

The Planning Commission of the City of Fort Bragg met in regular session on the above date at 9:04 p.m., in the Fort Bragg Town Hall, 363 N. Main Street, Fort Bragg, and the following items were discussed in the order presented.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Chair Mark Hannon, Commissioners Burley Cox, Becky Ellis, and Georgia Lucas.
Staff Present: Marie Jones, Community Development Director; Mike Gogna, City Attorney; Sean O'Rourke, Planner; and Nancy Philips, Administrative Secretary.

PUBLIC COMMENTS ON NON-AGENDA ITEMS

CONDUCT OF BUSINESS

1. Receive Presentation from City Attorney Regarding the Brown Act and Conflicts of Interest

City Attorney Gogna noted that this meeting follows a special meeting that just adjourned. The agenda shows that the Commission must agree to continue a meeting after 9:00 p.m. **The Commission agreed to go on with the meeting at this time.**

Gogna stated that all public officials are required to take ethics training every two years. He distributed a handout and recommended that the Commission use the book for a resource to see if it answers their questions.

BROWN ACT: Gogna said that the basis of the Brown Act is that the public's business is conducted in public. Before the Brown Act in the 60s', government policy was set behind closed doors. They went through the routine of the process, but in fact decisions had already been made. The Brown Act has swung the pendulum the other way. Anything that a body discusses and deliberates must be on the agenda. Members of the public can address another topic at a meeting, but a Commissioner must ask for it to be put on an agenda for the Commission to discuss it. Another point of the Brown Act is that if a quorum of the Commission talks about a topic in their jurisdiction it must be noticed as a public meeting. Emails are the single biggest risk. Someone can email all the Commissioners something at one time, but Commissioners must take care not to reply to all, or they have violated the Brown Act. Gogna also cautioned against telling a Commissioner what another Commissioner told them. A developer may contact Commissioners individually but cannot pass along opinions or comments to other Commissioners. The Attorney General investigates Brown Act allegations. If a matter comes to the Commission, a decision is made, and it is determined that a Brown Act violation occurred, the decision can be voided. It can also be a misdemeanor crime if the violation is willful.

CONFLICTS OF INTEREST: Gogna explained that conflicts of interest concern matters that are personal to you. If a Commissioner has a conflict, it is with the City; and therefore they cannot be represented by the City Attorney. They also cannot get advice from the City Attorney; however, Gogna can run through the points of the law so that a Commissioner can make a decision. If the Fair Political Practices Commission (FPPC) finds a violation they assess a fee due from the individual. The FPPC has a hotline for people to call with conflict questions or ask for a written opinion about whether a situation is a conflict. If someone gets a written opinion from the FPPC and subsequently discovers that the opinion was wrong, they are insulated. Gogna encouraged Commissioners to contact him with

any questions so he can walk them through the decision-making process. If they still are not sure they should contact the FPPC.

There are three sources of conflicts of interest. The first is the prohibition against public officials participating in a contract in which they have a financial interest. The second is the common law rule that you have to act in a way that puts the City's interests ahead of your own. This includes property ownership, business investments, and personal friends or enemies. Each individual must decide if they feel that they can make a decision in the best interest of the City. The third is a financial conflict of interest. Gogna reviewed the eight-step decision making process shown on Page 5 of the handout. The FPPC was created to enforce the Political Reform Act. Conflicts can include a spouse's economic interest. If setting building fees affects a Commissioner's business as a contractor, they should not participate in the discussion.

Chair Hannon inquired if having a conflict of interest means that one has to leave the room during the discussion. Gogna affirmed this, saying that this rule came about because of abuse. Someone in the room gestured to indicate their opinion on a matter. Gesturing may influence the decision-making body. The exception is if a Commissioner addresses the Commission on behalf of their own concern. They cannot represent someone else. Even still, they must leave the room when deliberations begin. Responding to a question from Lucas, Gogna replied that a Commissioner has the right to address Council about a matter that had come before the Commission if they are representing themselves and not speaking for the entire Commission. He said that he would not recommend a Commissioner appearing before Council and attempting to convince them to vote counter to a recommendation by Commission. The Commission may take action for the Chair to represent them and make a statement before Council.

Gogna went on to inform the Commission about exceptions to conflicts of interest. On matters that affect everyone Commissioners must ask themselves if the impact on them as an individual is different than on a significant portion of the population of Fort Bragg. A significant portion is defined as ten percent. The other exception is if so many Commissioners have a conflict that there is no quorum. If there is no quorum because of conflicts of interest, you draw straws. If there is no quorum because non-conflicted Commissioners are not present at a meeting, the matter is continued to a meeting when the other Commissioners are present.

ADJOURNMENT

Chair Hannon adjourned the meeting at 10:05 p.m.

Mark Hannon, Chair

ATTEST:

**Nancy Philips
Administrative Secretary**

INDEXED: _____ (____)

IMAGED: _____ (____)