



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: February 15, 2018

Staff Contact: Lee Plemel, Community Development Director

Agenda Title: For Possible Action: To amend the Planning Commission Bylaws to change the month in which Commissioners' terms expire from June to January of the fourth year of their respective terms in order to coincide with amended policies regarding the appointment of Planning Commissioners. (Lee Plemel, lplemel@carson.org)

Staff Summary: The Board of Supervisors approved new policies related to Planning Commissioner duties and responsibilities on October 19, 2017, and directed staff on December 7, 2017, to develop a process whereby newly elected Board members would recommend individuals for appointment to the Commission. The proposed Planning Commission Bylaws amendment is required to implement these policies.

Agenda Action: Formal Action/Motion

Time Requested: 5 minutes

Proposed Motion

I move to amend the Planning Commission Bylaws to change the month in which Commissioners' terms expire from June to January of the fourth year of their respective terms in order to coincide with amended policies regarding the appointment of Planning Commissioners.

Board's Strategic Goal

Efficient Government

Previous Action

The Board of Supervisors approved new policies related to Planning Commissioner duties and responsibilities on October 19, 2017, and directed staff on December 7, 2017, to develop a process whereby newly elected Board members would recommend individuals for appointment.

Background/Issues & Analysis

The purpose of this item is to amend the Planning Commission Bylaws, as necessary, to implement the Board of Supervisors policy to allow Board members to be able to recommend individuals for appointment to the Planning Commission. Specifically, Planning Commissioners' terms currently expire in June in the fourth year of their respective terms. In order to allow newly-elected or re-elected Board members to recommend and appoint new Planning Commissioners upon their taking office, the Commissioners' terms need to expire in January.

The attached Planning Commission Bylaws shows the proposed amendment. The only proposed change to the Bylaws is in Section I(A)1 on the first page, changing the term expiration date from June 30 to January 1 of the commission member's fourth year. No other changes to the Planning Commission Bylaws are proposed or required to implement the Board of Supervisors direction regarding the appointment of Planning Commissioners.

This item is presented in conjunction with the associated ordinance and Board policies and procedures amendments, which are also on this agenda. Refer to the staff report for the ordinance for more information on the background and analysis related to this item.

If you have questions regarding this item, please contact Lee Plemel at 283-7075 or lplemel@carson.org.

Attachments

Amended Planning Commission Bylaws

Applicable Statute, Code, Policy, Rule or Regulation

NRS 278.030 (Planning Commission); CCMC 18.02.010 (Planning Commission)

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number:

Is it currently budgeted? Yes No

Explanation of Fiscal Impact:

Alternatives

Provide other direction to staff regarding the implementation of Planning Commissioner appointments

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

CARSON CITY
PLANNING COMMISSION
BYLAWS

I. GENERAL POLICIES AND PROCEDURES

A. Planning Commission established.

There is established in the City and County of Carson City a Planning Commission. The Planning Commission is established as set forth in Nevada Revised Statutes (NRS) 278.040 and Chapter 18.02 of the Carson City Municipal Code. Planning Commission is referred to herein as "Commission" and its members are referred to as "Commissioners" or "members" of the Commission.

1. The terms and membership of the commission shall be as established in Carson City Municipal Code §18.02.010. A term shall be four years or until a successor is appointed. Terms shall expire on [~~June 30~~] **January 1** of each Commissioner member's fourth year. It is the policy of the Board of Supervisors that appointment term limits shall be 12 years, or three full terms. For the purposes of term limits, an appointment of less than two years made to fill an unexpired term shall not be considered as a full term.
2. The Commission shall have the authority to establish administrative procedures, operating policies, and other orders necessary to carry out the policy direction and powers vested in the Commission by the Board of Supervisors, State law, and local ordinance (Titles 17 and 18)
3. Commissioners shall inform themselves concerning the laws, policies, and legal precedents related to planning, zoning, and subdivision laws, regulations, plans, and ordinances.
4. Commissioners shall make a diligent effort to attend all meetings, arrive promptly, and be properly prepared to discuss the issues calendared for the meeting.
5. Failure to attend meetings shall be considered justifiable cause for a majority of the Commission to request that the Board of Supervisors remove a Commissioner. Attendance requirements are specified in §II.G of these By-Laws.
6. Commissioners may not serve on any other City appointed board, committee, or commission while serving as a Planning Commissioner, except that a Commissioner may serve another appointment for a position expressly created with certain specific representative memberships, at the discretion of the Board of Supervisors.

B. Ethics of the Commissioners

1. Conflict of interest.

- a. Commissioners are subject to and shall comply with State and City regulations related to conflict of interest.
- b. All members of boards, committees, or commissions must avoid any conflict of interest. No individual may use an official position to gain personal advantage. If a member of a board, committee, or commission concludes that they have a conflict of interest or an appearance of fairness issue with respect to a matter pending before the board, committee, or commission, they must disqualify themselves from participating in the deliberations and decision-making process for the matter under consideration. A member so disqualifying himself or herself shall have no personal presence before or direct communication with the other members regarding the matter at issue. Failure of a member to disclose that he or she has a conflict of interest on a matter under consideration by the Commission may be cause for removal from the Commission.
- c. In the event of a pending matter for which a Commissioner wishes to be disqualified, the policy of the Commission shall be that if it is an actual conflict of interest as described in §I.B.1.b, the Commissioner shall leave the proscenium and may join the audience or leave the meeting room until the matter has been decided. A Commissioner shall announce any conflict prior to the opening of the public hearing that he or she will be abstaining from this matter.

2. Discretion. Commissioners shall be discreet in the discussion of pending matters outside of the meeting forum. No commitments or prejudicial comments shall be made prior to a public hearing in advance of any official action.

3. Violations of planning regulations. No commissioner shall intentionally set forth to participate in, be a party to, or cause to take place any land use action which is in violation of the codes over which the Commission is the administrator. These codes include Titles 17 and 18 of the Carson City Municipal Code. Such intentional action shall be grounds for the Commission to request the Board of Supervisors to consider removal of that Commissioner.

4. Public and private life. Commissioners should remember that actions taken in their personal lives also reflect on the public image of the Planning Commission.

5. Representations in public. At public and private functions at which a Commissioner is present as an individual, each Commissioner shall be

careful to indicate when he is representing the Commission or acting as a private citizen.

6. Gifts, gratuities. Commissioners shall not accept any gifts from applicants, representatives of applications, or other persons, institutions, associations, or organizations concerned with matters which have either been or are before the Commission. Even a well intentioned, innocent action has the appearance of a conflict of interest.
7. Lobbying. Unless expressly authorized by the Board of Supervisors, no member of the Commission shall engage in lobbying on legislative or political matters on behalf of the Commission. Nothing in this policy precludes individual appointees from lobbying or providing information as a private citizen provided the appointee specifically clarifies that while he or she holds an appointed position, the appointee is acting in a private capacity and not in his or her capacity as an appointed member of the Commission or on behalf of the City. In that regard, individual appointees should refrain from lobbying as a private citizen in a way that implies authority to speak on behalf of the City or the Commission.

C. Public meetings and records.

1. Regular meetings of the Commission shall be open to the public and subject to the provisions of the Nevada Open Meeting law. (NRS 241)
2. The Commission may cause to be kept tape recordings of the meetings together with or separate from a minute record of the meetings containing each of the items before the commission and the vote taken on each item.
3. Commission files shall be public documents, and shall be available for review by Commissioners or any member of the public within a reasonable period of time following a request to view such a document in accordance with the Open Meeting Law.

D. Public process (Open Meeting Law).

It is the responsibility of every member of the Commission to understand the requirements of the Open Meeting Law and to assure that they individually and the Commission as a whole operates within the letter and spirit of the law. The City, through the District Attorney's Office, provides annual training on the Open Meeting Law and the Nevada Ethics requirements to assist the members of a board, commission, or committee in understanding the requirements of the law. Additionally, the District Attorney, on his or her own, or at the request of the Commission chairperson may provide a short course on the Open Meeting Law at any scheduled meeting of the Commission. Chairpersons are encouraged to request a presentation on the Open Meeting Law at least annually or more often if the circumstances warrant (e.g. turnover in members). Members are required to attend either the annual training course or the short course at the Commission level within 12 months of appointment.

E. Communications with the Board of Supervisors.

Expressions of Commission's position, recommendation, or request for any action shall be in the form of a resolution, motion or other written communication, setting forth the reasons, facts, policies, and/or findings of the body supporting the communication and shall be directed to the Board of Supervisors and the City Manager. It should be emphasized that when a member of the Commission who is present at a Board of Supervisors meeting is asked to address the Board of Supervisors on a matter, the member should take care to represent the viewpoint of the Commission as a whole and to avoid expressing his or her personal opinion unless clearly stated as such.

II. MEETINGS OF THE COMMISSION

A. Regular meetings.

The Commission, pursuant to NRS 278.050(1), shall hold its regular meeting on the last Wednesday of each calendar month with the exception that the Commission shall hold its November meeting the week prior to the Thanksgiving holiday if the last Wednesday of the month falls on the same week as the holiday, and the Commission shall hold its December meeting the week prior to the Christmas holiday.

B. Any meeting may be recessed to a specified date, time and place by a majority of members present.

C. Special meetings.

Special meetings may be scheduled as necessary. The primary purpose of special meetings is to discuss matters related to the Planning Commission and its powers and authorities. Public hearings may be incorporated, provided that any notice requirements of law or ordinance are satisfied. Other special meetings may be held upon call of the Chairperson, acting Chairperson, or upon call signed by not less than three members of the Commission.

D. Annual meeting for election of officers.

1. At its regular meeting in July of each year, the Commission shall, as its first order of business following completion of scheduled public hearings, elect its officers for the upcoming year beginning at the Commission's August meeting.
2. The election of an officer shall be by affirmative vote of not less than four members of the Commission. The Commission shall elect a Chairperson and a Vice-Chairperson. The Executive Secretary of the Commission shall be the Director of Planning or his designee.
3. The terms of the Chairperson and Vice-Chairperson shall be one year. A Commissioner may only serve as Chairperson for two consecutive years. A Commissioner who previously served as Chairperson will qualify to be

nominated for Chairperson when two or more years have passed since the member last served as Chairperson.

4. In the absence of the Chairperson and Vice-Chairperson, the quorum present shall appoint a Chairperson Pro-tempore by majority vote.

E. Duties of the Chairperson.

1. The Chairperson shall be responsible for the conduct of all Planning Commission meetings. The Chairperson is the hub of the Planning Commission process and is key to the operation and effectiveness of the Commission. The Chairperson must make every attempt to run the meeting by the rules of procedure while at the same time ensuring that a fair democratic process is provided to all members of the group and to the public at large. The Chairperson should take care to ensure the Commission deliberations and discussion stay focused on the issue at hand. The most important part of being Chairperson lies in the ability to find common ground and to achieve compromise, if appropriate. The Chairperson must be able to represent the entire group to the Board of Supervisors and community groups.
2. The Chairperson will work with the Planning Division staff liaison to review agendas for appropriate timing and placement of items. Except as otherwise provided herein, the chairperson does not have the authority to remove items from the agenda or to prevent placement of items on an agenda.
3. The Chairperson may request that items be calendared for a Commission meeting. If other Commissioners wish to calendar an item, such request shall be made to the Chairperson.
4. In the absence of the Chairperson, these duties shall be assumed by the Vice-Chairperson; then Chairperson pro-tempore.

F. Notice of meetings.

1. Notice of meetings shall be as set forth in Nevada's Open Meeting law, NRS §278 and §241, and Title 18 of the Carson City Municipal Code.
2. Notices of all meetings or the meeting agenda shall be posted on the City's website and posted at the site of the meeting, the Planning Division office, and three other municipal office locations.
3. Notices of all meetings or the meeting agenda shall be made available to each Commissioner and the general public at least three business days prior to the meeting.
4. Should Planning Commissioners be invited to other meetings or events, the Planning Division staff shall poll the members of the Commission to determine which Commissioners would like to attend the function. Should a majority of the Commissioners respond affirmatively then staff shall

prepare the necessary notice requirements for a quorum of the Planning Commission attending a meeting or function. Should there not be enough time for staff to prepare the proper notice then three (3) or less Planning Commissioners shall be the maximum number that can attend a function. The preference to what Commissioners can attend a meeting or function will be on the basis of who has responded in a timely fashion.

G. Attendance.

In any calendar year, Commissioners shall attend a minimum of 75 percent of the scheduled regular Planning Commission meetings, and shall exercise due diligence in attending special meetings, public hearings, workshops, and study sessions. No differentiation is made between excused or unexcused absences of Commission members. Members of the Commission may be removed from the Commission by the Board of Supervisors for violation of the attendance policy.

H. Quorum.

1. A quorum shall be four members of the Commission.
2. To be considered an approved motion, a vote of a simple majority of the Commission present shall be required, unless a two-thirds vote is required for the action. A requirement for a two-thirds vote shall mean that five Commissioners vote aye on the motion for the motion to pass.

I. Conduct of the meetings.

1. Commissioners shall attend the meetings in appropriate attire to represent the image and authority of the Planning Commission.
2. Commissioners shall arrive in a timely manner prior to the opening gavel.
3. There shall be no smoking or consumption of alcoholic beverages in the Commission chambers during the Commission meeting.
4. Commission meetings shall not take place without a representative of the Planning Division present.
5. It shall be the policy of the Commission that a representative of the District Attorney should be present for all public hearings.

J. Order of business.

1. Call to order. The Chairperson shall gavel the meeting to order at the designated time.
2. The order of business.
 - a. Roll call and determination of a quorum. The roll call shall be a call of members by the Recording Secretary to the Commission.

- b. Public comment. Public comment on general matters pertaining to the Commission is provided for before any action is taken by the Commission and also before adjournment of the meeting, in accordance with State law. Public comment shall be limited to a maximum of three minutes per person or ten minutes per topic. Generally, the public is encouraged to comment on Public Hearing items that are on the agenda when the item comes up for discussion. The Commission may not take action or have any deliberations during these public comment periods.
- c. Consideration of the minutes of prior meetings. Review, correction, or approval is to be by majority vote of Commissioners present at the meeting for which the minutes were prepared. Commissioners absent at the meeting are to abstain from voting. Following adjournment of the meeting, the Chairperson shall sign the minutes.
- d. Modifications to the agenda. Modifications, except for continued public hearings, may be by direction of the Chairperson without a vote of Commissioners. Continued public hearings require a motion, second, and majority vote to approve the new hearing date and time.
- e. Disclosures. Any member of the Commission may wish to explain any contact with the public regarding an item on the agenda or business of the Commission.
- f. Public hearings. Each project shall be announced by the Chairperson as listed on the Agenda. The order of the project hearing shall be:
 - (1) presentation of the staff report;
 - (2) questions by the Commission of staff;
 - (3) presentation by the applicant or applicant's representative.
 - (4) questions of the Commissioners of the applicant;
 - (5) opening of the public testimony portion of the hearing;
 - (6) comments by members of the public in support or opposition to the proposed project;
 - (7) questions of Commissioners of the public;
 - (8) a rebuttal period with a time limit established by the Chairperson;
 - (9) closure of the public hearing;

- (10) Commission deliberations;
- (11) Commission motion and action;
- (12) announcement of the date for the Board hearing, the requirements for an appeal, and the last date to file an appeal (if applicable).

g. Consent agenda.

- (1) Pursuant to Resolution No. 1993-R-28 and as a component of the Commission's public hearings, the Commission may establish a section entitled Consent Agenda, which may be placed on the agenda prior to other public hearing items.
- (2) Consent agenda matters may include street and easement dedications and abandonments, review of previously approved special use permits and other matters deemed appropriate by the Commission. Only routine noncontroversial items should be placed on the consent agenda and it must never be used to stifle discussion or comment on any subject.
- (3) Under Consent agenda matters, all recommendations from staff shall be summarily approved "en masse" unless removed from the Consent agenda.

Any member of the Commission or any citizen may request before or during a meeting that one or more items be removed from the Consent agenda for full consideration and a separate action.

- (4) The public notice for a meeting at which a Consent agenda will be used must contain a statement substantially in the form of the following:

All matters listed under the Consent agenda are considered routine and may be acted upon by the Commission with one action and without an extensive hearing. Any member of the public may request that an item be taken from the Consent agenda, discussed and acted upon separately during this meeting.

- 3. Adjournment to the Growth Management Commission. Periodically, the Planning Commission may serve as the Growth Management Commission for review of Growth Management items pursuant to CCMC 18.12. The order of the hearing shall be as follows:

- a. Recess of the Planning Commission.

- b. Call to order and determination of a quorum of the Growth Management Commission.
 - c. Staff briefing.
 - d. Public comments, which are presented under the same terms as public hearing §II.J.2.d.
 - e. Recess of the Growth Management Commission.
 - f. Signature session and execution of documents by the Chairperson of applicable documents from the current or prior meetings.
4. Rules of Order. When there is doubt as the certainty of a procedure, the procedure of Rules of Order shall apply. Other procedural matters are at the judgment of the Chairperson, but the Planning Commission must not violate particular Rules of Order that apply to Carson City's Board of Supervisors.
5. Continuance.
- a. The Commission may, with the agreement of an applicant, continue an item to a specific time, date, and place.
 - b. If the continuance is requested by the applicant, the Commission may, at its option accept testimony from any persons present, which shall be part of the record for the continued hearing.
 - c. The Commission may also, at its option, elect to deny the continuance and to hold the hearing and consider action with or without the applicant's consent.
 - d. The Commission shall not continue an item without the applicant's consent if such continuance will cause the application's hearing process to exceed the timeliness established in the Nevada Revised Statutes or Carson City Municipal Code.
6. Commission action. The Commission may, depending on the authority vested in it, approve, conditionally approve, or deny any proposal before it. If final action requires the confirmation of the Board of Supervisors, the Commission's action shall be a recommendation to the Board.
7. The progression of the meeting shall be at the discretion of the Chairperson.
8. All meetings shall be adjourned by a quorum of the Commission.

K. Requests to calendar items on the agenda.

Matters within the scope of the Commission's authority desired to be heard by an individual citizen or outside entity shall be submitted by said individual citizen or outside entity in the form of a letter of request to appear before the Commission no less than 14 days prior to the next scheduled Commission meeting. The letter should be addressed to the Planning Division and should describe the item to be considered, whether it is a discussion or action item, and the approximate time needed. Any supporting documents must be submitted no less than seven working days prior to the meeting date. The Planning Division will submit the request to the chairperson who will timely advise the Planning Division whether to place the matter on the agenda or otherwise advise the requester that the chairperson will not place the matter on the agenda unless requested to do so by another member of the Commission, the department director, the City Manager, or any member of the Board of Supervisors. Agenda items requested by anyone other than the Planning Division shall be attributed to the individual or outside entity on the agenda.

III. RECORDS AND DOCUMENTS.

A. Office files.

All records and files of the Commission shall be maintained in the office of the Planning Division.

B. Minutes.

1. The minutes of Planning Commission meetings shall be kept by the Recording Secretary to the Commission.
2. The minutes shall consist of a listing of the item under consideration, including any identifying file numbers, applicable assessor parcel numbers and a brief description of the topic, an indication of the staff report being incorporated into the public record, an indication (name) of persons who spoke in favor and in opposition and their position on the matters. The minutes shall also show the motion of the Commission, the names of Commissioners making the motion and second, and the vote. The record of the vote shall identify Commissioners voting "no" or disqualified from participating in the action.
3. Incorporated into the minutes of the meeting may be a verbatim tape recording which will be retained pursuant to the policies of the City Recorder.
4. The Director of Planning shall maintain a Case Record for each public hearing item before the Commission. A case record shall be in the form and content as determined by the Director, but in any case shall provide an outline of the Commission's hearing on the matter.

C. Copies of minutes.

Copies of minutes shall be provided to Commissioners prior to the meeting in which action is proposed to be considered to approve such minutes.

D. Recorded meetings.

All Commission meetings may be recorded.

E. Commissioner records.

The Planning Commission is covered under the public records statutes of Nevada. Procedural compliance with the law is a function of staff liaison support in most instances. However, from time to time, members of the Commission will receive communications regarding matters within their scope of activities. All types of communications, including email, constitute a public record and the City is obligated to retain it in accordance with guidelines and policies prescribed by law. Similarly, communications to members, to citizens, officials and staff are public records as well. Members of boards, committees, and commissions should provide a copy of all communications to the Planning Division for inclusion in the public record.

IV. REPORTS AND MEETING PACKETS.

A. Staff reports.

1. The Director of Planning shall cause to be prepared reports of the Planning Staff for each item which a public hearing is scheduled.
2. Each staff report shall be in the form and style as determined by the Director. At a minimum, the report shall recommend to the Commission the necessary legal findings required to consider an action on a project; recommended language for a motion supporting the proposed action and recommended conditions to ensure conformance of the proposed project with City policy and regulations.
3. The Director may present reports either orally or with written background materials for any other topics that are not scheduled as public hearings before the Commission. Such items shall be identified as non-action items on the meeting agenda.

B. Record of staff reports.

All staff reports shall be maintained in a master file for the specific Planning Commission meeting and in the applicable project file.

C. Availability of staff reports.

1. Staff reports are public documents, and are to be made available to the applicant or public at no charge.

D. Submittal of materials with applications.

1. It shall be the policy of the Planning Commission that its staff is directed not to schedule a matter before the Commission until such time that Staff has determined that all required information has been submitted in a form and manner consistent with the policies of the Commission and the requirements of NRS and the Carson City Municipal Code.
- E. Major revisions to projects occurring between the Planning Commission application submittal date and the date of the Commission hearing.
1. It shall be the policy of the Planning Commission that if a project applicant makes major changes to the scope or content of an application after the submittal date for receipt of application materials and prior to the Planning Commission hearing, the Director of Planning shall request correspondence from the applicant for a continuance of the matter to the following month's meeting to adequately review the nature of the revisions.
 - a. Any changes proposed by the applicant are to be considered "major" if it would result in a change in design, site plan, or supporting documentation in the application submitted to the City that warrants the materials to be redistributed to reviewing agencies or to be re-noticed.
 - b. The Director of Planning shall determine whether the revisions are "major changes to the scope or content of an application" or only the submittal of additional information which satisfies issues or questions raised by a reviewing agency.
 2. In the event that an applicant does not agree to a continuance, the Director shall recommend denial, based on inadequate time to review the submitted materials to determine appropriate findings as required by NRS and the Carson City Municipal Code.

V. AMENDMENT TO BYLAWS.

1. Commission Bylaws may only be amended by approval of a two-thirds majority of the Commissioners.
2. Commission Bylaws shall not become effective until reviewed and confirmed by the Board of Supervisors.

VI. SEVERANCE CLAUSE.

In the event of a conflict of any individual policy or portion thereof between this document and State law, County ordinance, or policy of the Board of Supervisors, the preeminent law, ordinance, or policy shall be in force.

The Planning Commission of the Carson City Consolidated Municipality does amend its Policies and Procedures as adopted on July 26, 1988. Revisions were approved on action of the

Planning Commission on May 30, 1989, April 27, 1993, July 26, 1994, August 29, 1995, December 3, 1997, October 27, 1999, and September 26, 2007.

The policies and procedures of the Carson City Planning Commission supersede all previous rules, regulations, and procedures adopted by the Commission. On a motion by Commissioner Esswein, with a second by Commissioner Dhami, these policies and procedures are adopted this 31st day of July, 2013, by a vote of 6 ayes and 0 nays, 1 absent.

These policies and procedures were confirmed and approved by the Board of Supervisors on September 5, 2013, by a vote of 5 ayes and 0 nays.