by _____
Ronald T. Pohl, Assistant City Attorney

City Clerk of the City of Torrance

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INTRODUCED, APPROVED AND ADOPTED this ___ day of _____ 2008.

Frank Scotto
Mayor

APPROVED AS TO FORM:
JOHN FELLOWS III, City Attorney

ATTEST:

by _____
Ronald T. Pohl, Assistant City Attorney

City Clerk of the City of Torrance

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AGENDA ITEM NO. 14A

TO: Members of the Planning Commission

FROM: City Attorney's Office

SUBJECT: Miscellaneous Permit_MIS08-00032/(In case you want the case #)
Motions for Reconsideration

The Planning Commission follows the Torrance City Council Rules of Order. While observed by most commissions, the Council Rules of Order were adopted with the City Council's meeting schedule in mind. As such, the Planning Commission has found that there are difficulties in applying the Council Rule of Order governing motions for reconsideration at the Planning Commission.

The Rule of Order governing motions for reconsideration states such a motion may only be made once at the meeting at which the matter was first considered, and once within the succeeding fourteen days. Since the City Council meets every Tuesday, this allows the Council to make such a motion at either of the next two council meetings. The Planning Commission meets the first and third Wednesday of the month. If the Planning Commission desires to reconsider a motion made at the meeting held on the first of the month they may. If the Commission wishes to reconsider a motion made at the third Wednesday of the month, however, they are not always able to do so. Often there are more than fourteen days between the second meeting of the month and the first meeting of the next month.

Therefore, the Commission expressed a desire to adopt its own rule of order regarding motions for reconsideration. By extending the time within which to bring a motion to reconsider to the next meeting, the Commission ensures that there will be an opportunity to bring a motion to reconsider at the subsequent meeting.

In the January 16, 2008 item to the Planning Commission, the City Attorney's Office expressed the following concerns regarding the request:

The adoption of a separate rule of order for the Planning Commission that conflicts with the Council Rule of Order will create an inconsistency in the application of the Council Rules of Order. There is a benefit to having a uniform set of rules that the City's boards and commissions follow.

Second, the extended time for reconsideration will create conflicts with the appeal process. Under the Torrance Municipal Code, decisions of the Planning Commission must be appealed within fifteen days after the decision. Extending the time within which to reconsider beyond the appeal period will create problems of jurisdiction between the Planning Commission and the City Council.

Further, since an applicant or opponent can always appeal a decision of the Planning Commission, there is not a need to ensure that an opportunity for reconsideration is always available. If someone disagrees with a Planning Commission decision, they have the right to bring an appeal within the appeal period. Therefore, the inability to ask for reconsideration does not prevent a person from receiving an additional review.

At the January 16, 2008 meeting, the Commission voted to have the City Attorney's Office prepare a draft resolution for the February 6, 2008 meeting. A copy of that resolution is attached. The Commission decided it would review the resolution and if acceptable, they would forward the resolution to the City Council with a request for concurrence with the Commission's request to adopt its own motion for reconsideration.

Respectfully submitted,



Heather K. Whitham
Deputy City Attorney

Attachment: Resolution

DRAFT

PLANNING COMMISSION RESOLUTION NO. 08-015

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF TORRANCE, CALIFORNIA, ADOPTING ITS OWN RULE OF ORDER FOR MOTIONS TO RECONSIDER ITEMS HEARD BY THE PLANNING COMMISSION

MIS08-00032: PLANNING COMMISSION RULE OF ORDER-MOTIONS FOR RECONSIDERATION

WHEREAS, the Planning Commission of the City of Torrance follows the Rules of Order adopted by the City Council; and

WHEREAS, the City Council of the City of Torrance meets every Tuesday; and

WHEREAS, the Planning Commission meets the first and third Wednesday of each month; and

WHEREAS, the Rule of Order governing motions for reconsideration adopted by the City Council presents practical difficulties in its application by the Planning Commission; and

WHEREAS, the Planning Commission at its meeting of February 6, 2008 voted to adopt its own Rule of Order for motions to reconsider items heard by the Planning Commission by the following roll call vote;

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Torrance, hereby adopts the following Rule of Order for motions to reconsider items heard by the Planning Commission:

MOTION TO RECONSIDER

1. A motion to reconsider any action taken by the Planning Commission may only be made by one of the commission members who voted with the prevailing side or who was absent when the motion was voted on.
2. Tie votes are considered failed motions and may be reconsidered. Any planning commissioner may vote to reconsider any action taken by the Planning Commission that resulted in a tie vote.

3. A motion to reconsider any action taken by the Planning Commission may only be made once at the meeting at which the mater was first considered, and once at the next meeting.
4. Any Planning Commissioner may second a motion to reconsider.

Introduced, approved and adopted this ____ day of _____ 2008.

Chairman, Torrance Planning Commission

ATTEST:

Secretary, Torrance Planning Commission

EXCERPT OF MINUTES

✓ Minutes Approved

February 6, 2008

**MINUTES OF A REGULAR MEETING OF
THE TORRANCE PLANNING COMMISSION****1. CALL TO ORDER**

The Torrance Planning Commission convened in a regular session at 7:04 p.m. on Wednesday, February 6, 2008 in the Council Chambers at Torrance City Hall.

3. ROLL CALL

Present: Commissioners Browning, Gibson, Horwich, Skoll, Uchima, Weideman and Chairperson Busch.

Absent: None.

Also Present: Planning Manager Lodan, Planning Associate Martinez, Plans Examiner Noh, Associate Civil Engineer Symons, Fire Marshal Kazandjian and Deputy City Attorney Whitham.

14A. MIS08-00032: RULES OF ORDER MOTIONS TO RECONSIDER

Planning Commission consideration of a proposed Commission Rule of Order concerning Motions to Reconsider.

Deputy City Attorney Whitham reported that as directed at the last meeting, the City Attorney's Office prepared a draft resolution, which would allow the Planning Commission to adopt its own Rule of Order with regard to Motions for Reconsideration. She explained that currently the Commission follows the City Council Rules of Order, which allow motions for reconsideration to be brought within 14 days of a hearing, but the proposed Commission Rule of Order would change this timeframe from "14 days" to "the next Commission meeting," to address the gap that occurs when meetings are more than 2 weeks apart.

In response to Chairperson Busch's inquiry, Deputy City Attorney Whitham confirmed that the Civil Service Commission has its own Rules of Order. She explained that this is necessary because the Civil Service Commission often conducts hearings in a closed setting when dealing with employee matters.

Commissioner Browning asked about staff's position, and Deputy City Attorney Whitham advised that the City Attorney's Office would prefer that the Commission not adopt its own Rule of Order for the following reasons: 1) Having a uniform policy that applies to all commissions and boards helps avoid confusion; 2) Extending the time period for reconsideration could create conflict with the appeals process; and 3) An applicant can always appeal a decision of the Planning Commission to the City Council, so it is not necessary to ensure that an opportunity for reconsideration is always available.

Commissioner Browning voiced his opinion that the proposed revised rule was a necessary tool that could help avoid appeals. He explained that a Commissioner who is

absent from a meeting when there is a 3-3 tie vote could request reconsideration of the item at the next meeting and possibly break the tie, however, without the revision, this option is lost when there is more than 14 days between meetings. He related his belief that someone from the Commission should be present when the resolution is considered by the City Council in order to explain the Commission's position.

Commissioner Weideman stated that while no one has made a Motion for Reconsideration during his tenure on the Commission, he thought Commissioner Browning had presented a logical argument for the revision and he would support the resolution.

Commissioner Browning noted that the Commissioner Guide mentions that a commission may establish such rules and regulations it deems necessary for the performance of duties as long as they do not conflict with the City Charter or City Ordinances, and Deputy City Attorney Whitham confirmed that the revised Rule Order would not conflict with these documents.

Commissioner Horwich stated that he believes the Commission has an ethical duty to be as fair and accommodating to the public as possible, therefore he would support the proposed resolution, even though he felt there was little likelihood that this would become an issue.

Chairperson Busch noted his concurrence with Commissioner Horwich's remarks.

Commissioner Browning reported that there was an instance last year when he did not agree with a decision that was made at a meeting he missed, but he was unable to make a Motion for Reconsideration because there were more than 14 days between meetings. He noted that the decision was appealed to the City Council and subsequently overturned.

MOTION: Commissioner Browning moved for the adoption of Planning Commission Resolution No. 08-015. The motion was seconded by Commissioner Skoll and passed by a 6-1 roll call vote, with Commissioner Gibson dissenting.

Chairperson Busch asked that staff notify the Commission when the matter is going before the Council so that he and/or Commissioner Browning could be present.

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