

# **Prescott Legal Department**

What does the Legal Department do?

What the Legal Department is  
prohibited from doing...

# Daily

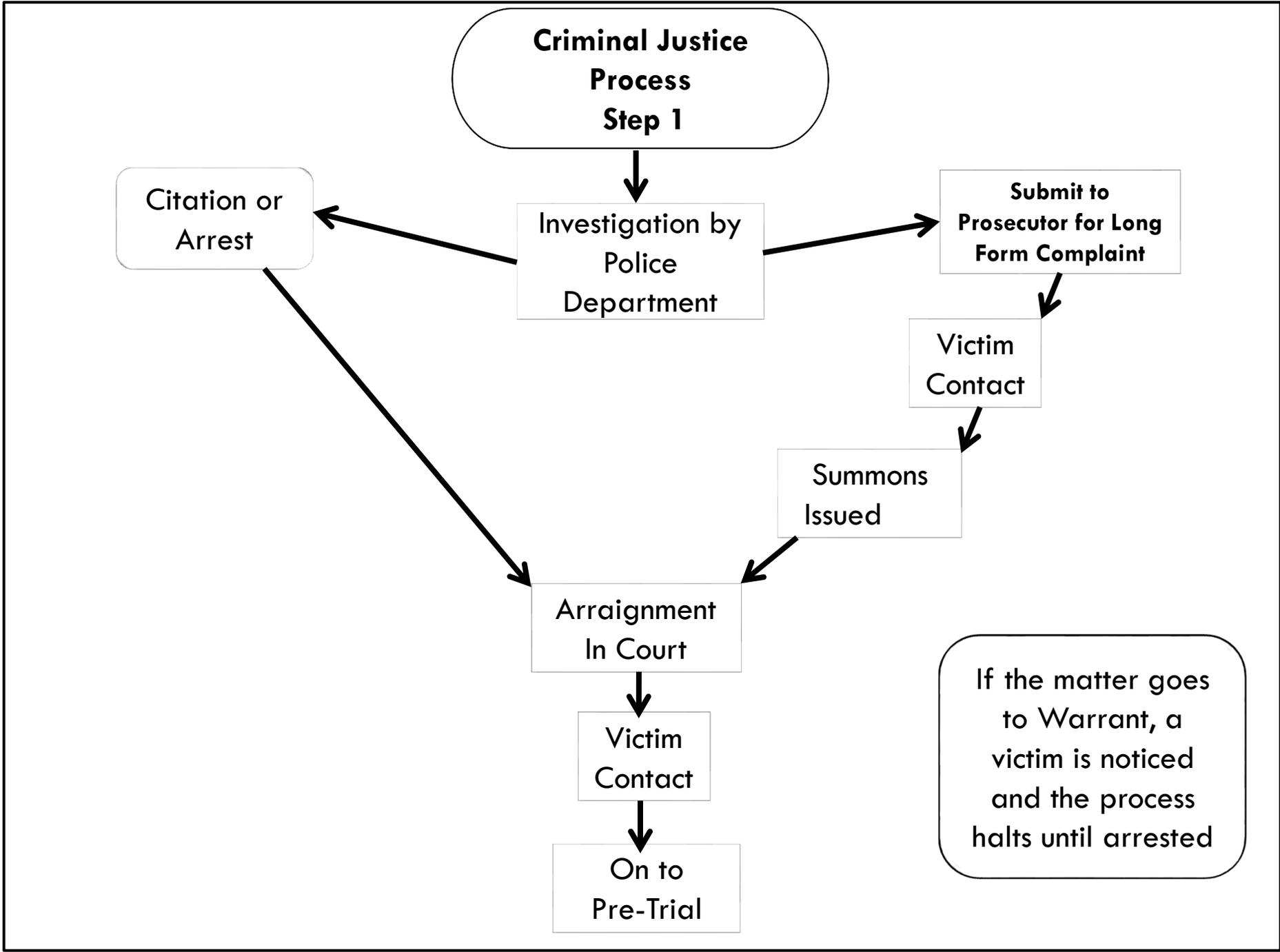
- Provide legal advice to departments for City business
- Review contracts for possible legal ramifications and draft sound agreements.
- Help institute, review, amend and maintain City Charter and Ordinances.
- **Help limit liability** by providing sound advice to staff and council.
- Follow and uphold judicial rules and procedures.
- Legal is required to put City interests first and protect the City.
- Client confidentiality applies just as it would with a private attorney.

# **Prohibited Actions**

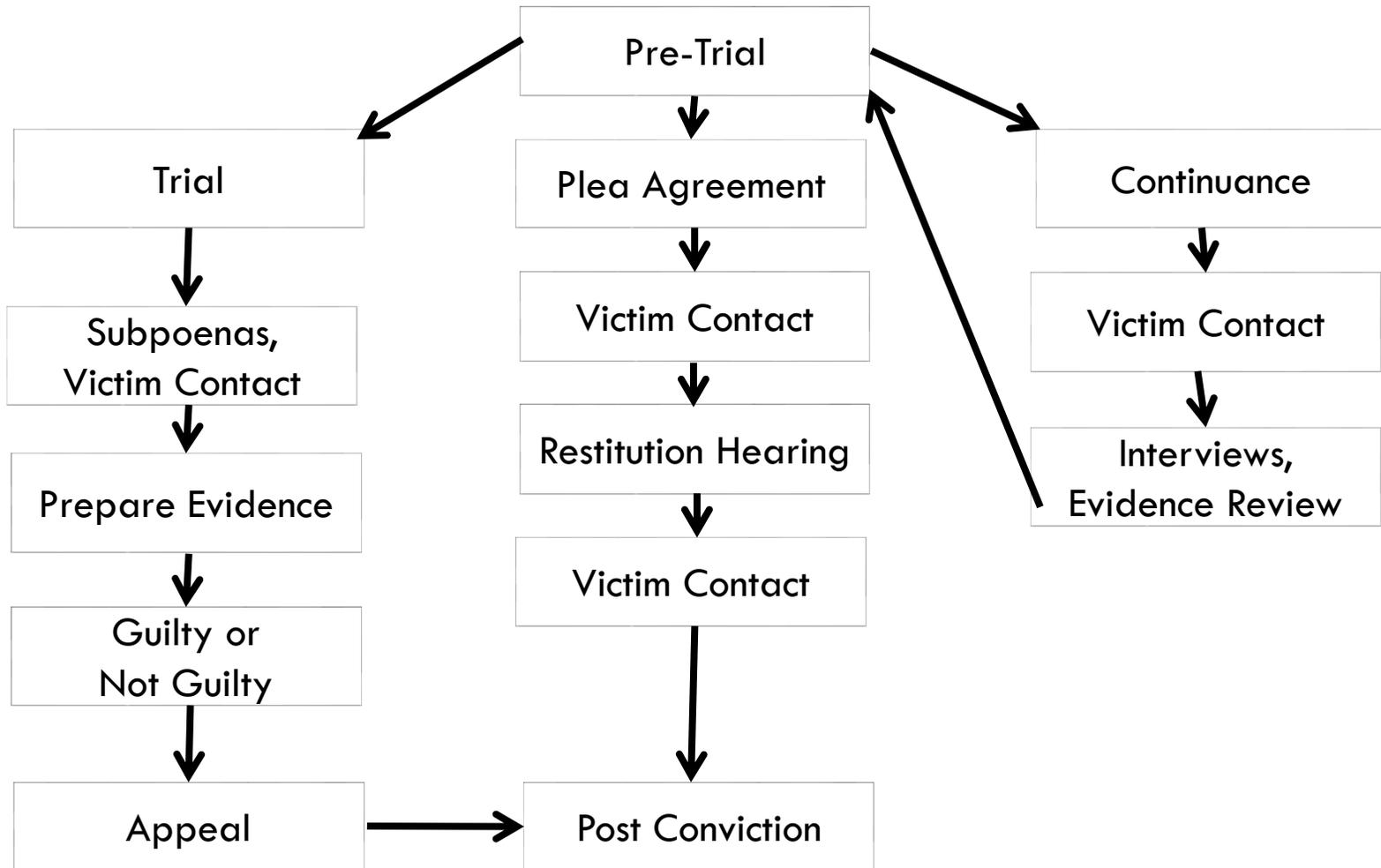
- Cannot provide personal or general legal advice to the public.
- Cannot refer public to a specific legal advisor.
- Cannot provide personal legal advice to staff.
- Cannot speak directly to an individual who is represented by an attorney.
- Cannot speak directly to public or press if case pending.

# Typical Issues or Matters

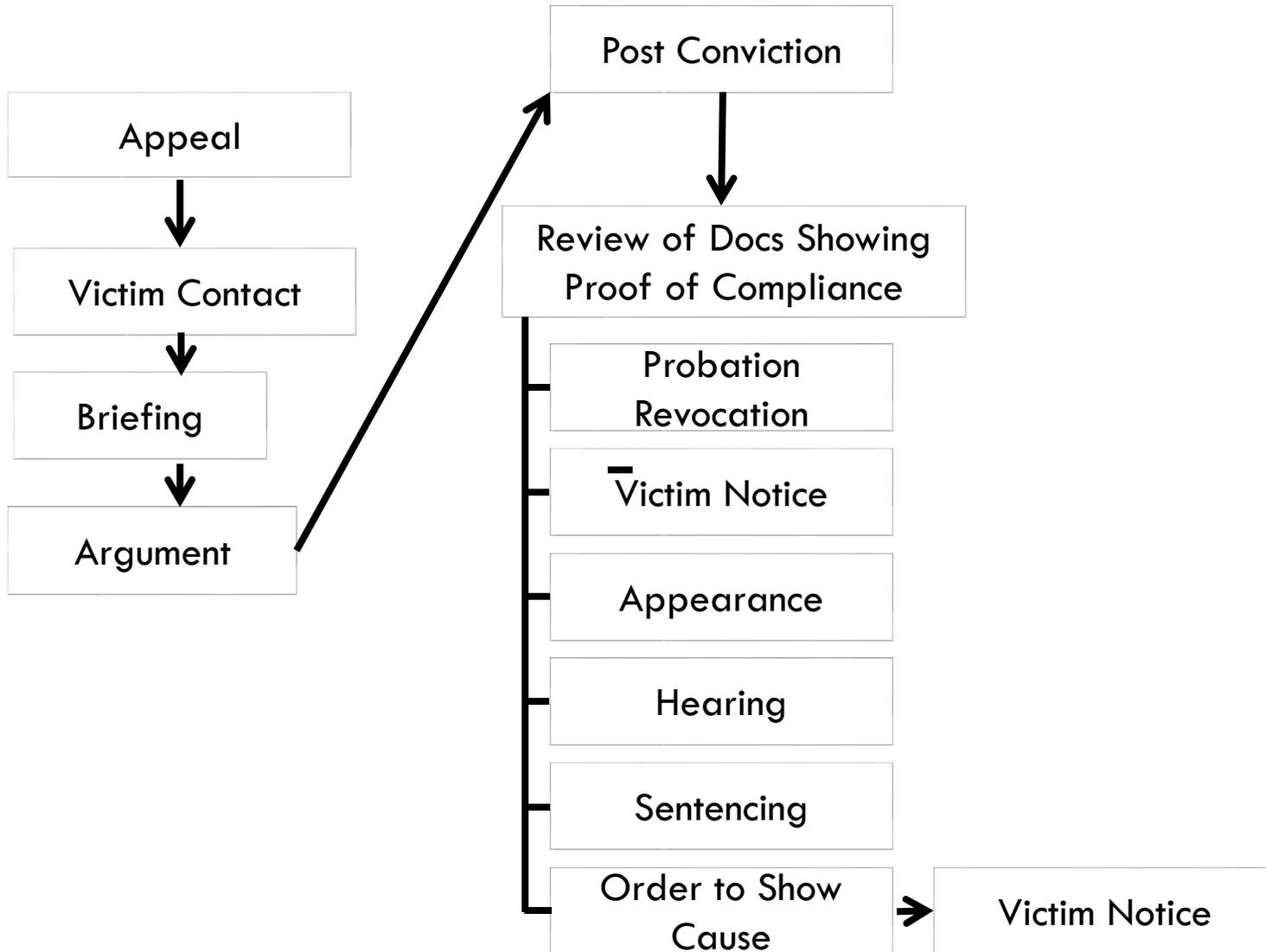
- Water and environmental issue involving the City.
- Bankruptcies that effect City revenue.
- Personnel issues in collaboration with HR.
- Civil Suits that are filed against the City.
- Claims that become litigation – gather discovery, evidence and data for the case.
- Review, collaborate, monitor and assist outside attorneys assigned by the insurance pool for defense of the City on liability issues.
- Monitor progress of outside council on City litigation matters.
- Provide in-house legal services for litigation not accepted by the City's insurance.
- Advise and support law enforcement for the City in criminal matters.
- Prosecute criminal misdemeanor and City Code violations on behalf of the City.



**Criminal Justice  
Process  
Step 2**



**Criminal Justice  
Process  
Step 3**



# The "Riggins Rules":

## SUGGESTED DO'S & DON'TS FOR THE CONDUCT OF PUBLIC HEARINGS AND THE DEPARTMENT OF MEMBERS OF BOARDS, COMMISSIONS, & OTHER BODIES

by Fred Riggins

**1. Don't accept an appointment** or nomination to a Board, Commission, or Council unless you expect to attend 99.9999 percent of the regular and special meetings, including inspection trips, briefings and public functions where your presence is expected.

If your participation falls below 85 percent during any six months' period, you should tender your resignation. You aren't doing your job. You aren't keeping well enough informed to make intelligent decisions, and you are making other people do your work for you and assume your not inconsiderable responsibility. Your effectiveness and the regard given to your opinions by other members will be in direct ratio to your attendance.

**2. Do create a good impression of city government.** Remember that this is the first important contact that many of the people in the audience have had with the administration of their city and for some this is the most important matter in which

*[Editor's Note: The "Riggins Rules" were brought to my attention by Bev Moody. Bev spent 26 years with the City of Phoenix Planning Department before moving to his current position with the Arizona Department of Commerce. During that time he knew the late Fred Riggins, a former Chairman of the Phoenix Planning Commission and author of these "Suggested Do's & Don'ts" (since re-titled the "Riggins Rules" in his honor). Bev Moody notes that the Riggins Rules have been left just as Fred Riggins wrote them in 1967 "because in their bluff, crusty, no-nonsense style, the man himself shines through." As Bev further explains, "you may notice that Mr. Riggins did not follow the principles of non-sexist language that prevail today ... please be forgiving as he was raised in and wrote these in less sensitive times — and it doesn't detract from the good advice he offers."*

*We'd very much like to get some reaction from you, our readers, to any of the Riggins Rules that particularly strike you — ones that you agree with or ones you disagree with. Or, perhaps you've had an experience that relates to one of Riggins' observations. Please take a few minutes to jot down your comment(s) and mail them to us at: P.O. Box 4295, Burlington, VT 05406, or FAX them to: (802) 862-1882].*

they have ever been involved. Many will never be back again and many will never have another such contact and experience. Your performance will create in their minds the picture which they will always carry with them of "the way the city is run." Make it as pleasant and comforting a picture as possible.

**3. Do be on time.** If the hearing is scheduled at 7:30, the gavel should

descend at the exact hour, and the hearing begin, if there is a quorum. If you have to wait ten minutes for a quorum and there are 100 people in the room, the straggler has wasted two full working days of someone's time besides creating a very bad beginning for what is a very important occasion for most of those present.

**4. Don't dress like a bum.** Shave, wear a tie, and remember that a coat is

never out of place. The people in the audience think you are a very important person. Don't disappoint them by your appearance, conduct, and attitude.

**5. Don't mingle with friends, acquaintances, unknown applicants or objectors in the audience** before the meeting or during a recess period, if it can be politely avoided. You will invariably create the impression with the uninformed that there is something crooked going on, especially when you vote favorably on the case of the applicant you were seen conversing with. When the other fellow's case comes up and you deny it, he says, "Well, it's easy enough to see that you've gotta know the right people if you ever expect to get anywhere around here." Save your socializing and fraternizing for some other time and place.

**6. Don't discuss a case privately** and as a single member of a body with an applicant or objector prior to the filing and prior to

the hearing if it can be politely avoided. In the event that it is not avoidable, and many times it is not, be very non-committal, don't be too free with advice, and by all means explain that you are only one member of the body, that you have not had an opportunity to study the matter thoroughly, that you have not seen the staff recommendation, and that you have no way of knowing what opposition there may develop or what will occur at the public hearing.

Be certain that the person concerned understands that you cannot commit yourself in any manner, except to assure him that he may expect a fair and impartial hearing. Even if the case looks pretty good to you, it is wise to be pessimistic about his chances of securing approval. If you give him any encouragement and any advice and he is then denied, he will hate you until your dying day and tell everyone in town that he did just exactly what you told him to do and then, like a dirty dog, you voted against him.

**7. Do your homework.**

Spend any amount of time necessary to become thoroughly familiar with each matter which is to come before you. It is grossly unfair to the applicant and to the City for you to act on a matter with which you have no previous knowledge or with which you are only vaguely familiar. And you will make some horrible and disturbing decisions.

**8. Don't indicate by word or action how you intend to vote** during the portion of the hearing devoted to presentations by the applicant, presentations by any persons appearing in objection, and comments by members of the staff.

During this period your body is the judge and the jury and it is no more appropriate for you to express an opinion as to the proper decision, prior to hearing *all* of the testimony, than it would be for a judge or jury member to announce his firm conviction in the middle of a court trial regarding the guilt or innocence of the defendant. This is not

clearly understood by a majority of persons sitting on hearing bodies.

It is not too difficult to phrase one's questions or comments in a manner that implies that you are seeking information rather than stating an irrefutable fact and that your mind is closed to further argument.

One does not say, "I happen to know that the applicant has no intention of placing an apartment building on this site. In fact, it has been sold subject to zoning and the purchaser intends to put a mobile home park here if he can get a special permit." Rather than this, one could say, "We have been furnished with some information which indicates that perhaps your plans are not too firm regarding the development you propose. In fact, there are some who are concerned about a rumor that the property is being sold and that the new owner planned to put a mobile home park at this location, if he can secure the necessary permit. Would you care to comment on this concern of

the neighborhood and tell us if there is any truth in this rumor?" The same result is accomplished, the information is brought out and made part of the record and you don't look as if you are leading the attack to secure defeat of the applicant's request.

**9. Don't fail to disqualify yourself** if either directly or indirectly you have any financial interest in the outcome of the hearing, *and* let your conscience be your guide where it could be said that moral, ethical, political, or other considerations, such as personal animosity, would not permit you to make a fair and impartial decision.

In disqualifying yourself, *do not* state your reasons inasmuch as the mere stating of your reasons can be construed as exerting undue influence on your fellow members. To avoid all accusations of undue influence, it is generally wise to leave the room and ask that the record show that you did so and that you did not indicate by word or action whether

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## **"Riggins Rules"**

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you were in favor of, or opposed to, the matter under discussion.

**10. Do rotate the seating** in some regular manner each successive meeting to prevent a "strong" member from gradually dominating a "weak" and indecisive member always seated next to him. This will also prevent the forming of little cliques or a not infrequent grouping of members to the left of the Chair who always oppose those to the right of the Chair, regardless of the merits of the case, to the great detriment of the applicant, the City and other interested parties.

**11. Do be polite and impartial;** as helpful as possible to the nervous, the frightened and the uneducated, and patient with the confused.

**12. Do be attentive.** Those appearing before you have probably spent hours and hours preparing and rehearsing their arguments. The least you can do is *listen* and make them think that you are as interested as you should be. Refrain from talking to other members, passing notes and studying unrelated papers.

**13. Don't interrupt a presentation** until the question period, except for very short and *necessary* clarifying remarks or queries. Most applicants have arranged their remarks in a logical sequence and the thing about which you are so concerned will probably be covered if you can force yourself to be quiet for a few minutes. You can wreck his whole case by a long series of unnecessary questions at the wrong time. He will be your enemy forever.

**14. Don't permit more than one person** at the podium and microphone at any one time.

**15. Don't permit a person to directly question or interrogate other persons in the audience.** All questions should be addressed to the Chair and to the hearing body. When this person has finished his discussion and stated the questions to which he would like to have answers, then the Chair will permit those who care to make an answer to come forward and do so, but only voluntarily. Do not permit anyone to *demand* answers to all and sundry questions, especially if it is obviously done for the purposes of harassment.

**16. Don't use first names** in addressing *anyone at all*

during the course of the hearing. This includes audience, applicants, members of your particular body, even if the person concerned is your brother or your best friend.

*Nothing, repeat nothing* creates a more unfavorable impression on the public than this practice. It is poor "hearing manners," destroys the formality of the occasion, and makes the uninformed certain that some sort of "buddy-buddy deal" is about to be consummated. If you just can't bring yourself to calling someone Mr. or Mrs., use the third person form and call him "the applicant," or "the person who is objecting," or "the gentleman (or lady)," who is appearing here in connection with this case.

**17. Do show great respect for the chair,** always addressing the Chairman as "Mr. Chairman," "The Chairman," or "Chairman Jones," and always wait to be recognized before continuing. This will set an example for applicants and others wishing to be heard and will contribute a great deal toward the orderliness of the proceedings.

**18. Don't be critical** of attorneys who sometimes feel impelled to give unnecessarily lengthy presentations on behalf of

their clients. Avoid the strong temptation to make matters as difficult as possible for them. They are just trying to make a living and must convince their clients that they are really earning the rather substantial fee which they feel their service merits.

**19. Don't indulge in personalities** and don't permit anyone else to do so.

**20. Don't try to make the applicant or any other person appearing before you look like a fool** by the nature of your questions or remarks. This is often a temptation, especially when it is apparent that someone is being slightly devious and less than forthright in his testimony. But don't do it. If you must "expose" someone, do it as gently and kindly as possible.

**21. Don't become involved in altercations.** Some persons seem to come to hearings with the express purpose of "telling them guys down there how the cow ate the cabbage." If you answer their irrelevant rantings, you are immediately involved in a *fight*.

Don't answer or try to defend yourself. You are there to hear testimony and make decisions based thereon, not to head up a debating society. Remember, you are the judge and

the jury. In most cases, it is sufficient to say, "thank you very much for coming here and giving us the benefit of your thinking. I am sure that the members of this body will give your remarks serious consideration when they are making their individual determinations on the merits of this case. Is there anyone who wishes to be heard?"

**22. Do invite interested persons to come forward** where they can see when an applicant is discussing or talking from a diagram, site plan, or exhibit which is not visible to the audience.

**23. Do not permit people to speak from the audience.** If it is important enough for them to speak at all, it is important enough for them to be recognized, come forward, give their name and address and say what they care to, if their remarks are pertinent.

**24. Do not permit people to leave the podium and microphone** and approach closer to the hearing body except in unusual circumstances, usually to show a small exhibit or to explain some detail. This ordinarily breaks down into a small mumbling session at one end of the dais with one or two members of the hearing body; the others are

uncertain about what is going on. The conversation usually does not get recorded, cannot be heard by the audience, and is almost impossible to control from the Chair.

**25. Don't become involved in neighborhood quarrels** or wind up as the referee even if you are a veritable Solomon. No matter how fair or impartial you should be, both sides will be mad at you. Stick to the merits of the case and rule out-of-order testimony which is irrelevant, personal, hearsay, and not pertinent to the matter being heard.

**26. Don't be vindictive** and "punish" the applicant for some real or imagined affront to you or your Body on some previous occasion, perhaps bearing no relation to the present hearing. It must be assumed that he is there legally, he has a right to be heard, and he has a right to a fair and impartial hearing on the merits of his present case without reference to something which he might or might not have done in the past or will perhaps do in the future.

**27. Don't try to be a hero** to beautiful women, little old ladies, widowed mothers with tiny infants in their arms, and the financially and socially dis-

tressed. Be sympathetic, but objective, and don't get carried away with such a strong desire to help that you throw the rule book out the window. Ninety-nine times out of a hundred you will do them some questionable service at the expense of their neighbors or the City and your kind-hearted action will come back to haunt you much sooner than anyone could have imagined. Stick to the rules.

**28. Don't assume the role of a fairy godfather** to those who have become involved in bad business deals or other self-imposed difficulties.

**29. Do not fail to give a reason** when making a motion for approval or denial of an applicant's request. If you fail to do this, the applicant, any objectors, a reviewing body of higher authority, or the courts may well assume that your decision was an arbitrary one not supported by the facts and should be reversed. Always mention the staff recommendation.

**30. Do not take staff recommendations lightly.** These recommendations are made after much study by professional people with years of experience in their field and are based on pertinent laws, ordinances,

regulations, policies, and practices developed by you and your predecessors. The recommendations of a good staff in possession of all the facts will almost always produce a *technicaly correct* recommendation.

Your job is to temper this recommendation with information developed during the hearing which was not available to the staff. It is not unusual for a staff to voluntarily reverse or change the details of its recommendation during the course of a hearing. Always announce the staff recommendation prior to hearing any testimony and always make appropriate mention of it in the final decision.

**31. Don't forget that the staff is there to help** you in any way possible. It is composed of very capable professional people with vast experience. Lean on them heavily. They can pull you out of many a bad spot if you give them a chance. Or they may just sit and let you stew, if you do not give them the respect which is their due.

Remember that their usual practice is to remain silent unless they are specifically asked to comment. Most of them consider it presumptuous and unprofessional to inject any unsolicited comments into the hearings.

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Always ask them to comment prior to the final vote.

**32. Don't try to answer technical questions** even if you are sure that you know the answer. You probably *don't* and will wind up looking like a fool. Refer these matters to the staff. That is one of the things they are there for. They have intimate day-by-day working experience with all pertinent ordinances and can nearly always give a timely, up-to-the-minute, professional dissertation on any subject in their field. And besides, it makes them more important and helps create an image of competency which is most helpful in assuring the public that their case has received more than a cursory glance and an arbitrary decision.

Lay members of a hearing body who "explain" ordinances to the audience usually wind up their less than accurate remarks with the pretty lame comment, "That's the way I understand it and if I am wrong, I would appreciate it if the staff would correct me." The staff usually does correct them, and ordinarily at some length. *Don't* try to show how smart you are, because you're not.

**33. Don't try to ease your conscience and toss the applicant a bone** by granting him something less than he asked for, something he doesn't want, and something he can't use. In *all* cases where it is appropriate, *give him what he asked for or deny it*. To do otherwise will only encourage applicants to ask for the "moon and the stars" in the hope that they will, at the worst, get the minimum requirements. A reputation for approving or denying applications as filed will result in much more realistic requests and make your job much easier.

**34. Do vote by roll call**, except for routine administrative matters. This is wonderful character training for each member of the body and emphasizes the "moment of truth" when he must look the applicant in the eye, make his own individual decision, and say "aye" or "nay" in a loud clear voice, all alone, with no one to hide behind. The alternate voting method is difficult for the Secretary to record, doesn't mean anything on a tape recording, is many times quite confusing, and gives cowards an opportunity to change their minds and vote twice when they are caught in the minority.

**35. Don't show any displeasure or elation**, by

word or action, over the outcome of a vote. This is very bad hearing manners and won't lead to the maintenance of a friendly cooperative spirit among members of a Body. It will lead to the creation of little cliques whose members vote in a block and become more interested in clobbering each other than in making fair and equitable decisions.

**36. Do discourage any post-mortem remarks** by applicant, objectors, or members after the final vote and decision is announced, especially those afterthoughts designed to reopen the case. It will invariably result in an unpleasant wrangle. Just say, "I'm sorry, but the final decision has been made. If you wish to submit additional testimony, it will be necessary for you to state your reasons by letter and the Body will decide at a subsequent meeting whether or not they wish to reopen the case. The next case on the agenda will be ——."

**37. Do not hesitate to continue a case or take it under advisement** if more information or greater deliberation is truly necessary, but do not use these administrative actions merely to avoid or delay making a decision before a hostile applicant or audience.

**38. Do sit down and have a long soul searching session with yourself** if you find that you are consistently "out in left field," that no one seems inclined to second your profound motions, and that you are quite often a minority of one. You might be theoretically right, and probably are, but give some thought to what is practical, possible, and just. Don't be "stiff-necked" in your opinions. Give a little.

**39. Don't select chairmen on a seniority basis alone** and *don't* pass the office along from member to member as a reward and honor. The nicest guy in the world, the hardest working, the most interested and your most valuable member can be indescribably horrible in the Chair. This is just one of those facts of life which is hard to explain, but, unfortunately, all too true.

As occasion presents itself, give prospective chairmen a chance to preside, head up a sub-committee, report on special projects, and otherwise prepare themselves and demonstrate their abilities and leadership under pressure. ♦