

ETHICS, CONSIDERATIONS, AND EXPECTATIONS FOR PLANNING COMMISSIONERS

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Based on Ethical Principles in Planning, American Planning Association, "Ethics and Planning Commissioner", *A Guide to Urban Planning in Texas Communities*, Texas Chapter American Planning Association, *Everyday Ethics for Practicing Planners* by Carol Barrett, FAICP, and APA Ethics Toolkit.

MORALS VERSUS ETHICS

Moral Decision...

Judgment of the goodness or badness of human action and character—a value judgment.

Ethical Decision...

Principles of conduct based on system of rules/standards governing members of profession or group.

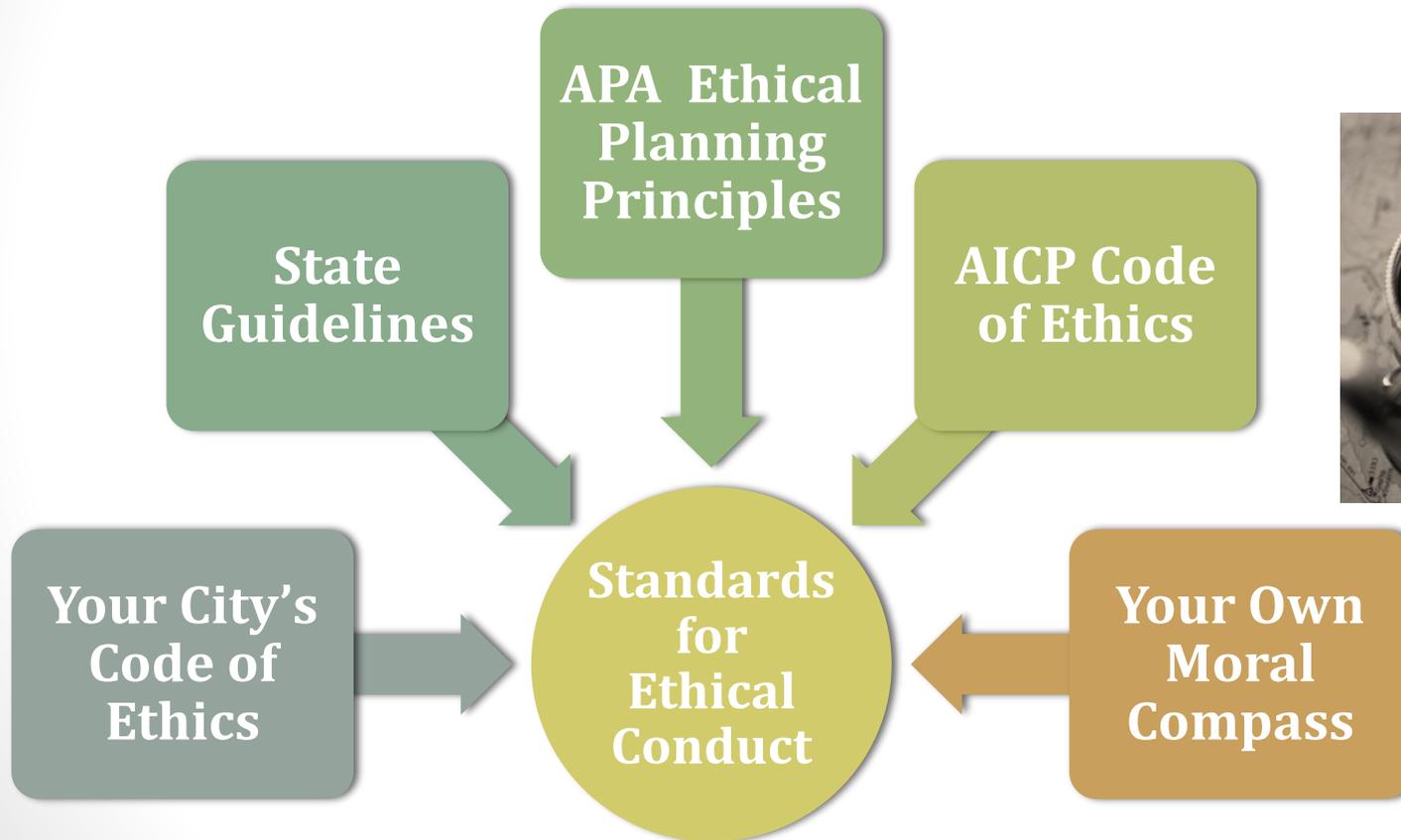
Ethics Code...

A formal system of rules explicitly adopted by group.

ETHICS

Ethics: the principles of conduct governing an individual or a group –*Merriam Webster*
There are standards for ethical conduct:

“Ethics are what you do when no one is looking.”
–George Bernard Shaw



Ethical behavior is not always easy to achieve,
but the *Statement of Ethical Principles* is a good place to start.

LOCAL ETHICS ORDINANCES

Prohibited conduct:

- Solicitation/acceptance of gifts
- Misuse of position
- Conflict of interest (generally financial)
- Ex parte communications
- Serial meetings
- Open Meetings violation

Disclosure:

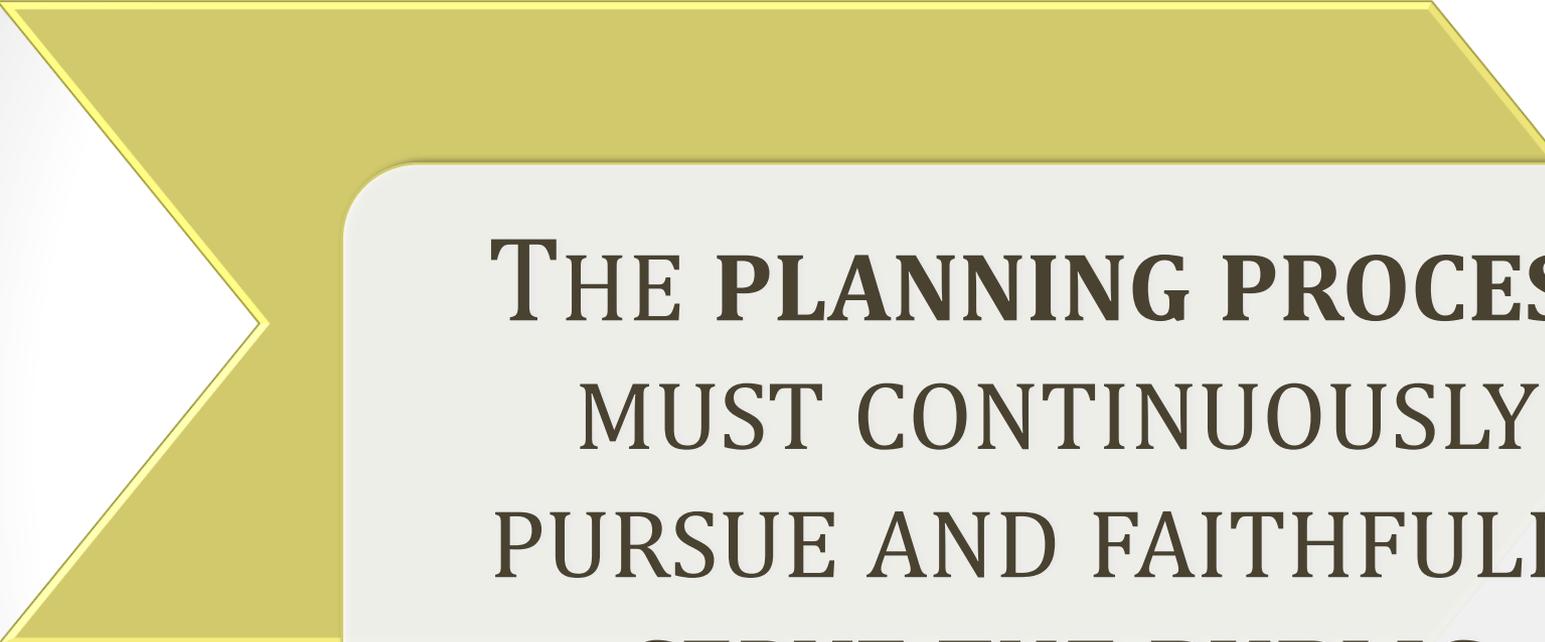
- Forms and/or procedure provided by the City -does not have to be very detailed

ETHICAL PRINCIPLES IN PLANNING

The American Planning Association has guidelines for ethics: *Ethical Principles in Planning**.

The **planning process** must continuously pursue and faithfully serve the **public interest**.

Planning process participants continuously strive to achieve **high standards of integrity and proficiency** so that **public respect** for the planning process will be maintained.



**THE PLANNING PROCESS
MUST CONTINUOUSLY
PURSUE AND FAITHFULLY
SERVE THE PUBLIC
INTEREST.**

WHO ARE THE PUBLIC AND WHAT IS THEIR INTEREST?

The **Public** is ordinary citizens:
people, citizens, subjects, general
public, electors, electorate, voters, taxpayers,
residents, inhabitants, citizenry, population,
populace, community, society, country,
nation, world; everyone.



Their **Interest** is in having a safe, attractive, livable
community in which they can live, work, travel around,
shop, and play. Sometimes there are conflicting interests.

1. Recognize the rights of citizens to participate in planning decisions.



WHAT IS EX PARTE?

A discussion where only one side is presented

Ex Parte is any oral or written communication outside the record of the hearing with either proponents or opponents of a pending proceeding:

Why are we concerned about Ex Parte?

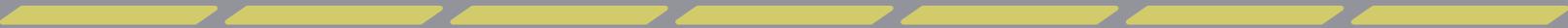
- The decision maker may be inaccurately informed;
- The perception that the commission can be susceptible to improper influence;
- Improper *ex parte* communications can invalidate the actions of the commission.

Save it for the Public Meeting!

SERIAL MEETING

(ALSO CALLED A “WALKING QUORUM”)

- A *serial meeting* can be a series of communications (direct communication, technological methods such as email, telephone calls, or social media.



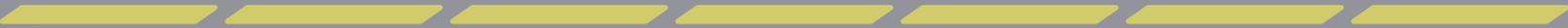
Continuing discussion after the meeting is adjourned is another kind of serial meeting.



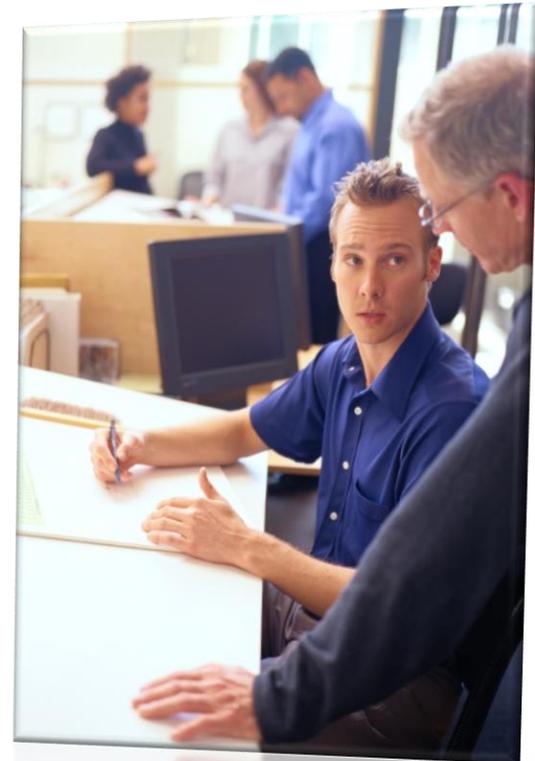
All your correspondence could be subject to discovery if there is legal action.



Forward all applicable correspondence to designated staff for distribution and file.



2. Give citizens full, clear, and accurate information.



You Must Remember:

Have an
ethical
obligation
of
fairness
to the
public



Public
participation
is more than
something to
satisfy public
process



Sometimes
it is
impossible
to involve
all parties

3. Expand choice and opportunity for all persons.

- Your Comprehensive Plan and your decisions and recommendations at your meetings should be inclusive.
- Listening to all the relevant testimony and questions.
- The Plan should address inclusion whether in business development or in housing choices or in public participation.



4. Assist in the clarification of community goals.

- This involves using the Comprehensive Plan.
- You need to be aware of the goals set forth in your Comprehensive Plan.
- You need to be able to explain them to your friends and neighbors. Staff can help.
- You need to relate the goals to the cases you hear.

PLANNING PROCESS

The planning process exists:

- To serve the public interest
- Requires a conscientiously held view of the policies
- Requires actions that best serve the community.

*Whether a professional
or a volunteer, we are all
planners.*

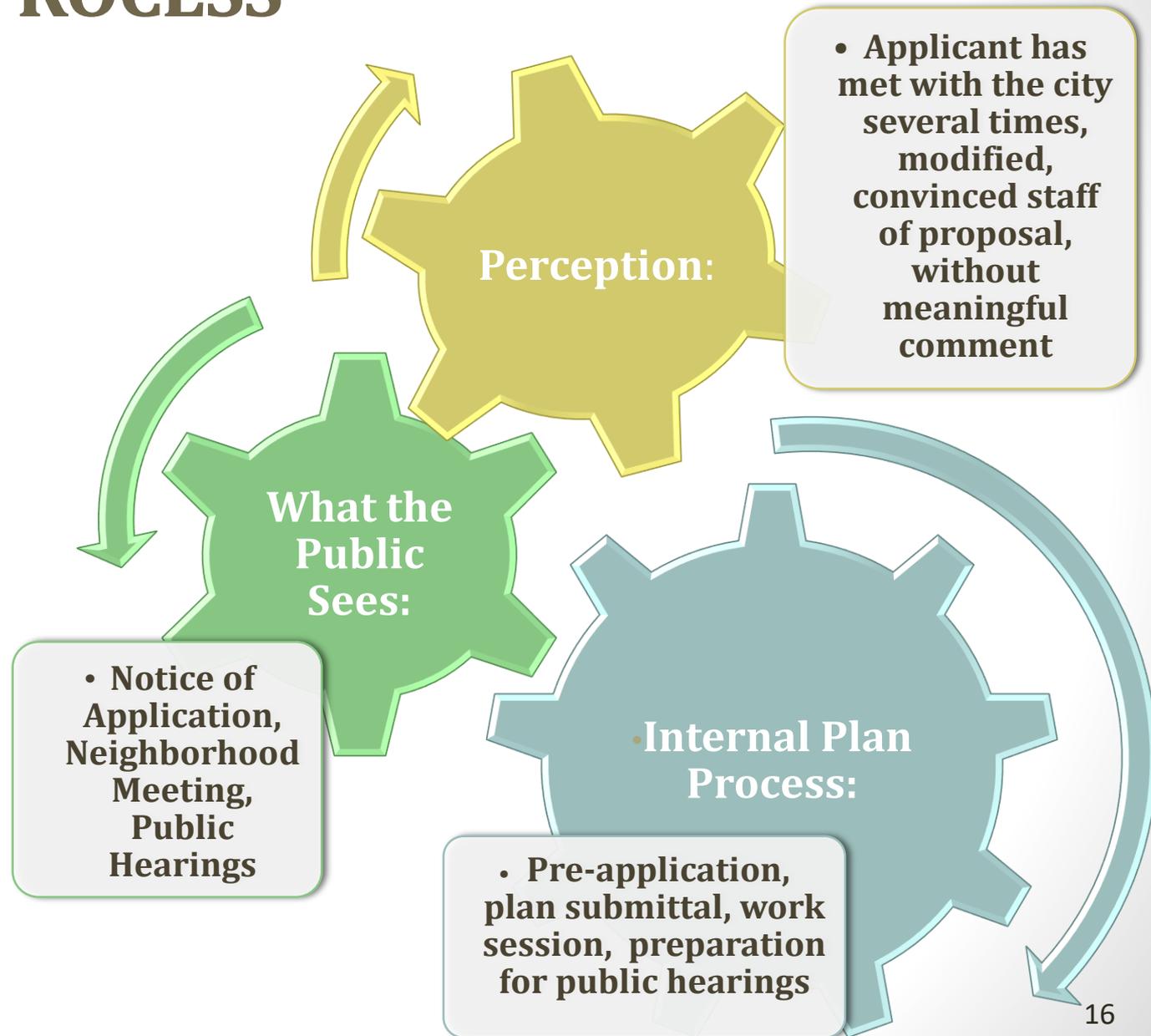
Planning issues and decision commonly involve:

- Large interests at stake
- Potential conflict of values
- Interpretation of plans, ordinances and codes
- Use of the Comprehensive Plan



PLANNING PROCESS

The planning process is aimed at implementing the comprehensive plan and/or achieving the desired vision of the community.



5. Ensure that information available to decision makers is also available to the public.



Proper public notification is essential to the planning process.

WHAT IS PROPER NOTIFICATION?

- Notice by mail to property owners in the notification area usually within 200 or more feet of subject property.
- Notice in a newspaper in general distribution.
- Notice posted at City Hall where it can be easily read, usually on window or outside public access bulletin board.
- Notice on Commission and City's official websites.
- And more recently, but unofficially and sometimes controversially, on social media without any comments.
- Also, having the case materials available for view at City Hall.

OPEN MEETINGS ACT*

General Rule: Every regular, special, or called meeting of a governmental body **MUST** be open to the public, and the public must be given adequate notice of the topics to be discussed.

There are **NO** informal meetings!

The screenshot shows the website for Ken Paxton, Attorney General of Texas. The header includes the text 'THE ATTORNEY GENERAL OF TEXAS' and 'KEN PAXTON' with a search bar and navigation links for 'HOME', 'CONTACT US', and 'ESPAÑOL'. Below the header is a navigation menu with links for 'ABOUT KEN PAXTON', 'CHILD SUPPORT', 'CONSUMER PROTECTION', 'CRIME VICTIMS', 'OPEN GOVERNMENT', 'NEWS', and 'AROUND THE AGENCY'. The main content area is titled 'OPEN GOVERNMENT / OPEN GOVERNMENT TRAINING' and features a large image of the Texas State Capitol dome. Below the image is a red banner with the text 'OPEN GOVERNMENT TRAINING'. To the left of the main content are social media icons for Facebook, Twitter, Google+, Email, and YouTube. Below these icons is a list of links under the heading 'OPEN GOVERNMENT': 'Open Government Training' (highlighted), 'Open Meetings Act Training', 'Public Information Act Training', 'Course Completion Certificate', 'Open Records Division', and 'How to Request Information'. To the right of the list is a section titled 'Open Government Training' with a paragraph of text: 'The Texas Government Code requires elected and appointed public officials to receive training in Texas open government laws. The Office of the Attorney General provides free video training courses to assist public officials in complying with this requirement. These videos are available at no cost and may be used as part of any training course on open government.' Below this text are three buttons: 'Open Meetings Act Training', 'Public Information Act Training', and 'Course Completion Certificate'.

<https://www.texasattorneygeneral.gov/og/oma-training>

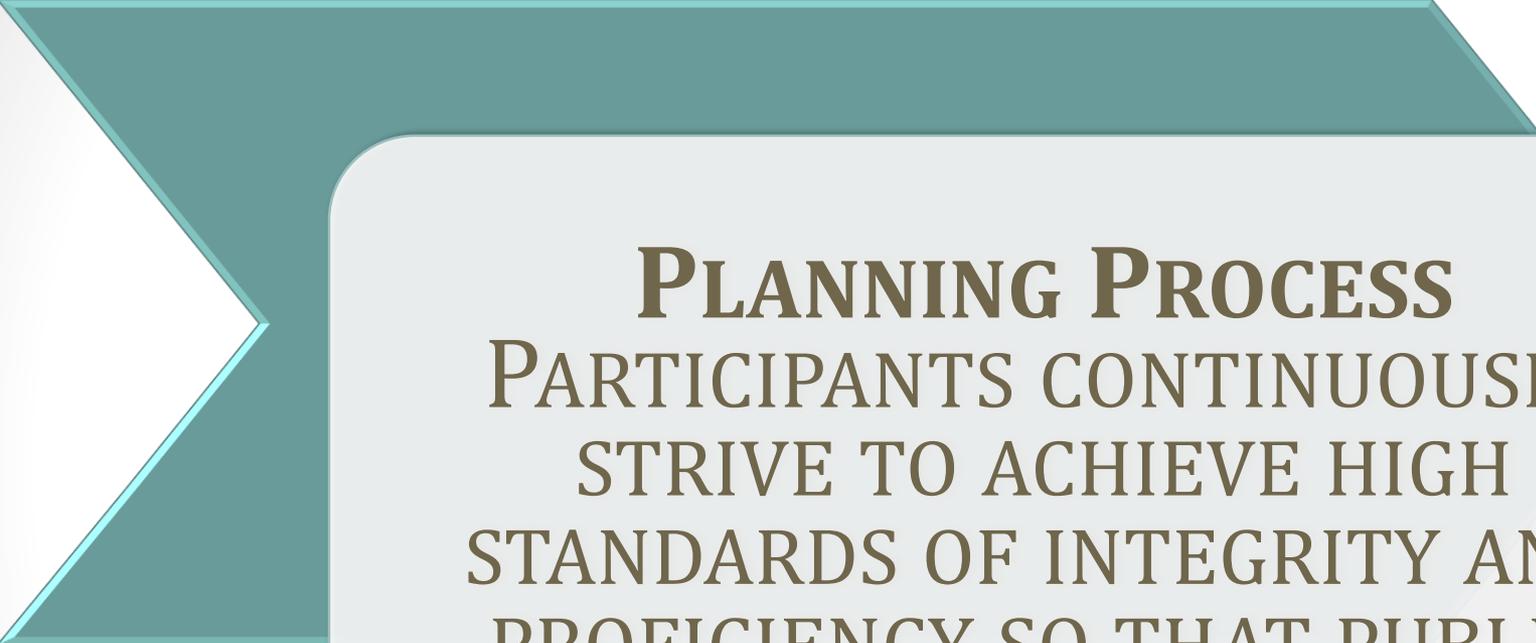
6.Strive to protect the integrity of the natural environment and the heritage of the built environment.

- Comprehensive plans, often address these concerns in the Future Land Use or a section devoted to the environment.
- Preservation of character for both rural and infill development may focus on compact and contiguous growth ranging from appearance and livability to desired new development and utility provision.
- This is your reference for decisions.



7. Pay special attention to the interrelatedness of decisions and the long-range consequences of present actions.

Think about what may happen when you approve or disapprove a case. This is where the Comprehensive Plan is necessary as to what it says particularly for future land use, transportation, and utilities.



PLANNING PROCESS
PARTICIPANTS CONTINUOUSLY
STRIVE TO ACHIEVE HIGH
STANDARDS OF INTEGRITY AND
PROFICIENCY SO THAT PUBLIC
RESPECT FOR PLANNING PROCESS
WILL BE MAINTAINED.

HOW TO STRIVE TO ACHIEVE HIGH STANDARDS OF INTEGRITY AND PROFICIENCY

-
- Understand your role
 - Know your relationships
 - Do your homework
 - Ask questions
 - Listen carefully
 - Vote your conscience

WHAT IS THE PLANNING COMMISSIONER ROLE?

A Planning Commission may be defined as:

A group of citizens appointed by the legislative body that performs both required and discretionary functions in land use matters. *

This can include:

- Develop and update the comprehensive plan
- Implement land use patterns
- Monitor current zoning ordinance
- Make recommendations on zoning changes
- Recommend approval of (or approve) subdivisions
- Make recommendations for annexation
- Interface with public on community vision through public meetings, focus groups, and neighborhood organizations

* Texas Local Government Code 211.007

UNDERSTANDING THE YOUR ROLE

To become familiar with your responsibilities/expectations both on and off the Commission/Council, you should:

Have an orientation to begin to grasp:

- Legal issues - Open Meetings Act, Conflicts
- Basic elements of Planning
- Comprehensive Planning
- Zoning Ordinance
- Subdivision Regulations
- Enabling statutes in state law for planning/zoning
- Review local resources with your staff and/or city attorney
 - Charter
 - Code of Ordinances
 - By-laws or rules of procedure

Exercise fair, independent, and honest judgment.

You are there to think/consider based on:

- the information you are provided;
- your individual experience; and
- what you hear at the meeting.

This is doing your homework.

TRAITS OF A GOOD COMMISSIONER

A good commissioner, board member, even a city council member should:

- Have a feel for the assets, problems and potential of the city
- Can see the big picture without missing the details
- Recognize conflicts of interest
- Understands obligations
 - Come to meetings prepared
 - Balance commitments

UNDERSTAND YOUR OUTSIDE RELATIONSHIPS

You should:

1. Publicly disclose any personal interests. *
 2. Define personal interest broadly.
 3. Abstain from participation in a matter if a personal interest and leave the chamber when the matter is being deliberated.
- * You need to be aware of your business, financial, and personal/family interests.

CONFLICT OF INTEREST

You have a potential a conflict of interest if you...

Live in the notification area

You or close family member has a financial interest (determined by your city)

Have oversight of client (petitioner) accounts

Sit on another Board connected to the case

CONFLICT OF INTEREST CONTINUED

What to do...

Recognize that you might have a conflict.

Get advice from staff or city attorney, if not sure.

State at the meeting that you have a conflict.

Recuse yourself and **LEAVE THE ROOM.**

The Chair should state for the record that you have left and when you return.

Fill out the appropriate form.

Do not engage in **any** discussion or action on the case in or outside the meeting.

FINANCIAL CONFLICT OF INTEREST

In general, conflicts of interest are conflicts due to an official's substantial interest in a "business entity" that has an issue before the City.

- Have financial interest in real estate involvement case.
- Have financial investments that exceed the local cap.
- Work for someone that has financial involvement in the case.

Financial Interest also Include:

- Stock Interest
- Business Ownership
- Interest Income
- Real Property
- Close *Family Member* or *Relatives* with any above Interests

You are considered to have a substantial interest if a person is related to you in the first degree by *consanguinity* (blood) or *affinity* (marriage)*.

Who is kin?



Fathers

Mothers

Sons

Daughters



Brothers

Sisters

Spouse

Father-in-law

Mother-in-law



Son-in-law

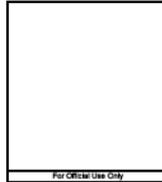
Daughter-in-law

Brother-in-law

Sister-in-law

* Affinity relationships continue after divorce or death if there is a living child of the marriage.

SAMPLE FORM



DISCLOSURE OF CONFLICT STATEMENT

This statement is filed in accordance with Chapter 12A of the Dallas City Code. Copies of the applicable code sections and additional copies of this form may be obtained from the City Secretary's office.
Please print or type all information. Attach additional pages if more space is needed.

Check One		Fill in Appropriate Information
<input type="checkbox"/> Elected Official	Office Held	
<input type="checkbox"/> Appointed Official	Board or Commission/ Title	
<input type="checkbox"/> City Employee	Title/Department	

1. Name of Employee/Official: _____

I _____ have a conflict as defined in Chapter 12A, Article II, of the Dallas City Code in the following matter:

Nature of Conflict:

As a result of this conflict, I will not take any official action in regard to the matter stated above.

Signature of Employee/Official _____ Date _____

BEFORE ME, the undersigned authority, on this day personally appeared _____, who on oath stated that the above facts are within _____ personal knowledge and are true and correct.

SWORN TO AND SUBSCRIBED BEFORE ME on this ____ day of _____, 20____, to certify which, witness my hand and seal.

<NOTARY SEAL>

Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath

Not seek (nor accept) gifts or favors.



It is up to you and your city to determine a policy on gifts, but remember it is **PERCEPTION** that may matter more.

HAVING BEEN AN ADVOCATE

Abstain from participation as an advisor or decision maker on any plan or project in which you have previously participated as an advocate.

Were you involved with the case *before* the commission as a neighbor or planner or representative?
You could be exerting undue influence.

Serve as advocate only when the objectives are legal and serve the public interest.

Not participate as an advocate on any plan or program in which you have previously served as an advisory or decision maker, except:

After full disclosure; and
no earlier than one year following termination of the role as advisory or decision maker.

Not use confidential information to further a personal interest.

Not disclose confidential information.

Not misrepresent facts or distort information.



Not participate in any matter unless prepared.



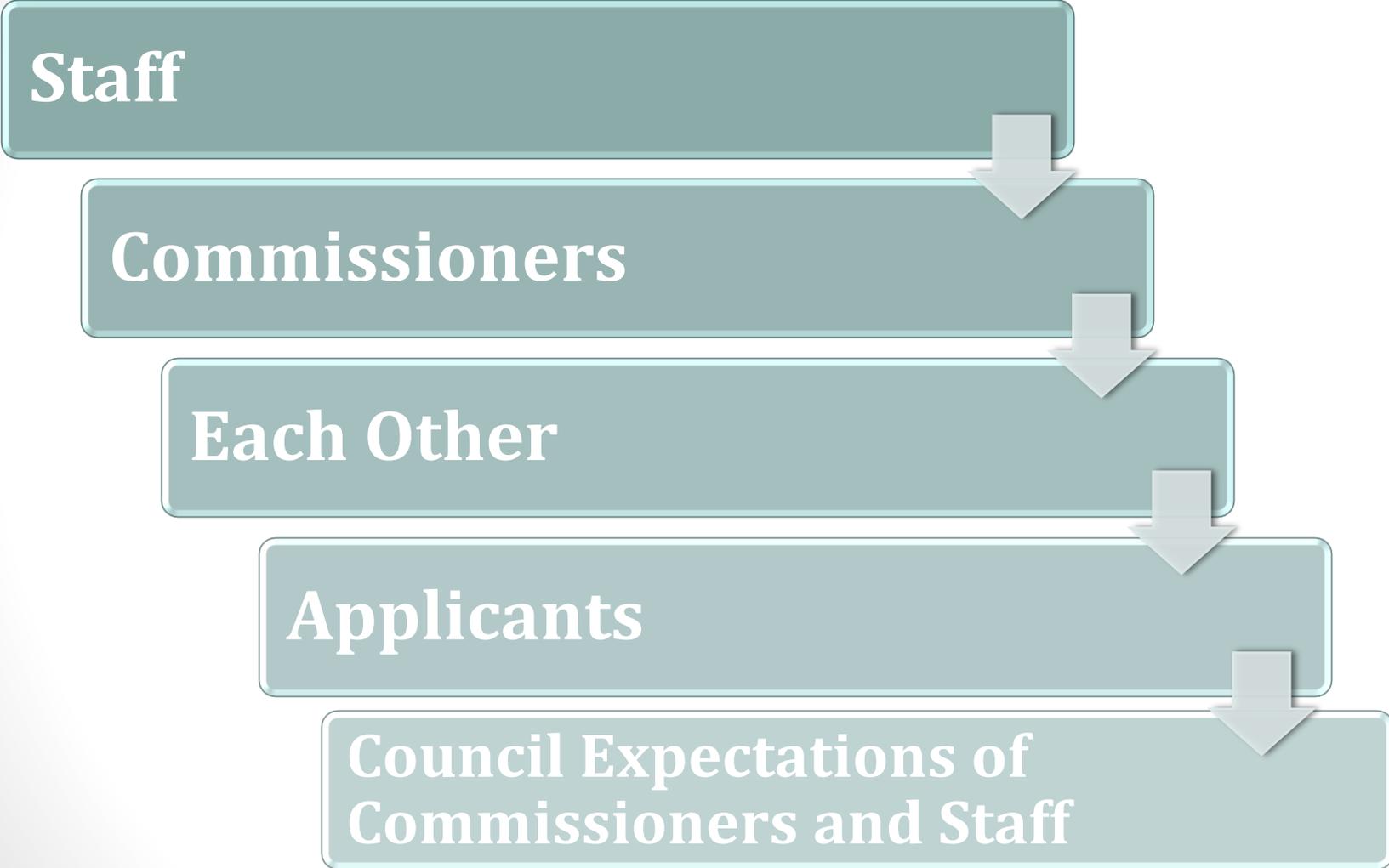
Respect the rights of all persons.

Circling back, to the first one – where we serve the public interest by first respecting rights of citizens to be involved in the planning process.



WHAT ARE THE EXPECTATIONS?

Staff



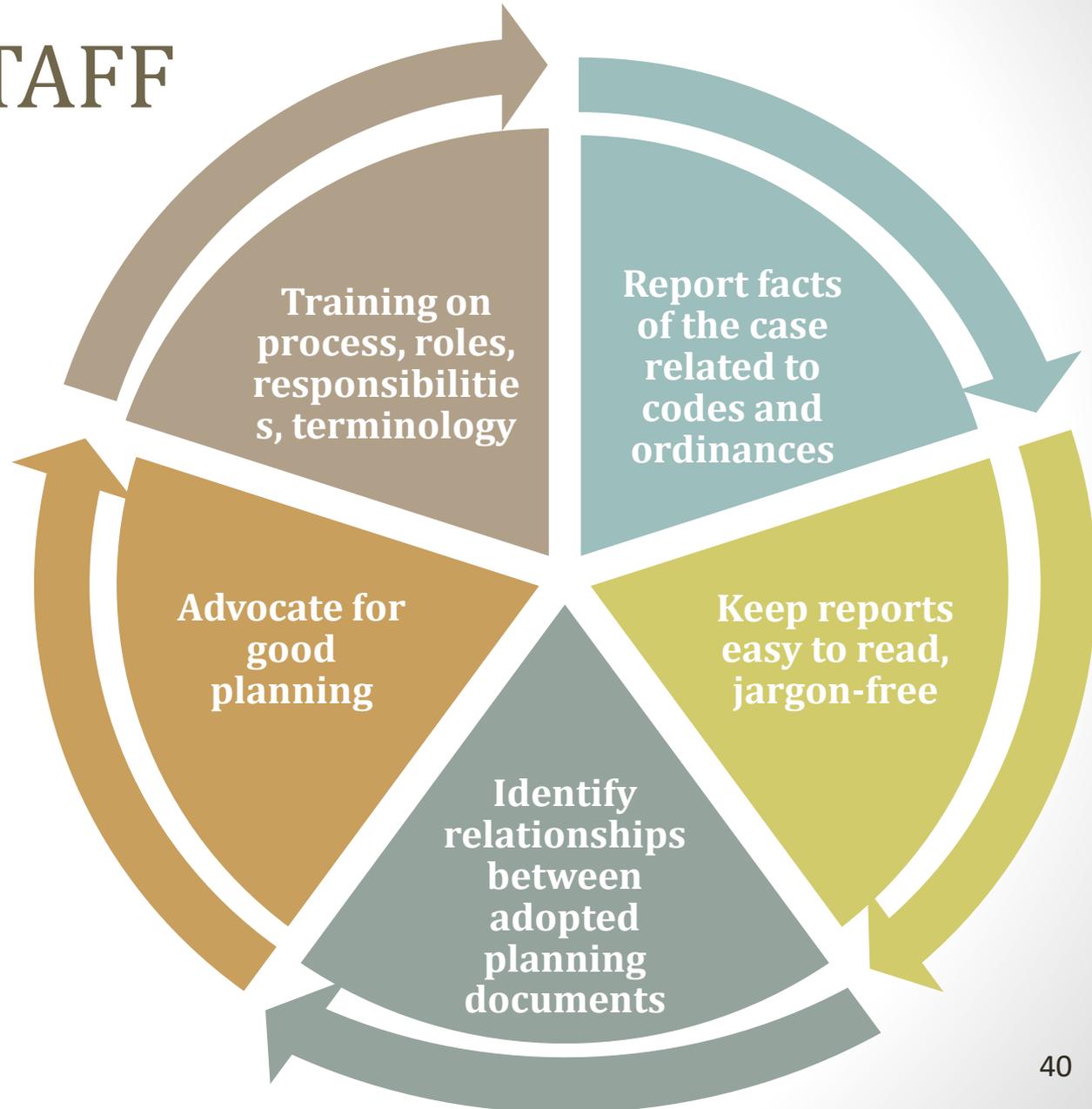
Commissioners

Each Other

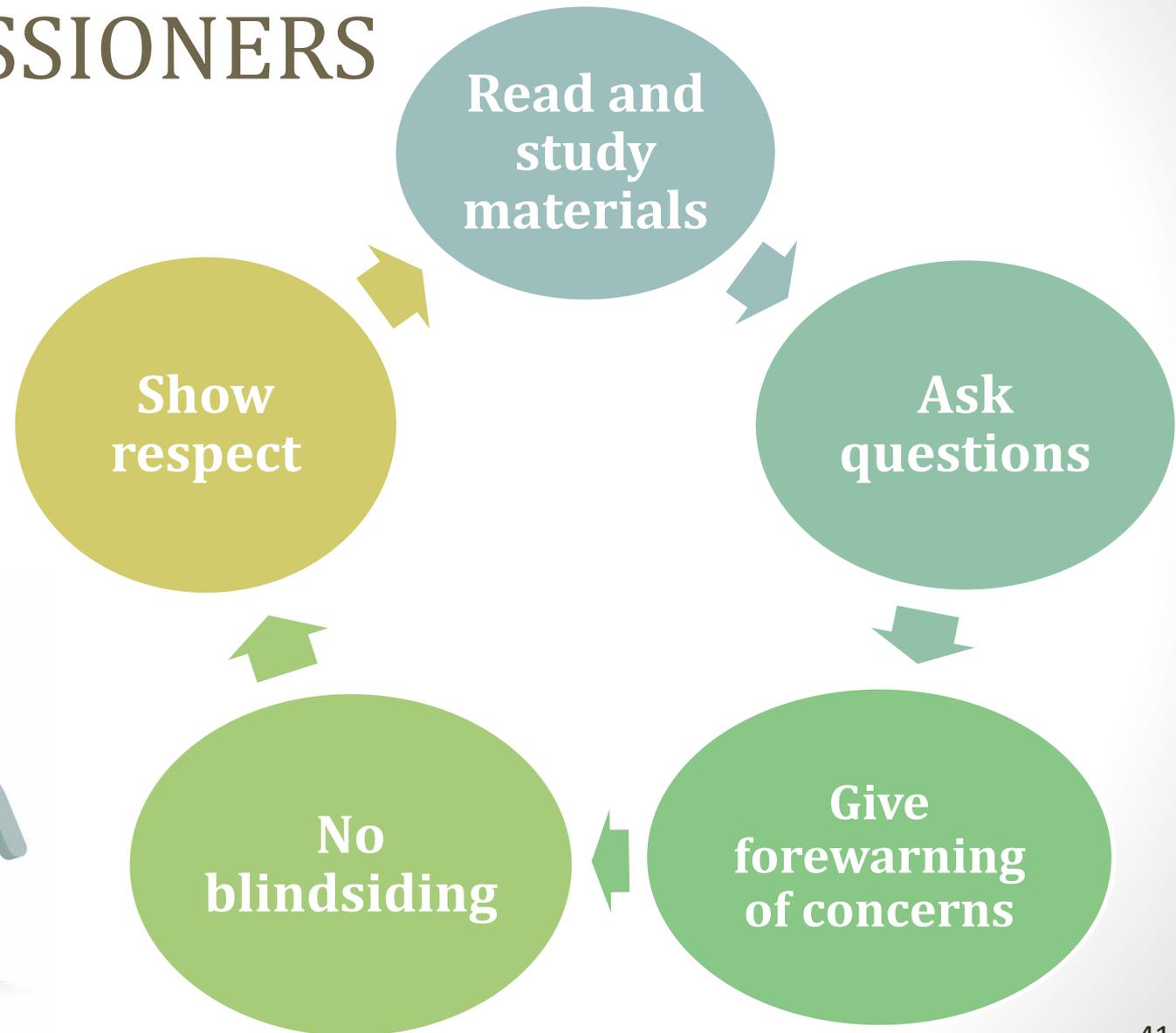
Applicants

Council Expectations of
Commissioners and Staff

WHAT COMMISSIONERS SHOULD EXPECT OF STAFF



WHAT STAFF EXPECTS OF COMMISSIONERS



WHAT COMMISSIONERS SHOULD EXPECT OF EACH OTHER

Preparation



Ask questions

Stay on topic

Read case prior



Educational moments

Work together



EXPECTATION OF APPLICANTS BY STAFF AND COMMISSIONERS

**Answer
questions**

Reach out

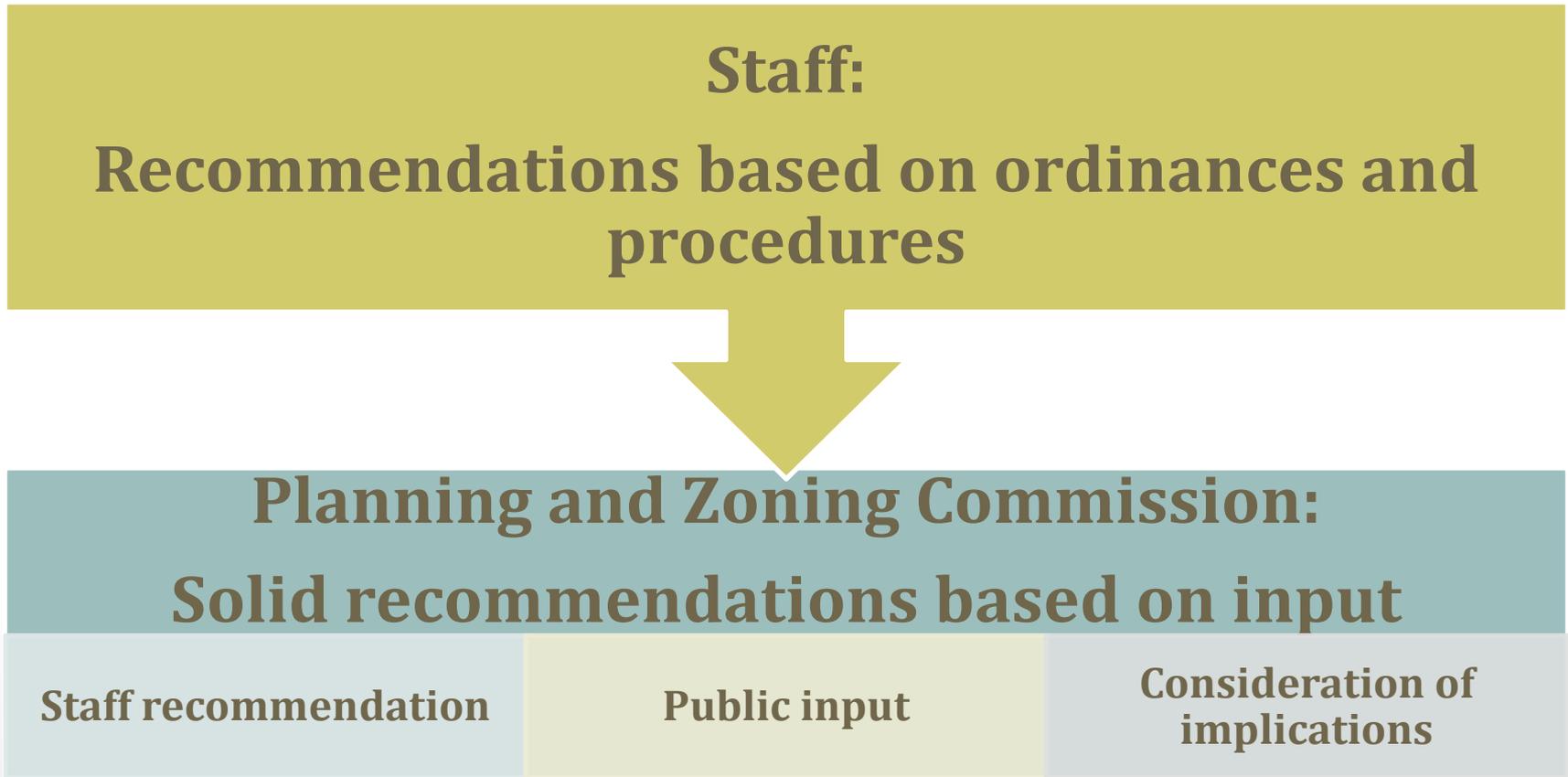
**Present honest
representation**

**Stay
professional**

Show up

*Expectations by
Applicants: Treated
respectfully and in a
timely manner.*

WHAT CITY COUNCIL EXPECTS OF COMMISSIONERS AND STAFF



QUESTIONS TO ASK YOURSELF:

Zoning

- What is the applicant asking for?
- What effect will it have on the site?
- What effect will it have on surrounding land uses?
- Is it in accordance with the Comprehensive Plan?

Subdivisions

- Does it meet the requirements of the Regulations?

What should NOT play a part in the decision

- Identity of applicant
- Financial capability of applicant
- What the structures will look like*

*unless there are architectural controls in the ordinances

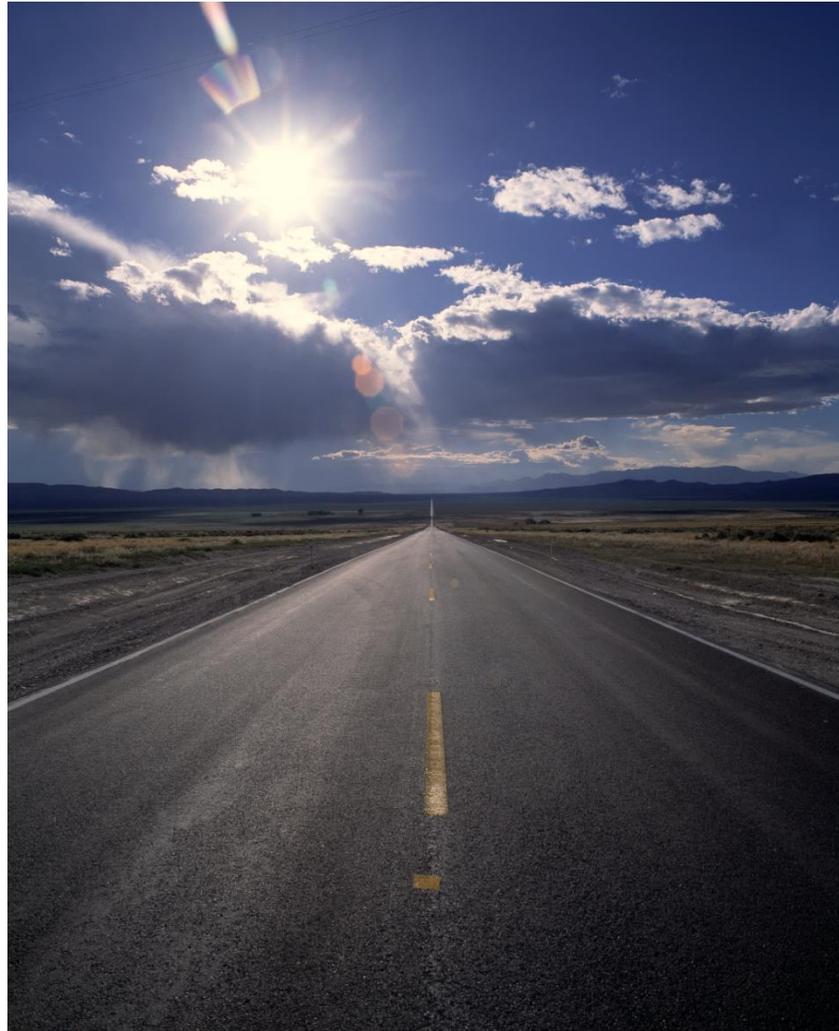
WHAT TO DO...

- When there is a social event where a quorum may be present, it is generally OK as long as cases or issues are not discussed.
- Do not use position title to request special treatment by city employees or private interests.
- Have a designated separate email for your commission correspondence. Why?
- Follow the relationship to the Comprehensive Plan!

TO THINK ABOUT...

- You have a friend who owns and large tract of land he wants to develop and wants your help. How can you help him?
- A controversial project is on the agenda. You know there are several sides to the issues. What are your actions?
- A local church has approached you about rezoning a tract for expansion of their activities. What is your advice?
- A fellow commissioner calls you to discuss a case and says he has talked to other commissioners. What do you say to him?
- You are asked to recommend someone to represent a case. What do you do?

Good Luck!



Take the high road—there is less traffic!

Training and Resources for Planning Commissioners

- City orientation and training for new Commissioners
- American Planning Association – publications and conferences
 - *Planning* Magazine including a section for Commissioners
 - National Planning Conference
 - www.planning.org
 - CD-ROM training packages
 - www.planningbooks.com
- Your state's Secretary of State
- Your state's municipal league
- Your chapter and sections
- Your planning staff

CONTACT INFORMATION

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