



**CITY OF ST. PETERSBURG
COMMUNITY PLANNING & PRESERVATION COMMISSION
PUBLIC HEARING**

**Council Chambers
City Hall**

**February 11, 2014
Tuesday, 3:00 p.m.**

AGENDA

COMMISSIONER MEMBERS:

Robert "Bob" Carter, Chair
Jeffery "Jeff" M. Wolf, Vice Chair
Will Michaels
Ed Montanari
Gwendolyn "Gwen" D. Reese
Lisa Wannemacher

ALTERNATES:

Jeff Rogo
Arnett Smith, Jr.
Thomas "Tom" R. Whiteman, Jr.

I. OPENING REMARKS OF CHAIR AND SWEARING IN OF WITNESSES

II. ROLL CALL

III. PUBLIC COMMENTS

IV. EXECUTIVE ACTION

- A. CPPC Rules and Procedures** Contact Person: Michael Dema, 893-7016

V. PRESENTATION/UPDATE

- A. Roser Park Trail Update** Contact Person: Cheryl Stacks, 892-5328
- B. Presentation by Peter Belmont with the St. Petersburg Preservation, Inc. (Oral)**

VI. QUASI-JUDICIAL PUBLIC HEARING

- A. City File HPC 13-9030005** Contact Person: Kim Hinder, 892-5451

Request: Third party-initiated Local Designation of the North Ward School located at 327 – 11th Avenue North.

VII. CPPC MEMBER COMMENTS, ANNOUNCEMENTS

VIII. ADJOURN

For additional information, please telephone 893-7871 or visit the St. Petersburg Planning & Economic Development Department on the 8th floor of the Municipal Services Center Building at One Fourth Street North

AGENDA ITEM IV. A
CPPC RULES AND PROCEDURES

COMMUNITY PLANNING & PRESERVATION COMMISSION
City of St. Petersburg, Florida

RULES OF PROCEDURE
Including Rules for Quasi-Judicial Proceedings

I. Introduction

The members of the Community Planning & Preservation Commission are appointed by the Mayor and their appointments are confirmed by the City Council.

Number of members:	7 regular members 3 alternate members
Quorum:	5 members
Vote to take action:	4 concurring votes

The qualifications for membership, appointment of members, and terms of office of the members of the Commission are set forth in Sections 16.80.010 and 16.80.040 of the City Code. The powers and duties of the Commission are set forth generally in Section 16.80.010 and more specifically in other provisions of the City's Land Development Regulations.

When the Commission sits as the Local Planning Agency (LPA) for the City, the powers and duties of the Commission shall include those established by Chapter 163, Florida Statutes.

II. Officers

A. The officers of the Commission shall be Chairperson and Vice-Chairperson, and such other officers as the Commission may determine to be necessary.

B. The officers shall be regular members of the Commission. The officers shall be nominated and elected by the members of the Commission at the Annual Meeting; provided, that the initial officers shall be nominated and elected at the first Commission meeting in 2014 for terms expiring on January 31, 2015, or at such later date as their successors are elected.

C. The officers shall serve for a term of one (1) year beginning on February 1 and ending the following January 31, or at such later date as their successors are elected, and shall be eligible to succeed themselves.

D. If a Chairperson is unable to serve a full term, the Vice-Chairperson shall serve as Chairperson for the remainder of the term, and a new Vice-Chairperson shall be elected as soon as is practicable.

III. Duties of Officers

- A. The Chairperson shall preside at all meetings of the Commission and is eligible to vote on all matters coming before the Commission. The Chairperson shall appoint all committees.
- B. The Vice-Chairperson shall perform all the duties and assume all the responsibilities of the Chairperson in the Chairperson=s absence.
- C. If the Chairperson and Vice-Chairperson are not present and a quorum of members is present, the meeting will be chaired by the member present who has the longest previous service as Chairperson. If no member present has had previous service as Chairperson, the member present who has the longest cumulative service as a member of the Commission shall serve as Chairperson for the meeting. If such event occurs during the first year following the initial meeting of the Commission in 2014 the Chairperson for the meeting shall be selected by the members present.

IV. Clerk.

A recording secretary, to be furnished by the City, shall serve as Clerk of the Commission. The duties of the Clerk shall include preparation of minutes, keeping files and records of the Commission including but not limited to attendance and voting records, administering the oath to witnesses, and accepting papers required by law or ordinance to be filed with the Clerk. Provided, however, that the City Clerk of the City shall be deemed to be the official records custodian for all records of the Commission.

V. Meetings; attendance

- A. Regular meetings of the Commission shall be held on the second Tuesday of each month beginning at 3:00 p.m., in the Council Chambers.
- B. The Commission may, at any time, choose to have public hearings or special meetings on other days, times or locations within the City; provided, that not less than 48 hours notification shall be given to the members and to the public; provided, further, that the meeting location shall be accessible by all members of the public including persons with physical disabilities.
- C. The Annual meeting shall be held on or after the second Tuesday in January, but not later than January 31.
- D. Members who are unable to attend a meeting of the Commission shall notify the Clerk in advance of the meeting. (Reference: Section 2-297. City Code, regarding absenteeism.)

VI. Order of Business

- A. At each regular meeting, the order of business shall be:
 - 1. Chairperson=s opening statement
 - 2. Roll Call
 - 3. Public Comments, when applicable

4. Public hearings, non-quasi-judicial matters
5. Swearing-in of witnesses for all quasi-judicial matters
6. Public hearings, quasi-judicial matters
(see AQuasi-Judicial Proceedings,@ below)
7. Other business
8. Next meeting date
9. Adjournment

B. The order of business may be changed by the Chairperson or by a majority of the members present and voting.

C. Members must be recognized by the Chairperson prior to speaking.

VII. Voting and Participation

A. Voting shall be by roll call and all members' votes shall be recorded as Ayes@ or Ano.@ Each member who is present shall vote on each motion and may not abstain except in case of a voting conflict. (Reference: Chapter 286.012 F.S.) In the event of a voting conflict pursuant to Chapter 112 F.S., the member shall announce his or her conflict, shall refrain from participating and voting in the matter, shall leave the dais for the duration of the matter, and shall file a voting conflict disclosure form with the Clerk. (References: Part III of Chapter 112, Florida Statutes; Resolution No. 2004-374 of the City Council, as may be amended.) In the event of a voting conflict pursuant to City Council resolution, the member may announce his or her conflict, shall refrain from participating and voting in the matter, and shall leave the dais for the duration of the matter.

B. Alternate members may participate in any discussion. An alternate member may vote only if a regular member is absent or abstains from participating and voting because of a voting conflict and the alternate member has taken the seat of the regular member. The Clerk shall establish a procedure to try to assure that alternate members may participate as regular members equally.

C. Votes on procedural matters not relating to an application (e.g. approval of minutes, confirmation of officers) may be made by acclamation. However, any member may request a roll call vote and, if so requested, a roll call vote shall be taken.

D. In the event of a tie vote, the motion shall fail. Failure to obtain the required four (4) votes for approval means that the motion fails.

VIII. Committees

The Commission may establish such committees as are necessary to carry out its purposes. The Chairperson shall appoint the members of such committees.

IX. Rules of Parliamentary Procedure

If a procedural issue cannot be resolved by reference to these rules or to the City Code, the Commission may be governed by any generally accepted guide to the rules of parliamentary procedure including but

not limited to Robert=s Rules of Order.

X. Amendments to Rules of Procedure

A. Any member may propose amendments to the Rules of Procedure, including the Rules for Quasi-Judicial Proceedings. Each Commissioner shall be furnished a copy of the proposed amendments at least 13 days prior to any vote by the Commission on the proposed amendments.

B. The affirmative vote of a majority of the members present shall be deemed sufficient to adopt any amendment to the Rules of Procedure, provided that a quorum is present and further provided that other provisions of these Rules have been complied with.

XI. Quasi-Judicial Proceedings

A. If a proceeding of the Commission is quasi-judicial in nature, then the procedures set forth below shall be followed by the staff, applicants and the public. In such cases the Commission acts in the role of a Ajudge@ and is required to follow these procedures and base its decision on evidence presented to the Commission during the hearing.

B. The following proceedings are *quasi-judicial* in nature, and are subject to these rules of procedure:

Historic designations

Certificates of Appropriateness

Rezoning parcels of property, regardless of the size of the property.

Amendments to the future land use map of the Comprehensive Plan with respect to individual parcels of property less than 10 acres in size.

The following proceedings are *legislative* in nature, and are not subject to these rules of procedure:

Amendments to the future land use map of the Comprehensive Plan with respect to individual parcels of property of 10 acres or greater in size.

Amendments to the Comprehensive Plan other than the future land use map;

C. In these rules, AApplication@ means an application to rezone a parcel of property or to amend the future land use map of the Comprehensive Plan with respect to an individual parcel of property less than 10 acres in size, or an application for historic designation or Certificate of Appropriateness. AApplicant@ means the owner or anyone acting on behalf of the owner, but does not include the City Administration in cases initiated by the City Administration.

D. The Commission will adhere to the following procedures in quasi-judicial proceedings:

1. Anyone who wishes to speak on any item must be sworn in prior to testifying. The swearing in of witnesses will be done en-masse at the beginning of this meeting but late arrivals may take the oath prior to testifying. Anyone wishing to speak must fill out a green card and present the card to the Clerk. The following oath or affirmation shall be administered by the Clerk:

ADo you swear (or affirm) that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?@

Persons who submit cards to speak after the administration of the oath or affirmation, who have not been previously sworn, will be sworn prior to speaking. No cards may be submitted after the close of the Public Hearing. Each party and speaker is limited to the time limits set forth herein or as may be established by the Commission. If the Commission allows additional time for any Party, the Commission shall allow the same amount of additional time for any other Party.

2. At any time during the proceeding, Commission members may ask questions of any speaker or party. The time consumed by Commission member questions and answers to such questions shall not count against the time frames allowed herein.

3. Burden of proof: In rezoning cases and Comprehensive Plan land use change cases for properties less than 10 acres in size, the Applicant bears the burden of proof except in cases initiated by the City Administration, in which event the City Administration bears the burden of proof.

4. Initial Presentation. Staff, the Applicant, and the Registered Opponent (if registered at least one week prior to the hearing), will have a total of ten (10) minutes each to present their case. Each Party shall be allowed ten (10) minutes for their initial presentation except as provided herein.

When hearing an Application, AParty@ means the Applicant, City Administration, and the Registered Opponent if a Registered Opponent has registered in advance; see paragraph 5(c) below. If the City is the Applicant, the term AParty@ shall include the Owner of the property if the Owner objects to the Application; if the Owner does not object to the Application, the Owner may participate to the limited extent provided herein.

If the City is the Applicant, the property owner may have five (5) additional minutes to present the property owner=s case, but in such event the Registered Opponent (if any) shall have time equal to that used by City staff and the property owner. However, if the property owner objects to the application, the property owner shall have ten (10) minutes to present the property owner=s case, and the Registered Opponent shall

not make an initial presentation.

5. The order of the initial presentations shall be:

(a) In the case of an Application:

(1) Presentation by City Administration.

(2) Presentation by the Applicant. If the City Administration is the Applicant, the City Administration shall not for that reason be given additional time. In such cases, if the Owner is not opposed to the application, the Owner may make an initial presentation but the time limit shall be five (5) minutes. However, if the Owner objects to the application, the Owner shall have ten (10) minutes to present the property owner=s case.

(3) Presentation by Registered Opponent. If the City is the Applicant and the Owner is not opposed to the application but uses any of the additional minutes allowed for the Owner, the time for the Registered Opponent shall be extended to equal the time actually used by the City Administration and the Owner. However, if the Owner objects to the Application and utilizes all or any part of the time available to the Owner, the Registered Opponent shall not make an initial presentation.

(b) Initial presentation by Registered Opponent; advance registration required. If anyone wishes to utilize the time provided for an initial presentation by a Registered Opponent, the person shall register with the City Clerk or the Clerk of the Commission at least one (1) week prior to the scheduled public hearing. Neither an Applicant nor the Owner may register as a Registered Opponent; provided, however, if the City Administration is the Applicant and if the Owner opposes the application, the Owner shall be entitled to speak as the Opponent without registering in advance. If more than one person wishes to utilize the time provided for the Registered Opponent and if persons opposed to the application cannot agree on a single representative, the Commission shall by motion determine who shall represent the opponents. The Registered Opponent may also utilize the time provided for cross examination and rebuttal by the Registered Opponent (see below). Persons who wish to speak in opposition who have not so registered may speak during the Public Hearing, subject to the time limit for speakers during the Public Hearing.

6. Public Hearing. Upon the conclusion of initial presentations, the Commission shall conduct a public hearing. Any person who did not speak during Initial Presentations may speak for not more than three (3) minutes during the public hearing. Speakers should provide information relevant to the subject matter of the hearing. The opportunity to speak during the public hearing may not be assigned or yielded to, or shared with, any other person, or otherwise aggregated. The Commission may by motion extend the time for an individual speaker provided that all other speakers are given the same time extension. If anyone wishes to speak, a card

must be filled out and submitted to the Clerk. When called on to speak, please come to the podium and state your name and address. Remarks are asked to be kept brief and not repetitious of prior testimony, and provide factual information. Once the public hearing is closed, no one from the public may speak.

7. Cross Examination.

The Cross Examination phase allows each participant (staff, applicant, the property owner if the owner objects to the application, and Registered Opponent) five (5) minutes each to ask questions of each other and persons who testified. All witnesses must stay through the end of cross examination or their testimony may not be relied upon. If a party intends to rely on the testimony of a witness, the party should make sure the witness stays through this cross examination phase. All questions shall be directed to the Chair, who will direct the question to the appropriate person.

- (a) Any person who testifies in any hearing shall be subject to cross-examination at the conclusion of his or her testimony. Any Party may ask to cross-examine a witness before the witness is excused. A Cross Examination means questions by a Party concerning any statement made by any person who has testified. Questions by members of the Commission are not subject to the time limits set forth in these rules.
- (b) Cross examination by Parties: Each Party may cross-examine any witness. All questions shall be addressed to the Chair and then, at the discretion of the Chair, asked either by the Chair or by the Party conducting the cross examination of the speaker or of the appropriate representative of the Party being cross examined. One (1) representative of each Party shall conduct the cross examination for that Party.
- (c) Cross examination by Registered Opponent: If a person wishes to utilize the time provided for cross examination as a Registered Opponent, and no one has previously registered with the City Clerk or the Clerk of the Commission as a Registered Opponent, the person shall notify the Clerk of the Commission prior to the conclusion of the Public Hearing and shall be recognized by the Chair as the Registered Opponent for the purpose of cross examination. If no one gives such notice, there shall be no cross examination by persons speaking in opposition. If more than one person wishes to utilize the time provided for cross examination by a Registered Opponent and persons opposed to the application cannot agree on a single representative, the Commission shall by motion determine who may cross examine on behalf of opponents.

If someone has registered as an Opponent at least one (1) week prior to the hearing and makes an initial presentation to the Commission, that person will have the right to utilize the time for cross examination and rebuttal, but may yield the time to another person for such purposes on behalf of the opposition. If no person registered as an Opponent in advance, and if someone wishes to utilize the time provided for cross examination and rebuttal as a Registered Opponent, said individual shall notify the Commission Chair prior to the conclusion of the Public Hearing. Persons opposed to the application may select one person to represent them during this phase of the process and shall declare

their intent prior to the close of the public hearing. If more than one person wishes to represent the opponents and persons opposed to the application cannot agree on a single representative, then the Commission will choose a single representative to participate in the process.

- (d) The order of cross-examination shall be:
 - (1) Cross examination by City Administration.
 - (2) Cross examination by Registered Opponent.
 - (3) Cross examination by Applicant.
 - (4) Cross-examination of a speaker during the public hearing shall be in the order set forth above, and shall be conducted upon the conclusion of the speaker's presentation before the speaker is excused.

8. Rebuttal.

The Rebuttal phase allows each participant (staff, applicant, the property owner if the owner objects to the application, and Registered Opponent) to make a closing argument.

- a. Each Party shall have five (5) minutes to provide a rebuttal, including closing argument.
- b. The order of rebuttal shall be:
 - (1) Rebuttal by City Administration
 - (2) Rebuttal by Registered Opponent. If no person has registered in advance to make an initial presentation as a Registered Opponent and if no person has been recognized by the Chair as the Registered Opponent for the purpose of cross examination, there shall be no rebuttal by an Opponent.
 - (3) Rebuttal by Applicant. If the City is the Applicant, and if the Owner objects to the application, the Owner may provide a rebuttal. However, if the Owner does not object to the application, the Owner shall not provide a rebuttal unless the City Administration has yielded all of its time to the Owner for such purpose.

9. Deliberation and Decision.

Upon the conclusion of rebuttal and closing by the Parties, the Commission shall close the hearing, and the Commission shall deliberate among themselves and shall reach a decision. The Commission members may ask questions of any party and any person who has spoken at any time during the quasi-judicial process. No member of the public may speak during this portion of the proceeding unless a member directs a question to them. The decision shall be based upon

substantial competent evidence presented during the proceedings and the applicable provisions of law.

The Land Development Regulations establish whether a decision of the Commission is final, subject to rehearing or to an appeal to the City Council, or is a recommendation which may be considered by the City Council in due course, depending upon the subject matter of the decision.

M E M O R A N D U M

TO: Members of the Committee to Advocate for Persons with Impairments (CAPI)

FROM: Jeannine S. Williams, Assistant City Attorney

RE: Sunshine Law and Public Records

DATE: December 11, 2013

I. SUNSHINE LAW

A. What is the Sunshine Law?

The Sunshine Law is a reference to section 286.011, Florida Statutes. Generally, the Sunshine Law requires that all public meetings must be open to the public at all times. There are three basic requirements of the Sunshine law:

- (1) all meetings of public boards or committees must be made open to the public;
- (2) reasonable notice of these meetings must be given; and
- (3) minutes of the meetings must be taken and made available for public inspection.

B. Who is Covered by the Sunshine Law?

The Sunshine Law applies to any board or committee of the State of Florida or any local government within the state. In addition, the law applies to all advisory boards whose powers are limited to only making recommendations. The Sunshine Law may also apply to any group that acts on behalf of a governmental entity in the performance of its public duties.

C. When is this law applicable?

All meetings are covered by the Sunshine Law. Formal meetings, whether or not a quorum is present, and any discussion or deliberations therein are covered by the law. This includes any workshops or subcommittee meetings. Additionally, informal gatherings where two or more members of the same committee are together to discuss some matter on which foreseeable action will be taken by the committee are subject to the Sunshine Law. Even if an event is a social gathering, the Sunshine Law may be violated if matters that may come before the committee are discussed by committee members.

The term “meeting” has been broadly construed. All communications between committee members are considered “meetings” if the communications involve matters which may come before the committee including:

- (1) writing – if comments or responses are given (notes, memos, etc.)
- (2) phone conversations
- (3) electronic communications - chat rooms, social networking, websites comments, emails, etc.
- (4) verbal messages by liasons – (using staff to communicate to other members)
- (5) any other type of communication

D. Consequences for Violating the Sunshine Law

The consequences for violating the Sunshine Law may carry both criminal and civil penalties. Any member of a board or committee who knowingly violates the Sunshine Law is guilty of a misdemeanor of the second degree. The penalty for this type of misdemeanor is up to 60 days in jail, a \$500 fine, or both. Also, a committee member that is found to have violated the Sunshine Law may be removed from office. Additionally, the action of the committee which was done in violation of the Sunshine Law will be null and void.

II. PUBLIC RECORDS LAW

A. Chapter 119, Florida Statutes

Unless specifically exempted by an act of the Legislature, a public record shall be open for inspection by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record. A copy shall be furnished upon payment of the fee prescribed by law or the actual costs of duplicating the record.

B. What is a "public record?"

The term includes documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, "or other material, regardless of physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." §119.011(1), Florida Statutes. The reference to "means of transmissions" has been applied to electronic media, including e-mails, faxes, and data kept in computers.

Some materials are not "public records" by definition, such as handwritten drafts (uncirculated) and notes which are not intended as final evidence of the knowledge to be recorded. Examples are notes you might make which are merely your personal tools of recollection, an uncirculated rough draft, or preliminary notes taken only personal use. However, if the notes become interoffice memos (even if stamped "preliminary draft"), or if they are prepared for filing, they will be considered public records. Private communications not related to the official business of the committee or the city – even personal e-mails in a city computer – are not public records.

C. What is an agency?

An agency is "any state, county, . . . or municipal officer, department, division, board, . . . or other separate unit of government created or established by law and any other public or private agency, person, partnership, corporation or business entity acting on behalf of any public agency." §119.011(1), Florida Statutes. This includes publicly created advisory committees such as CAPI.

D. What is the penalty?

If the City is sued and loses on a public records question, the City may be required to pay the attorney's fees and costs incurred by the successful plaintiff. If you are sued personally and lose, however, you will probably not receive reimbursement for your own attorney's fees and costs.

*If you have any questions or concerns about the Sunshine Law or Public Records or a particular issue relating to these laws, please do not hesitate to ask.

AGENDA ITEM VI.A

CITY FILE HPC 13-90300005

NORTH WARD SCHOOL

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