City of Brisbane
Agenda Report

TO: Mayor and City Council

FROM: Hal Toppel, City Attorney

SUBJECT: Adoption of Rules and Procedures for Commissions and Committees

DATE: For Council Meeting on April 15, 2013

City Council Goals:

To provide for effective and efficient delivery of City services. [1]

Purpose:

The purpose of the Resolution and Ordinance is to establish uniform rules and procedures governing the operation of City commissions and committees.

Recommendation:

1. Adopt Resolution No. 2013-12 establishing rules and procedures for City commissions and committees.

2. Introduce Ordinance amending Sections 2.20.030 and 2.20.040 pertaining to the organization and operation of the Parks and Recreation Commission.

Background and Discussion:

A Council subcommittee has been working with City staff to develop a set of uniform rules and procedures governing the operation of City commissions and committees. Many of these bodies have already adopted their own bylaws or other rules of procedure, but they are not consistent with each other on the same subject and none of them contain certain provisions that the subcommittee felt should be included in the rules – such as the procedure for reprimand or removal of a member.

The subcommittee has approved a proposed draft of Rules and Procedures which is now being presented to the full Council for approval through the adoption of Resolution No. 2013-12. These rules will not negate any existing bylaws or rules of procedure that may have been established by an individual commission or committee, but if there is any

conflict or inconsistency between the Council rules and the Commission rules, the Council rules will be controlling.

In the special case of the Parks and Recreation Commission, some rules of organization and procedure were adopted by ordinance in Chapter 2.20 of the Municipal Code. Since these provisions cannot be modified by resolution, an ordinance is required to remove a potential conflict between Chapter 2.20 and the Council rules. The ordinance will amend Section 2.20.030 to delete the last sentence of this section, which read: "Any officer may succeed himself for another full or part term." Although such succession is not expressly prohibited by the proposed Council rules, it is certainly discouraged by the statement in Paragraph A.2 that the position of chair should normally be rotated to another member. The ordinance will also amend Section 2.20.040 to make is clear that any rules and regulations adopted by the Parks and Rec Commission "shall be consistent with any applicable rules and procedures adopted by the City Council."

The proposed rules contain subjects that are not addressed in any of the existing bylaws or procedure rules governing the City commissions and committees. These subjects include responsibilities of the chair in the conduct of meetings, communications to commission or committee members, unexcused absences or failure to discharge duties, and procedure for reprimand or removal of a commission or committee member (which does not limit the general authority of the City Council to remove any member at any time, without cause).

Fiscal Impact:

None

Measure of Success:

Adoption and implementation of the uniform rules and procedures.

Attachments:

1. Resolution No. 2013-12
2. Ordinance No. 582

City Attorney

City Manager

RESOLUTION NO. 2013-12

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE ESTABLISHING RULES AND PROCEDURES FOR CITY COMMISSIONS AND COMMITTEES

WHEREAS, various commissions and committees are currently operating in the City, having been established by ordinance or resolution of the City Council, including the Planning Commission, the Parks and Recreation Commission, and the Open Space and Ecology Committee, and

WHEREAS, some of the commissions and committees have adopted bylaws or rules of procedure to govern their proceedings or are subject to rules adopted by ordinance; and

WHEREAS, the City Council has determined that various inconsistencies exist between the separate sets of rules and procedures governing the operation of City commissions and committees, and has further determined that the existing rules and procedures fail to deal with certain subjects that the City Council believes should be addressed; and

WHEREAS, the City Council has concluded that uniform rules and procedures should be adopted to govern the operations of all City commissions and committees; and

WHEREAS, a proposed draft of Rules and Procedures For City of Brisbane Commissions and Committees has been presented to the City Council, a true copy of which is attached hereto as Exhibit "A" and made a part hereof; and

WHEREAS, the City Council has reviewed and considered the proposed Rules and Procedures and desires to adopt the same,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brisbane as follows:

1. The Rules and Procedures For City of Brisbane Commissions and Committees attached hereto as Exhibit "A" are hereby approved and adopted.

2. City Clerk shall transmit a copy of such Rules and Procedures to the chair of each City commission and committee, to be distributed to the members of each commission and committee at it next available meeting.

3. Each commission and committee is directed by the City Council to conduct a review of its own adopted bylaws, rules and procedures to determine whether any conflict or inconsistency exists between such bylaws, rules and procedures and the rules and procedures adopted by the City Council attached as Exhibit A to this Resolution, and if any conflict or inconsistency is found, the commission or committee is directed to make an appropriate modification to its bylaws, rules or procedures to bring them into conformity with Exhibit A.

4. This Resolution shall become effective immediately upon its adoption.

_____
Mayor

I hereby certify that the foregoing Resolution No. 2013-12 was duly and regularly adopted at the regular meeting of the Brisbane City Council on April 15, 2013, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Sheri Marie Schroeder, City Clerk

RULES AND PROCEDURES FOR CITY OF BRISBANE COMMISSIONS AND COMMITTEES

Adopted on April 15, 2013 by Brisbane City Council Resolution No. 2013-12

The following rules and procedures are intended as guidelines for Commissions and Committees whose members are appointed by the City Council. These rules and procedures are intended to supplement any bylaws or procedural rules that have previously been adopted, or may be adopted in the future, by an individual commission or committee. However, in the event of any inconsistency or conflict between these rules and procedures and the rules and procedures adopted by any commission or committee, these rules and procedures, including any amendments that may hereafter be adopted by the City Council, shall be controlling.

A. Internal Organization of Commission or Committee.

It is the policy of the City Council that all persons appointed to serve on a City commission or committee be given an opportunity to assume a leadership position. The following rules are therefore adopted:

1. The chair and vice chair of each commission and committee shall be determined by majority vote of the members of that commission or committee.

2. The term of the chair and vice chair should be for one year. Upon the expiration of such term, the position of chair should normally be rotated to another member of the commission or committee.

B. Conduct of Meetings; Role of Chair.

1. The chair of the commission or committee may establish time limits for speakers, which may be applied generally to all items on the agenda, including oral communications, or to a specific agenda item on which numerous persons desire to speak.

2. Communications from members of the public should not generally be allowed after the public hearing or public input period has been closed. Members of the public are not entitled to interrupt the deliberations of the commission or committee, even if they disagree with statements being made.

3. Behavior by any member of the public that disrupts the orderly conduct of the meeting shall be grounds for ejecting that person from the meeting if he or she refuses to discontinue the behavior after being asked to do so by the chair. If decorum cannot be restored, the chair may suspend or adjourn the meeting.

4. The role of the commission or committee chair includes:

- Consulting with City staff prior to the meeting for establishment of the agenda;
- Helping the group determine whether it has all the information necessary and available to make a decision;
- Where there are multiple points of view on what the best decision might be, encouraging decision-makers to share those views;
- Actively listening to determine potential points of agreement and testing those points for actual agreement;
- Managing any conflicts that may arise during the discussions;
- Keeping the discussion on topic and moving forward toward a decision;
- Ensuring that clear decisions are made;
- Sticking to the agenda for the meeting;
- Getting through the agenda items in an orderly and timely manner.

C. Communications to Commission or Committee Members.

It is important to establish an administrative record of proceedings conducted by a commission or committee, particularly if a recommendation is being made to the City Council or the decision is subject to appeal to the City Council or judicial review. Communications to the commission or committee by applicants or interested parties should therefore be made "on the record" to the extent possible.

1. Members who receive written communications from any person relating to an agenda item and expressly refer to such communication during the meeting should provide a copy of the communication to the City prior to the meeting so that it can be included in the packet, or if there is no opportunity to do so, the member should make copies of the communication for distribution at the meeting to other members, City staff, and the public.

2. Members should not send or receive text messages during a meeting relating to an item on the agenda for that meeting, particularly during the time when the item is being considered by the commission or the committee.

D. Absences or Failure to Perform Duties.

Acceptance of appointment to a City commission or committee involves a commitment of time to attend meetings and to be generally available to conduct the business of the commission or committee. Accordingly, the City Council intends to utilize, as a guideline, the rules of attendance and performance of duties applicable to municipal officers as set forth in Sections 36513 and 1770 of the Government Code, as follows:

1. A commission or committee member should not be absent without permission from all regular commission or committee meetings for 60 consecutive days from the last regular meeting he or she attended; *provided, however,* if the commission or committee meets less than twice a month, the member should not be absent without permission for more than two consecutive meetings from the last regular meeting that he or she attended. Permission for a longer absence may be granted by majority vote of the member's commission or committee. (Source: Govt. Code §36513). A member who is absent without permission for a greater period of time is subject to reprimand or removal by the City Council.

2. A commission or committee member who ceases to discharge the duties of his or her membership on the commission or committee for a period of three consecutive months, except when prevented by illness or when absent with the permission of the commission or committee, shall be subject to reprimand or removal by the City Council. (Source: Govt. Code §1770).

3. The granting by a commission or committee of permission for an absence by one of its members shall not preclude the City Council from reviewing the reason or legitimacy of such absence and the City Council reserves the right to reprimand or remove a member who is absent, with or without permission, whenever the City Council deems such action to be appropriate under the circumstances.

E. Reprimand or Removal of Member

Members of City commissions and committees serve at the pleasure of the City Council and may be removed at any time, with or without cause. The City Council may also issue a reprimand to a member who has committed an act or omission that

the City Council determines is inconsistent with the duties or responsibilities of the office that he or she holds. In the event the City Council decides to consider a reprimand or removal for cause, the following procedure will generally be followed, unless the circumstances are such that an immediate removal is deemed appropriate:

1. The City Council may direct the Mayor to send the member a notice of the Council's intent to consider disciplinary action against the member, stating in reasonable detail the reasons why such action is being considered. The notice shall also indicate the time and place of a Council meeting at which the subject shall be on the agenda. Such meeting may be a regular meeting of the City Council or a special meeting called only for the purpose of considering whether any disciplinary action should be taken and if so, the nature of such action.

2. If the member desires to continue his or her service on the commission or committee, the member may submit a response to the notice, either before or during the meeting, stating the reasons why the member believes that no disciplinary action should be taken. If the member resigns prior to the Council meeting, the item shall be removed from the agenda, or the special meeting, if called, shall be cancelled.

3. After consideration of any response to the notice submitted by the member, the City Council, in its sole discretion, may take any disciplinary action it deems appropriate, including issuance of a warning or reprimand, issuance of a directive for certain corrective action to be taken by the member, or removal of the member from his or her commission or committee.

4. A notice of intent to consider removal of a commission or committee member shall not be required if the removal is being made by the City Council without cause.

ORDINANCE NO. 582

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING SECTION 2.20.030 AND 2.20.030 OF THE MUNICIPAL CODE CONCERNING THE PARKS AND RECREATION COMMISSION

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: Section 2.20.030 in Chapter 2.20 of the Brisbane Municipal Code is amended to read as follows:

§2.20.030 Meetings - Officers

Within thirty (30) days after their appointment the members of the commission shall meet in regular session and elect from their members a chairman and vice-chairman. Their duties shall respectively be such as are usually carried by such officers. Officers shall hold office for one calendar year, or until their successor is elected.

SECTION 2: Section 2.20.040 in Chapter 2.20 of the Brisbane Municipal Code is amended to read as follows:

§2.20.040 Rules and regulations – Quorum

The commission shall adopt rules and regulations to govern procedure, which shall be consistent with any applicable rules and procedures adopted by the City Council, and shall by record vote set a time for regular meetings which shall be held at least once each month. A majority of the members shall constitute a quorum.

SECTION 3: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

SECTION 4: This Ordinance shall be in full force and effect thirty days after its passage and adoption.

* * * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2013, by the following vote:

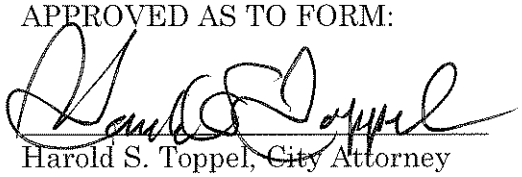
AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Raymond C. Miller, Mayor

ATTEST:

_____
Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:



Harold S. Toppel, City Attorney