# MEMORANDUM

DATE: May 25, 2017

TO: Planning Commission

FROM: Julia Capasso, Associate Planner, via John Swiecki, Community Development Director

SUBJECT: **Proposal to initiate revisions to Planning Commission procedures to align with current practice**

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Staff is proposing to initiate a review and update of the Planning Commission's adopted "Rules of Procedure" last updated in 2002. The current procedures do not reflect the use of current technologies, and there are also ways in which these procedures do not reflect current Commission practice or procedure. Staff will come back at a future meeting with suggested specific revisions to the document for the Commission's consideration.

**Attachments:**

1. Current Guidelines for Planning Commission Meeting Procedures (Planning Commission Resolution 02/02) [NOTE: This document is also included in the Planning Commissioners' Handbook.]

# RULES OF PROCEDURE

## A. SETTING THE TIME AND PLACE FOR MEETINGS

### 1. Regular Meetings

The Planning Commission of the City of Brisbane shall hold regular meetings on the second and fourth Thursday of each month at 7:30 p.m. When the day for any regular meeting of the Commission falls on a legal holiday, no meeting shall be held on such holiday, but the regular meeting shall be scheduled at a time and place that shall be noticed in accordance with City procedures. Due to scheduling constraints, regular meetings may be rescheduled from time to time.

### 2. Special Meetings

Special meetings or study sessions for the Planning Commission may be called at any time by the Planning Commission Chair, the Planning Director, or a majority of the Planning Commission by delivering personally or by mail written notice to each Planning Commissioner, and by posting the written notice at posting places established by the Brisbane Municipal Code, Chapter 1.12, Section 1.12.010. Such notice must be delivered and posted at least twenty-four (24) hours before the time of such meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted; no other business shall be considered. Such written notice may be dispensed with as to any Planning Commissioner who, at or prior to the time the meeting convenes, files with the Secretary of the Planning Commission a written waiver of notice. Such waiver may also be given by telegram.

### 3. Place of Meetings

All regular meetings of the Planning Commission shall be held in locations established in Brisbane City Council Resolution No. 90-15. Such meetings may be adjourned to such other locations as the Commission may determine.

## B. OFFICERS

### 1. Selection of Officers

The Planning Commission shall select from its members a Chair and a Vice-Chair annually at the first February meeting as the last order of business prior to adjournment.

Any member of the Planning Commission is eligible to serve as Chair or Vice-Chair, irrespective of seniority, rotation, or prior service as Chair or Vice-Chair. In casting their votes for Chair and Vice-Chair, Commissioners may consider the candidate's leadership qualities, his or her ability to conduct meetings of the Commission expeditiously and fairly, and his or her willingness to represent positions adopted by the Commission when such positions are at variance with his or her personal views, as well as other pertinent factors.

If the position of Chair becomes vacant, the Commission shall, at its next regular meeting select from its members a new Chair. In the event that the Commission is unable to select a new

Chair due to a tie vote, the Commission shall select one of its remaining members to serve as the temporary Chair until such time as a new Chair can be selected by majority vote.

2. Responsibilities of the Chair and Vice-Chair

The Chair, or, in his or her absence the Vice-Chair, shall be the Presiding Officer of the Planning Commission and shall assume his or her place and duties as such immediately following his or her election. If the Chair is absent or unable to act, the Vice-Chair shall serve until the Chair returns or is able to act. During such periods, the Vice-Chair has all of the powers and duties of the Chair. In the event that the Vice-Chair is absent, the Chair shall have the right to name any member of the Commission to perform the duties of the Vice-Chair, but such substitution shall not extend beyond adjournment.

The responsibilities of the Planning Commission Chair include the following:

a. As Presiding Officer, preserve strict order at all meetings of the Commission, announce the Commission's decisions on all subjects, and decide all questions of order. The Presiding Officer may move, second, debate, and exercise all of the rights and privileges of Commissioners set forth in these Rules;
b. Call special meetings of the Commission in accordance with legal requirements and these Rules of Procedure;
c. Sign documents of the Commission;
d. Assist Staff in determining agenda items;
e. Attend City Council, County Planning Commission and other meetings as the Planning Commission representative, when appropriate;
f. Communicate informally as necessary with the Mayor, City Council members and the City Manager on Planning Commission matters;
g. Assist in the orientation and education of new Planning Commission members; and
h. Write and approve letters on behalf of the Planning Commission.

C. CONDUCT OF MEETINGS

1. Meetings to be Public

All regular, adjourned and special meetings of the Planning Commission shall be open and public.

2. Call to Order

Meetings shall be called to order by the Chair, or if absent, by the Vice-Chair. In the absence of both, the Secretary shall call the meeting to order whereupon those Commissioners present shall elect a Chair Pro Tem.

3. Quorum

Three members of the Planning Commission shall constitute a quorum for the transaction of business. The Secretary shall take a roll call and keep a record of those Commissioners present, absent or excused. Where there is no quorum, the Planning Commission Chair or Vice-Chair, or any Commissioner shall adjourn the meeting, or, if no Commissioner is present, the Secretary shall adjourn the meeting.

4. Agenda and Agenda Packet

An agenda for all Planning Commission regular and special meetings shall be prepared by the Planning Director, containing the specific items of business to be transacted and the order thereof. Agendas shall be prepared in a manner that ensures, to the extent practicable, that issues are handled in an expeditious manner, legal requirements are met, necessary materials and persons are available, and time allotments are balanced between individual matters and overall planning issues.

The agenda for regular meetings shall be made available to the public in the Planning Office and posted in the locations designated in the Brisbane Municipal Code, Chapter 1.12, Section 1.12.010, no later than seventy-two (72) hours prior to the meeting and at the meeting location during each meeting.

A copy of the agenda and agenda packet for regular meetings shall be made available to each Commissioner no later than seventy-two (72) hours prior to the meeting, and earlier if practicable. At the time the agenda and agenda packets are made available to the Commissioners, each applicant whose application appears on the agenda shall be mailed a copy of the agenda and the Staff Report that relates to his or her application. The Planning Director shall make available for public inspection in the Planning Office one or more copies of the agenda packet on the same day they are made available to the Commissioners.

5. Additions to Agenda

No matter shall be finally acted upon by the Planning Commission other than those on the posted agenda, except in accordance with the provisions of the California Government Code Section 54954.2(b). A Commissioner may request amendment of the agenda at the beginning of a meeting to add an information item which will not require action by the Planning Commission.

6. Order of Business

The order of business shall be as follows and shall be shown on the agenda of each regular meeting:

a. Call to order
b. Roll call
c. Adoption of agenda
d. Consent calendar
(Approval of Minutes)

e. Oral communications
f. Written communications (Correspondence addressed to the Commission)
g. Applications and petitions continued from the previous regular meeting in the order as they appeared on the previous agenda
h. New applications and petitions in the order filed in the City Planning Office.
i. Staff reports
j. Items initiated by Staff
k. Items initiated by Commissioners
l. Special Items
m. Adjournment

A majority of the Commission may change the order of business at any time during the meeting. Otherwise, business shall be conducted in the order shown above.

7. Adjournment Time

The Planning Commission shall adjourn each meeting by 10:30 p.m. if such meeting has not been adjourned prior to that time, unless a majority of the Commissioners then present vote to extend the time of adjournment. When the agenda for the meeting has not been completed by the time of adjournment, it shall be continued over to the next regular meeting of the Planning Commission, or, if the majority of the Commissioners then present so determines, to an adjourned meeting of the Commission to be held on such date and at such time as the Commission shall determine. Failure of the Commission to adjourn at 10:30 p.m. in accordance with this provision shall not affect the validity of any hearing held, deliberations conducted or action taken, either before or after the adjournment hour.

8. Public Hearings

The conduct of public hearings shall generally be as follows:

a. The Presiding Officer shall ask for, and Staff shall present, any staff report or staff recommendations relevant to the matter under consideration. The Commission shall ask Staff to state for the record the written communications received pertaining to the application. The Commission shall ask Staff questions if necessary to clarify the factual basis of the matter.
b. If the matter under consideration is an application, the applicant, or the applicant's authorized representative, may then offer evidence, oral or documentary, in support of the application under consideration. The Commission may ask the applicant or the applicant's authorized representative questions if necessary to clarify the factual basis of the application.
c. The Presiding Officer shall then open the public hearing and solicit from the audience any person or persons desiring to address the Commission with remarks or questions relevant to the matter under consideration. Members of the public who wish to address the Planning Commission with respect to matters set forth on the agenda to be considered during a public hearing shall fill out a request form and hand such form to the Secretary. The Secretary shall forward such forms to the Presiding Officer. In order to ensure that all members of the audience who wish to address the Commission about a matter under consideration have an opportunity to be heard, the Presiding Officer may designate and declare a period of time for all comments on the matter and/or designate a specific length of time for each speaker.

Members of the public may speak for such length of time as the Presiding Officer shall permit.

d. An applicant shall have the right to make a final presentation, after which the public hearing shall be closed by a majority vote of the Commission. Nothing herein shall prevent a member of the Commission from addressing, through the Chair, a direct question to the applicant or any person(s) addressing the Commission regarding the application or matter under consideration.

e. Thereafter, the Commission shall, after due deliberation and proper motion and second, vote to either approve conditionally or unconditionally, or deny with or without prejudice the motion regarding the matter under consideration, or continue the matter for further consideration at another date and time. If the Commission wishes to continue the public hearing, the Presiding Officer shall reopen the public hearing prior to the motion for continuance.

f. When both a written request and a cash deposit covering the cost of record preparation are received from the person(s) making the request, the City shall ensure that an approved written record of all such hearings shall be made and duly preserved. Copies shall be available to any interested person(s) at cost. Requests for a court reporter must be received prior to the date of the public hearing.

9. Oral Communications

In addition to the right to address the Planning Commission as provided above, interested persons or their authorized representatives shall have a right to address the Planning Commission during Oral Communications on any matter concerning Planning Commission business that is not on the agenda. Interested persons wishing to address the Planning Commission during Oral Communications shall fill out a written request form and present it to the Secretary prior to addressing the Commission. The Secretary shall forward such forms to the Presiding Officer, who will allot the time equally among those who have given notice, provided, however, that no such presentation shall exceed five (5) minutes unless an extension of time is approved by a majority of Commissioners present.

10. Addressing the Planning Commission

Any interested person may request permission from the Presiding Officer to address the Commission relevant to any subject matter on the agenda. The Presiding Officer may designate and declare a period of time for any such addresses.

11. Manner of Addressing the Planning Commission

Any person wishing to address the Planning Commission shall stand or raise the hand and wait to be recognized by the Presiding Officer. Preferably, using the microphone, he or she shall state his or her name and address for the record and proceed to address the Commission. All remarks and questions shall be addressed to the Commission through the Presiding Officer and not to any Commissioner or member of the public. No question shall be asked of a Commissioner or member of the Planning Staff without first obtaining permission of the Presiding Officer.

12. Points of Order

Only a Commissioner may raise a point of order. Points of order shall be limited to cases where the discussion or debate on the floor does not pertain to the item of business before the Commission at the time or is in violation of any of the provisions of these Rules.

13. Motions

Motions and seconds regarding the item of business before the Commission may be made by any Commissioner not otherwise disqualified to act with respect to that item of business. Once a motion is made and seconded, it may be amended if such amendment is accepted by the makers of the motion and second. The motion or amended motion pending before the Commission must be approved conditionally or unconditionally, denied with or without prejudice, continued for determination at a later time or withdrawn before another motion is made.

14. Call for the Question

A call for the question is a motion to halt debate on a motion before the Commission. A Commissioner calling for the question must receive a second to his or her motion. A properly moved and seconded call for the question must be voted on immediately and is not debatable. If the motion calling for the question passes, then the motion before the Commission on which the question was called must be voted on immediately without further debate.

15. Voting

Motions may generally be passed by a majority of Commissioners sitting to debate the matter. However, an approval of the general plan or general plan amendments require the affirmative votes of not less than a majority of the Commission's total members. Zoning amendments require approval by a majority of the members of the Commission not disqualified from voting on the zoning amendment.

In the case of a tie vote, it is considered that no action has been taken and the item returns to discussion until another motion is made. If another motion is not made by any of the Commissioners debating the matter, the item is considered denied. If another motion is made and another tie vote is taken, then a) the item is considered denied if the disqualification of a Commissioner from voting on the item has left an even number of voting Commissioners; or b) the item shall be continued for consideration at another date and time if the absence of a Commissioner has left an even number of voting Commissioners, or if an even number of voting Commissioners is the result of the abstention of a Commissioner due to his or her absence at a prior hearing where evidence on the item was presented. Prior to the date and time to which an item is continued, the abstaining or absent Commissioner shall rehabilitate him or herself by reviewing the record of the hearing from which he or she was absent so that he or she is able to vote on the item when it next comes before the Commission for consideration.

In the case of a final vote which is a tie vote, any member of the Commission who voted can make a motion to either reconsider the Commission's action at that meeting or to place reconsideration of the item on the agenda of the next meeting for action at that time.

When a motion for approval of a permit application fails due to a tie vote and the project application is deemed denied, the only finding applicable to that denial is that the number of votes necessary for approval was not forthcoming. In this event, it is preferable to move for denial with findings that make it clear was the project was not approved. If an application is deemed denied due to a tie vote, the Commission shall recommend to the City Council that no fee be charged to the applicant for filing an appeal from that denial.

16. Abstentions

Abstentions shall only be permitted if a Commissioner, due to a prior absence, is unable to vote on the item under consideration because he or she has not heard the material evidence that relates to that item.

17. Conflict of Interest

Any Commissioner who has a conflict of interest, as defined by the City's Conflict of Interest Guidelines, with respect to a matter coming before the Commission shall, as soon as the item is called on the agenda, state on the record that a conflict exists and the nature of the conflict. That Commissioner shall then disqualify him or herself from discussing or voting on such matter and shall remove him or herself from the Commissioner's dais.

However, there is an exception to the rule requiring disqualification based on a conflict of interest. If disqualification of a Commissioner or Commissioners renders it impossible for the Commission to take actions required under the California Government Code, the Commission may bring back as many disqualified Commissioners as is necessary to establish a quorum. Which Commissioner or Commissioners are brought back shall be determined by lot, or by some other impartial and equitable means of random selection.

Where it is not clear whether a Commissioner has an interest of a disqualifying nature, the affected Commissioner may request an opinion of the City Attorney, and, if still in doubt, may request the Commission to make a determination.

A Commissioner who is disqualified from discussing or voting on any matter to be considered by the Commission shall, if possible, so inform Staff and the Chair prior to the meeting at which that matter is to be considered.

18. Minutes

The minutes of the Planning Commission shall be kept by the Secretary. The Secretary shall be required to make record of such business as was actually passed upon by vote of the Commission, showing the vote of each Commissioner, including if he or she was absent or failed to vote on the matter considered. The Secretary shall not be required to make verbatim transcripts of the proceedings. However, the minutes shall be sufficiently informative so that basic facts and

relevant explanations are included. Further, the minutes shall include the names and addresses of persons addressing the Commission, the agenda item or other subject matter to which their remarks related and a brief description of the nature of their remarks.

As soon as possible after each Commission meeting, the Secretary shall cause a copy of the minutes thereof to be forwarded to the Commission on its regular agenda. A Commissioner who has a question regarding any portion(s) of said minutes shall make all reasonable efforts to notify the Secretary prior to the next regularly scheduled meeting so that the Secretary may have the opportunity to research the matter prior to consideration of the minutes at that meeting.

Only those Commissioners who were present at the meeting which is the subject of the minutes under consideration may vote on approval of the minutes. Approval of the minutes shall require a majority of those Commissioners present who are voting on the minutes.

The Secretary and Planning Commission Chair shall sign the final form of the approved minutes. The Secretary shall maintain a copy of said minutes in such a manner as to be readily available for inspection by the public.

D. APPLICATION WITHDRAWAL PROCEDURE

A permit application may be withdrawn by the applicant only if a request for withdrawal is submitted in writing to the Secretary of the Planning Commission prior to the commencement of the meeting at which the application is to be considered. If an applicant has not filed such a written request, and that applicant informs the Commission during the course of the meeting at which his or her application is to be considered that he or she wishes to withdraw the application, the Commission shall continue the matter to its next regular meeting in order to give the applicant an opportunity to file a timely written request for withdrawal. When the matter comes before the Commission for consideration at its next regular meeting, the Commission shall decide whether to grant or deny the request for withdrawal. Withdrawal of a permit application shall terminate all further action on the application. Once an application is withdrawn, it may not be refiled for one year from the date of such withdrawal.