




# MEMORANDUM

DATE: July 24, 2018  
TO: Planning Commission  
FROM: John Swiecki, Community Development Director   
SUBJECT: **Adoption of Revised Planning Commission Rules and Procedures to change regular meeting dates to the second and fourth Thursday of each month**

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## Background

At the May 8, 2018 meeting, it was the consensus of the Commission to change its regular meeting days from the second and fourth Tuesdays of the month to the second and fourth Thursdays of the month.

Staff has revised Section B.1 of the Commission's Rules and Procedures based on this direction. The schedule change will be effective the first Planning Commission in August, which will be held on Thursday, August 9, 2018.

## Recommendation

That the Planning Commission adopt Resolution PC-2-18 establishing updated Planning Commission Rules and Procedures.

## **Attachments:**

1. Resolution PC-2-18 with Exhibit A, Planning Commission Rules and Procedures

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RESOLUTION PC-2-18

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE  
ADOPTING GOVERNING RULES AND PROCEDURES

WHEREAS, the Planning Commission operates under rules and procedures as adopted by the Commission by Resolution; and

WHEREAS, the Planning Commission may from time to time revise or amend adopted rules and procedures to reflect changes in City Council policies governing Commission procedures or in current Commission practice; and

WHEREAS, the Planning Commission wishes to modify its regular meeting schedule from the second and fourth Tuesday of each month to the second and fourth Thursday of each month.

NOW, THEREFORE, the Planning Commission of the City of Brisbane hereby ADOPTS the Rules and Procedures contained in Exhibit A.

ADOPTED this 24<sup>th</sup> day of July, 2018, by the following vote:

AYES:  
NOES:  
ABSENT:

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Coleen Mackin  
Chairperson

ATTEST:

\_\_\_\_\_  
JOHN A. SWIECKI, Community Development Director

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BRISBANE PLANNING COMMISSION  
RULES AND PROCEDURES

A. GOVERNING PROCEDURES

The following rules and procedures are intended to guide the orderly operation of the Brisbane Planning Commission. The Brisbane City Council has adopted Citywide rules and procedures applicable to all appointed Commissions and committees, which may be amended from time to time. In the event of any inconsistency or conflict between these guidelines and the rules and procedures adopted by the City Council, the City Council's rules and procedures shall prevail.

B. 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 ~~Tuesday~~ 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. 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 for the Planning Commission may be scheduled by Planning Commission staff following consultation with the Commission. Notice of any scheduled special meetings shall be given by posting the written notice at posting places established by the Brisbane Municipal Code, Chapter 1.12, Section 1.12.010. The notice shall specify the time and place of the special meeting and the business to be transacted; no other business shall be considered.

3. Place of Meetings

All regular and special meetings of the Planning Commission shall be held in locations established by Brisbane City Council Resolution. When required, such meetings may be held in other locations as the Commission may determine subject to provision of adequate notice consistent with City procedures and State law, as applicable.

C. OFFICERS

1. Selection of Officers

The Planning Commission shall select from its members a Chairperson and a Vice Chairperson annually at the first March meeting as the last order of business prior to adjournment. The terms of these officers shall be for one calendar year. However, the Commission may choose to postpone officer selection until such a time as determined by a majority of the Commission. The Chairperson and Vice Chairperson shall remain in their respective offices until new officers are selected.

The position of Chairperson should normally be rotated to another member of the Commission. However, any member of the Planning Commission is eligible to serve as Chairperson or Vice Chairperson,. In casting their votes for Chairperson and Vice Chairperson, Commissioners may consider the candidate's leadership qualities, attendance record, 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 Chairperson becomes vacant, the Vice Chairperson shall assume the duties of Chairperson for the remainder of the Chairperson's official term. The Commission shall at its next regular meeting select from its members a new Vice Chairperson.

## 2. Responsibilities of the Chairperson and Vice Chairperson

The Chairperson, or, in his/her absence the Vice Chairperson, shall be the Presiding Officer of the Planning Commission and shall assume his/her place and duties as such immediately following his/her selection.

If the Chairperson is absent or unable to act, the Vice Chairperson shall serve until the Chairperson returns or is able to act. During such periods, the Vice Chairperson has all of the powers and duties of the Chairperson. In the event that the Vice Chairperson is absent, the Chairperson shall have the right to name any member of the Commission to perform the duties of the Vice Chairperson, but such substitution shall not extend beyond adjournment.

The responsibilities of the Planning Commission Chairperson include the following:

### **During Meetings:**

- 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;
- Establish time limits for individual speakers at the Chairperson's discretion;
- Assist the Commission in determining 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, the Chairperson shall encourage Commissioners to share those views;
- Actively listen to determine potential points of agreement and test those points for actual agreement;
- Manage any conflicts that may arise during the discussions;
- Keep the discussion on topic and moving forward toward a decision;
- Ensure that all decisions made are clearly stated and explained;
- Avoid deviations from the agenda for the meeting;
- Proceed through agenda items in an orderly and timely manner.

**Outside of Meetings:**

- Consult with City staff in the preparation of meeting agendas
- Sign documents of the Commission;
- Attend City Council, County Planning Commission and other meetings as the Planning Commission representative, when appropriate;
- Communicate informally as necessary with the Mayor, City Council members and the City Manager on Planning Commission matters;
- Assist in the orientation and education of new Planning Commission members; and
- Assist in writing and sign letters on behalf of the Planning Commission.

**D. 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 Chairperson, or if absent, by the Vice Chairperson. In the absence of both, the Planning Director or his/her designee shall call the meeting to order whereupon those Commissioners present shall elect a Chairperson Pro Tem.

**3. Quorum**

A majority of appointed Planning Commissioners shall constitute a quorum for the transaction of business. Planning staff shall take a roll call and keep a record of those Commissioners present, absent or excused. Where there is no quorum, the Chairperson or Vice Chairperson, or any Commissioner shall cancel the meeting, or, if no Commissioner is present, Planning staff shall cancel the meeting.

**4. Agenda and Agenda Packet**

The Planning Director shall prepare an agenda for all Planning Commission regular, adjourned, and special meetings, containing the specific items of business to be transacted and the order thereof. Agendas shall ensure, 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, adjourned and special 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, at least 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, adjourned, and special meetings shall be made available to each Commissioner at least 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 provided a copy of the agenda and the staff report that relates to his or her application. The complete agenda packet shall be posted on the City website and available in hard copy at City Hall for public inspection on the same day it is made available to the Commissioners.

#### 5. Order of Business

The order of business shall generally be as follows and shall be shown on the agenda of each regular meeting. The Planning Director may modify the order to handle matters in an expeditious manner and to balance time allotments.

- a. Call to order
- b. Roll call
- c. Adoption of agenda
- d. Consent calendar
  - i. Approval of Minutes
  - ii. Other routine items that do not require a public hearing or detailed discussion
- e. Oral communications
- f. Written communications (Correspondence addressed to the Commission)
- g. Old Business: Applications or other matters continued from previous meetings.
- h. New Business: New applications or discussion items.
- i. Items initiated by Staff
  - i. Informational items presented by staff
- j. Items initiated by Commissioners
  - i. Informational items within the subject matter jurisdiction of the Planning Commission presented by individual commissioners
- k. Adjournment to the next regular or special meeting

A majority of the Commission may change the order of business under adoption of agenda (Section c referenced above) Otherwise, business shall be conducted in the order provided on the agenda.

#### 6. 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, agenda items shall be automatically continued to the next regular meeting of the Planning Commission, or, if the majority of the Commissioners then present so determines, to a special



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.

## 7. Conduct of Public Hearings

The conduct of Public Hearings should generally be as follows:

- a. Any Commissioner who has a conflict of interest, as defined by State Law and/or 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 meeting room until the Commission has ceased discussion or deliberations on the matter in question. The Commissioner may not participate in the decision or be counted for purposes of a quorum.
- b. The Chairperson shall ask for, and Staff shall present, any staff report or staff recommendations relevant to the matter under consideration. The Commission shall ask Staff questions if necessary to clarify the factual basis of the matter.
- c. 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. Generally, the applicant or the applicant's representative may have no more than ten (10) minutes to address the Commission. The Commission may ask the applicant or the applicant's authorized representative questions if necessary to clarify the factual basis of the application.
- d. The Chairperson 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 the application shall fill out a speaker request form and hand such form to the Planning Commission staff. Commission staff shall forward such forms to the Chairperson. Alternatively, the Chairperson may opt to recognize speakers by a show of hands in the audience.

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 Chairperson 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 shall generally be allotted a maximum of 5 minutes to speak, although the Chairperson retains the right to reduce or increase the length of time that a member of the public may speak.

- e. When recognized by the Chairperson, speakers shall address the Commission from the podium using the microphone. He or she shall state his or her name for the record. All remarks and questions shall be addressed to the Commission through the Chairperson and not directed to individual Commissioners, members of the public, the applicant, or Staff. The Chairperson may at his/her discretion refer questions raised during public testimony to staff and/or the applicant for response.

- f. An applicant shall have the right to make final remarks. Nothing herein shall prevent a member of the Commission during the public hearing from addressing, through the Chairperson, a direct question to the applicant or any person(s) addressing the Commission regarding the application or matter under consideration.
- g. The Chairperson shall state for the record any written correspondence that was not included in the agenda packet. All written communications received shall be automatically included in the public record; it shall not be required to read the entire text of the document into the public record.
- h. After written correspondence has been acknowledged and public testimony has concluded, the public hearing shall be closed by a majority vote of the Commission, unless the Commission votes to continue the public hearing to another regular or special meeting.
- i. Once the public hearing has been closed, the Commission shall deliberate on the matter. During deliberation, the Commission may ask additional questions of Staff to clarify the factual basis of the application. Communications from members of the public should generally not be allowed after the public hearing has been closed.
- j. Following deliberation, if a motion has been made and seconded, the Commission shall vote to either approve, conditionally approve, or deny the matter under consideration, or continue the matter for further consideration at another date and time (specified or unspecified).

#### 8. Oral Communications and Non-Public Hearing Agenda Items

In addition to the right to address the Planning Commission during a public hearing or on other matters on the agenda as provided above, interested persons or their authorized representatives shall have a right to address the Planning Commission during Oral Communications on any matter within the subject matter jurisdiction of the Planning Commission that is not on the agenda, subject to the following procedures:

- The total time allotted for Oral Communications shall not exceed 15 minutes.
- Interested persons wishing to address the Planning Commission during Oral Communications shall fill out a speaker request form and present it to the Staff prior to the Commission's discussion of the item.
- Staff shall forward such forms to the Chairperson.
- The Chairperson will announce the Oral Communications agenda item and ask for a show of hands of those wishing to speak who did not fill out a speaker card.
- The Chairperson will allot the time equally among those wishing to speak, not to exceed 15 minutes cumulatively.

The Chairperson may allow public comment on agenda items that are not public hearing items and shall have the authority to establish time limits for such public comments.

#### 9. Written and Other Communications

Planning staff shall provide written communications to the Commission on agenda items or other matters of Commission interest at each Commission meeting. Written communications regarding agenda items are automatically included in the public record for that item. They should be acknowledged by the Chairperson at the time the Commission is considering the item, but should not

be read aloud in their entirety.

Commissioners who receive written or oral communications from any person relating to an agenda item shall expressly refer to such communication during the meeting, should provide to the Planning Staff a copy of any written communication received prior to the meeting so it can be included in the agenda packet when possible. If there is no opportunity to include it in the agenda packet, a Commissioner shall provide a copy to the Planning Staff prior to the meeting so that copies of the communication may be distributed at the meeting to other Commissioners, staff, and the public. Commissioners shall not send or receive electronic messages, such as email or texts, during a meeting related to an item on the agenda for that meeting.

In general, behavior by any member of the public that disrupts the orderly conduct of the meetings 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 Chairperson. If decorum cannot be restored, the Chairperson may suspend or adjourn the meeting.

#### 10. Points of Order

Any Commissioner or the Planning Director 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.

#### 11. 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. Other than a substitute motion, the motion or amended motion pending before the Commission must be approved conditionally or unconditionally, denied, continued for determination at a later time or withdrawn before another motion is made. If a motion is made but not seconded, the motion fails may not be voted upon. If this happens, the Chairperson shall request a new motion to be made.

#### 12. 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.

#### 13. Voting

- a. 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.

- b. 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:
- i. 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
  - ii. 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. Prior to the date and time to which an item is continued, the absent Commissioner shall review 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. This does not apply to an absent Commissioner who would otherwise be precluded from voting on the matter due to a conflict of interest, unless the Commissioner is permitted to vote on the item consistent with Section 15 of these Rules.

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

#### 14. Abstentions

Abstentions should only occur if a Commissioner is unable to vote on the item under consideration because he or she has a conflict of interest, as described below in Section 14. Commissioners who were absent from a public hearing where an item was continued to a future meeting may vote on that item, provided that Commissioner reviews the record of the hearing from which he or she was absent.

#### 15. Conflict of Interest

An exception to the rule requiring disqualification based on a conflict of interest exists if disqualification of a Commissioner or Commissioners renders it impossible for the Commission to take an action, in which case 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. Such Commissioners may vote on the matter but shall not otherwise participate in the discussion or deliberations.

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 or may request advice from the Fair Political Practices Commission.

Staff shall endeavor to inform a Commissioner who is disqualified specifically due to financial conflicts of interest prior to the meeting at which that matter is to be considered. However, it is ultimately the responsibility of individual Commissioners to determine and disclose any conflicts of interest.

#### E. MINUTES

The minutes of the Planning Commission shall be kept by Planning staff. The minutes shall typically be action minutes reflecting the record of such business as acted upon of the Commission. Summary meeting minutes that provide additional detail on the Commission's discussion and deliberations may be prepared as required by the City Council. All meeting minutes shall include the names of persons addressing the Commission (if disclosed), 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, Staff shall include the draft minutes of the meeting for approval on the next available meeting agenda. A Commissioner who has a question regarding any portion(s) of said minutes shall make all reasonable efforts to notify Staff prior to the meeting so that the Staff has the opportunity to research the matter prior to consideration of the minutes at that meeting.

Generally only those Commissioners who were present at the meeting that is the subject of the minutes under consideration may vote on approval of the minutes. In the case where Commissioners were not present at the meeting that is the subject of the minutes under consideration, or where Commissioners who were present at the meeting but have subsequently left the Commission, Commissioners who were not present at that meeting but who have reviewed the record of the meeting may vote to approve the minutes.

The Planning Director shall sign the final approved minutes. The approved minutes shall be posted on the City's website, maintained in hard copy at City Hall and be readily available for inspection by the public.

#### F. COMMITTEES

The Commission may appoint less than a quorum Commission members to serve on ad-hoc committees to provide focused study of issues agreed upon by the Commission and Planning Director. Planning Staff will liaison with the committee and coordinate the scheduling and use of City facilities and resources for committee meetings. Ad hoc committee meetings are not considered public meetings under the Brown Act and do not require public noticing as such. However, the committee may invite public participation in committee meetings at their discretion.

#### G. PERFORMANCE OF COMMISSIONERS

##### 1. Meeting Attendance

Commissioners are expected to attend all regular and special meetings of the Commission. Commissioners must notify Staff of all planned absences of meetings as soon as possible. In cases of emergency or unanticipated absences, If possible, Commissioners should notify Staff by phone, email,

or text message before the meeting. City Council review or action on Commissioner absences shall be in accordance with the City Council's adopted procedures.

2. Removal of a Commissioner

Members of the Planning Commission serve at the pleasure of the City Council and may be removed at any time, with or without cause, consistent with the City Council's adopted procedures