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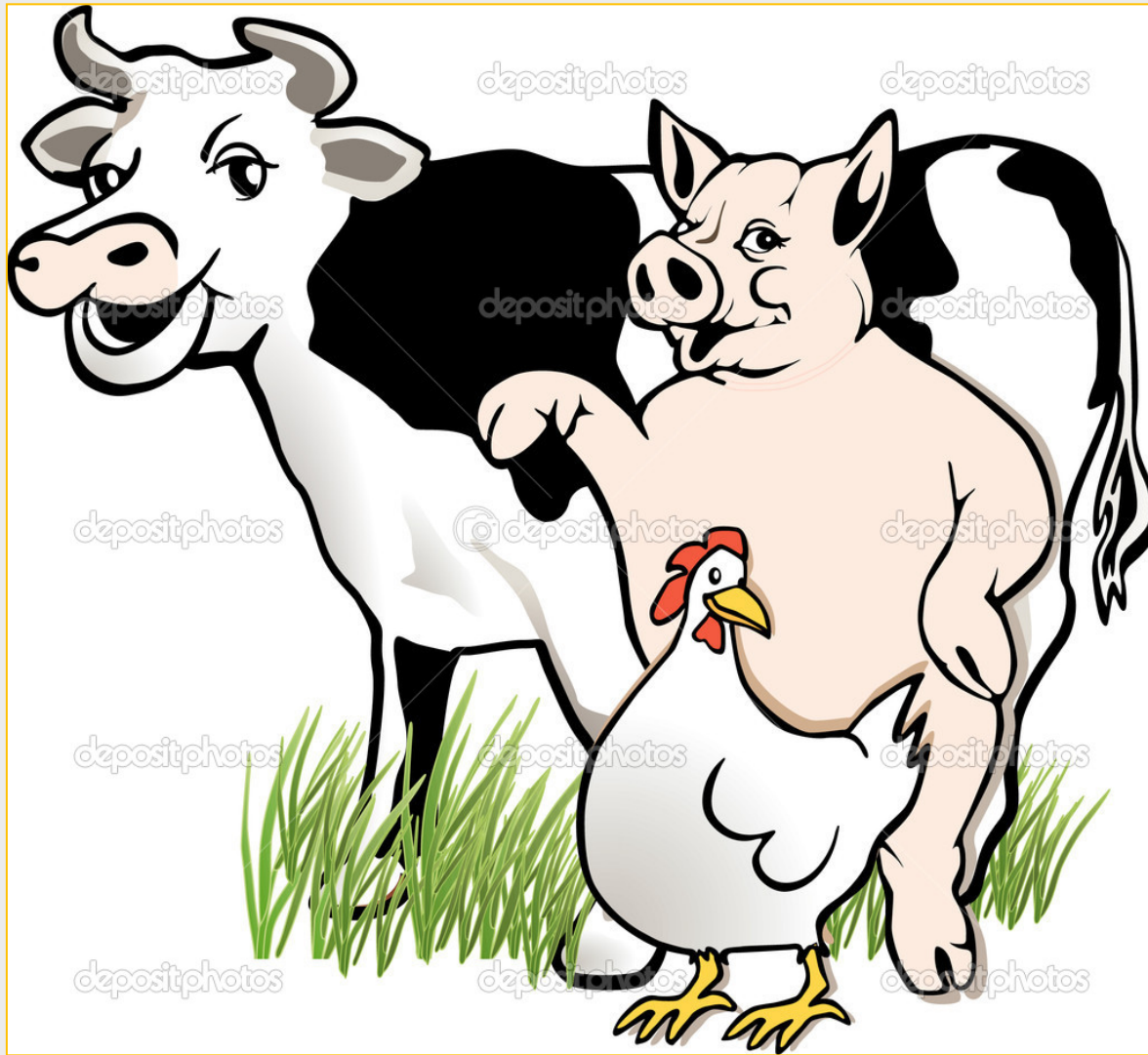
CAMP  
National Alliance of  
Preservation  
Commissions

Tacoma, WA  
March 7, 2017

Karen Gordon

# Preparing for and Conducting the Meeting







(C) BABIEFORTIN

Note to self:  
**STAY FOCUSED**

If you spend your time “tweeting” when you should be paying attention. . . .chaos will ensue



# Rights and Responsibilities Staff

- ▶ Regular training of Commission members
- ▶ Explain the process to applicants
- ▶ Work with the applicant to produce a complete application
- ▶ Staff support for Commission at meetings
- ▶ Brief Commission members on agenda items prior to meeting
- ▶ Issues minutes, Certificates of Approval and public notices
- ▶ Regularly review guidelines with Commission and revise, if necessary
- ▶ Represent the Commission in other City proceedings
- ▶ Confer with Ethics officer/City Attorney when needed
- ▶ Public outreach and education
- ▶ Develop relationships within City government



# Rights and Responsibilities Commissioners

- ▶ Be informed
- ▶ Know your ordinance and guidelines and the scope of your authority
- ▶ Conduct yourself in conformance with your Rules and Procedures
- ▶ Evaluate a Certificate of Approval application in relation to the ordinance and guidelines
- ▶ Avoid using “like” and “feel” - refer to ordinance and guidelines
- ▶ Evaluate a landmark nomination application based on designation criteria
- ▶ Clearly articulate your reasons for voting
- ▶ Be respectful of applicants, public and staff
- ▶ Educate the public about the role of the Commission



# Role of the Chair

- ▶ Confer with staff prior to the meeting to review agenda
- ▶ Manage the meeting - ensure that there is a quorum and that there are no conflicts of interest before each application
- ▶ Ask each member to explain his/her vote, based on the Commission's ordinance and guidelines
- ▶ Call for and tally the vote - vary the order so that no one dominates the decision-making discussion
- ▶ Explain the decision to the applicant - approval, approval with conditions, denial - and any appeal process(es)
- ▶ Thank the applicant for making the application
- ▶ Speak on behalf of the Commission with media and others



# Before the Meeting

## Staff

- ▶ Work with applicant to prepare application - explain ordinance, design guidelines.
- ▶ Review application for completeness.
- ▶ Issue agenda and staff report
- ▶ Provide necessary public notice
- ▶ Ensure there is a quorum
- ▶ Set up room - ensure that there are name plates for each member
- ▶ Make sure that there are copies of the agenda for public and a sign-up sheet for speakers

## Commission Members

- ▶ Make sure that meetings are on your calendar for the year
- ▶ If you know that you will be absent, give staff /Chair ample notice
- ▶ If you think you have a conflict, check with staff before the meeting
- ▶ Review the agenda and familiarize yourself with the site
- ▶ Read staff report prior to meeting
- ▶ Be on time!

# At the meeting, what not to do. . .



# At the Meeting

## Staff

- ▶ Present information in a neutral manner
- ▶ Refer to information presented in application, ordinance and guidelines, staff report
- ▶ Take minutes of meeting

## Commission Members

- ▶ Listen to presentation by staff and applicant
- ▶ No extraneous conversations with fellow Commission members
- ▶ Ask questions when it is your turn to ask questions - don't interrupt the presenter or each other!
- ▶ Make your decisions based on your ordinance and guidelines, not personal preferences
- ▶ Agree to disagree but respect your fellow member's rationale

# After the Meeting

## Staff

- ▶ Talk with applicants if they have any questions about Commission action
- ▶ Collect all of the application materials for the record
- ▶ Respond to the media
- ▶ Issue Certificates of Approval or denial
- ▶ Prepare the minutes and distribute to the Commission for review
- ▶ Post approved minutes on website

## Commission Members

- ▶ Don't discuss the application after the Commission meeting either privately or publicly with anyone - your family, an applicant, a neighbor, even another Commissioner!
- ▶ Educate the public about the role of the Commission and the value of historic preservation

# Making your decisions easier to defend

- Discuss only the relevant factors and avoid irrelevant issues
- If you have to recuse yourself, state your reasons for doing so
- Be familiar with the hearing procedures

# Open Meetings, Executive Sessions, Conflict of Interest & Appearance of Fairness





Print

RCWs > Title 42 > Chapter 42.30

Chapter 42.30 RCW

OPEN PUBLIC MEETINGS ACT

Complete Chapter | RCW Dispositions

Sections

- [42.30.010](#) Legislative declaration.
- [42.30.020](#) Definitions.
- [42.30.030](#) Meetings declared open and public.
- [42.30.040](#) Conditions to attendance not to be required.
- [42.30.050](#) Interruptions—Procedure.
- [42.30.060](#) Ordinances, rules, resolutions, regulations, etc., adopted at public meetings—Notice—Secret voting prohibited.
- [42.30.070](#) Times and places for meetings—Emergencies—Exception.
- [42.30.075](#) Schedule of regular meetings—Publication in state register—Notice of change—"Regular" meetings defined.
- [42.30.077](#) Agendas of regular meetings—Online availability.
- [42.30.080](#) Special meetings.
- [42.30.090](#) Adjournments.
- [42.30.100](#) Continuances.
- [42.30.110](#) Executive sessions.
- [42.30.120](#) Violations—Personal liability—Civil penalty—Attorneys' fees and costs.
- [42.30.130](#) Violations—Mandamus or injunction.
- [42.30.140](#) Chapter controlling—Application.
- [42.30.200](#) Governing body of recognized student association at college or university—Chapter applicability to.
- [42.30.205](#) Training.
- [42.30.210](#) Assistance by attorney general.
- [42.30.900](#) Short title.
- [42.30.910](#) Construction—1971 ex.s. c 250.

NOTES:

*Drug reimbursement policy recommendations: RCW 74.09.653.*

Site Contents

Selected content listed in alphabetical order under each group

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# DISCLAIMER

This presentation does not constitute “legal advice.” Use this presentation in consultation with your City Attorney and Ethics Officer.



## What is subject to the Act?

Any meeting at which an action is taken

## What is an action?

An action is the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions.

# Public Comment

The Act does not require public comment . . .  
but you should include it.

During public comment, be fair and consistent

Apply time limits consistently (with the exception of the applicant who has a legitimate claim of having more time - but not “running out the clock.”)

If time is an issue, ask people to submit written comments

# Executive Session

The Act allows an Executive Session in the matter of:

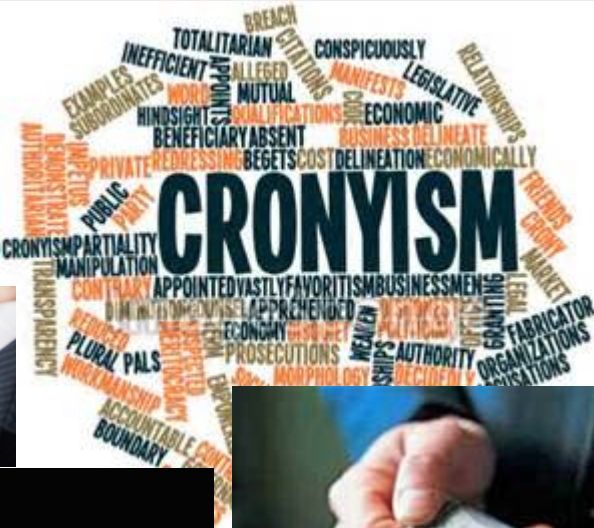
National Security

Real Estate Transactions

Litigation

Confidential Information

# Appearance of Fairness, Conflicts of Interest





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RCWs > Title 42 > Chapter 42.23

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### Chapter 42.23 RCW

## CODE OF ETHICS FOR MUNICIPAL OFFICERS—CONTRACT INTERESTS

### Complete Chapter

#### Sections

- 42.23.010** Declaration of purpose.
- 42.23.020** Definitions.
- 42.23.030** Interest in contracts prohibited—Exceptions.
- 42.23.040** Remote interests.
- 42.23.050** Prohibited contracts void—Penalties for violation of chapter.
- 42.23.060** Local charter controls chapter.
- 42.23.070** Prohibited acts.
- 42.23.900** Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

#### NOTES:

*Cities, free passes, services prohibited: RCW **35.17.150**.*

*County officers, general provisions: Chapter **36.16** RCW.*

*Ethics in public service act: Chapter **42.52** RCW.*

*Public employment, civil service: Title **41** RCW.*

*State officers, general provisions: Chapter **43.01** RCW.*

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# Code of Ethics

## No municipal officer may

- ▶ use his or her position to secure special privileges or exemptions for himself, herself or others;
- ▶ directly or indirectly, give or receive any compensation, gift, gratuity, or reward from any source, except the employing municipality, for a matter connected with or related to the officer's services unless otherwise prohibited by law;
- ▶ accept employment or engage in business that the officer might reasonably expect would require him or her to disclose confidential information acquired by reason of his or her official position;
- ▶ disclose confidential information gained by reason of the officer's position, nor may the officer use such information for his or her personal gain.

# Code of Ethics

- ▶ Most jurisdictions have their own Code of Ethics
- ▶ Familiarize yourself with your local Code of Ethics
- ▶ Ask the Ethics Officer in your jurisdiction to brief the Commission

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- |                  |  |
|------------------|--|
| <b>42.36.010</b> | Local land use decisions.  |
| <b>42.36.020</b> | Members of local decision-making bodies.                                   |
| <b>42.36.030</b> | Legislative action of local executive or legislative officials.            |
| <b>42.36.040</b> | Public discussion by candidate for public office.                          |
| <b>42.36.050</b> | Campaign contributions.  |
| <b>42.36.060</b> | Quasi-judicial proceedings—Ex parte communications prohibited, exceptions. |
| <b>42.36.070</b> | Quasi-judicial proceedings—Prior advisory proceedings.                     |
| <b>42.36.080</b> | Disqualification based on doctrine—Time limitation for raising challenge.  |
| <b>42.36.090</b> | Participation of challenged member of decision-making body.                |
| <b>42.36.100</b> | Judicial restriction of doctrine not prohibited—Construction of chapter.   |
| <b>42.36.110</b> | Right to fair hearing not impaired.  |

**42.36.010****Local land use decisions.**

Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial actions of local decision-making bodies are those actions of the legislative body, planning commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions do not include the legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

[ 1982 c 229 § 1.]



# Appearance of Fairness

Avoid conflicts of interest as outlined in the Code of Ethics

Preserve an atmosphere of fairness and impartiality

# Ex Parte Communications

An ex parte communication is a one-sided discussion between a decision-maker and the proponent or opponent of a particular application or matter that takes place outside of the formal hearing process.

# Ex Parte Communications

When does it occur?

The ban on ex parte communication applies only during the pendency of a proceeding, for example, the filing of an application.

# Ex Parte Communications

What happens if it occurs?

An ex parte communication does not necessarily preclude your participation. It is important for you to disclose the contact in public including the substance of the interaction and allow any rebuttal of the substance of the interaction.