



CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

NEW BUSINESS DISCUSSION: April 22, 2014
SUBJECT: Planning Commission Agenda Protocols
APPLICANT: City of Carson
REQUEST: Workshop to discuss protocols on Planning Commission meetings
PROPERTY INVOLVED: N/A

COMMISSION ACTION

☐ Concurred with staff
☐ Did not concur with staff
☐ Other

COMMISSIONERS' VOTE

AYE	NO		AYE	NO	
		Chairman Faletogo			Gordon
		Vice-Chair Verrett			Piñon
		Brimmer			Saenz
		Diaz			Schaefer
		Goolsby			

I. Introduction

The Planning Commission considers and takes action on various types of projects. The Commission's decisions are either final or are recommendations to City Council. The Commission is the approving body for site plan and design reviews (DORs), conditional use permits (CUPs), variances, tentative parcels maps, and tentative tract maps, and their associated environmental determinations. These decisions are final unless appealed to the City Council. The Commission plays an advisory role to the City Council on legislative matters such as annexations, General Plan amendments, zone changes, code amendments, specific plans, and development agreements. The items considered by the Commission generally fall into three different categories on the agenda: public hearing, consent, and new business discussion.

II. Background

The majority of Commission items are classified as public hearings. However, less significant items are either classified as new business discussion or consent items. Public hearing items require the Planning Commission to open the public hearing, receive testimony from the public, and close the public hearing before making a decision. Items that do not require a public hearing are classified as either New Business Discussion or Consent. New Business Discussion items are always discussed by the Planning Commission and the public has the opportunity to provide input. In contrast, the entire Consent calendar can be approved by the Planning Commission without discussion and public participation. Alternatively, any Commissioner can pull an item from the Consent calendar for discussion prior to the Commission's decision. In this instance, public participation could be taken by the Commission.

Recommendations to the Planning Commission fall into several categories. The majority of Planning Commission decisions are approve/deny or recommend approval/denial to City Council categories. It is also common to continue items for additional research or information. Continued items are either continued to a regularly-scheduled Planning Commission meeting or continued off-calendar (indefinitely). Public hearing items continued off-calendar must be re-noticed. On the other hand, public hearings continued to a specific Planning Commission meeting date are not required to be re-noticed as long as the public hearing remains open. Occasionally, the recommendation is to receive and file which simply means that the staff report is presented, public input is taken, and the Commission discusses the item. On receive and file items, the Commission could provide direction to staff or could simply end the item without taking action.



III. Recommendation

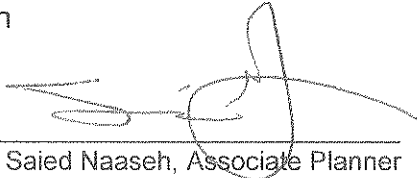
That the Planning Commission:

- DISCUSS meeting protocols; and
- RECEIVE and FILE.

IV. Exhibits

1. Various articles regarding the responsibilities and protocols for the Planning Commission

Prepared by:


Saied Naaseh, Associate Planner

Reviewed by:


John F. Signo, AICP, A/Planning Manager

Composition and Function of the Planning Commission

WHO SHOULD BE A PLANNING COMMISSIONER? WHAT ATTRIBUTES and characteristics are the most important for a well-functioning planning commission? These questions are frequently asked of APA; the answers may provide guidance for planning commissioners and planning directors alike.

This fall APA created an informal questionnaire regarding the composition and function of the planning commission and invited APA members and readers of *The Commissioner* (which until last February was a stand-alone publication) to respond. We received 88 responses from 27 states, representing a snapshot of planning commissions across the country.

Do certain professions bring valuable expertise or perspectives to their commissions? Sixty-seven percent of respondents think so. The most frequently cited professions of special value were law, architecture, construction and development, real estate, engineering, planning, and business. Jim Plonczynski, the community development director in Bartlett, Illinois, notes that two members of his planning commission, an architect and a land appraiser, bring particularly helpful expertise. "The architect is keen on reviewing site plans. For a 'vanilla' site plan, he is very good at suggesting how to improve the look of the building from the street and its compatibility with surrounding buildings—and his expertise has influenced the perspectives of other commissioners." The land appraiser, on the other hand, brings a knowledge of property values and of costs to developers that serves as a "reality check" as to what improvements are reasonable (and financially feasible) to ask of developers.

When considering new regulations, other respondents noted that commissioners from the business sector provide perspectives on how those regulations might impact investment, and construction professionals can speak to the feasibility and acceptability of proposed regulations in that industry. Another respondent reported that a commissioner with a construction background helps business applicants understand the reasoning behind certain levels of building code standards. One noted that having an educator on the commission brings a youth and education perspective, while a retiree brings an elder issues perspective, and two retired city journalists bring special insight into local politics and "how things really work."

These sentiments are echoed by Sara Copeland, the community development director in North Kansas City, Missouri. At her previous position with Greenview, Missouri, her commission was largely made up of retirees, and she appreciated the institutional knowl-

edge they brought to the position. "These were people who had lived in the community their whole lifetimes and brought great knowledge about not just what had been done before, but why those decisions had been made—local context that case files don't always include. They also knew the people in the community and were a great source of connections and knowledge."

Other members bring varied and valuable perspectives. Buddy Lucero, the planning director in River Falls, Wisconsin, notes that the educators who serve on his commission are concerned about school issues and impacts from new development, and they also read documents closely to ensure wording is clear and understandable to professionals and ordinary citizens alike—perhaps a skill honed while grading papers.

Nigel Goodwin, a commissioner in Orange County, Virginia, notes that in his rural area, farmers are especially valuable commission members. "Since they work with the land, they are conservationists at heart, but they are also businessmen, so they bring an important balance of commercial and conservation interests." Ken Gillie, the director of planning and zoning administration in Danville, Virginia, appreciates the clergyman who serves on his commission. "The realtors on the commission are very business-oriented, focusing on what is good for the economic health of

Professions Represented on Planning Commissions

PROFESSION	NUMBER OF RESPONDENTS	PERCENT OF RESPONDENTS	PROFESSION	NUMBER OF RESPONDENTS	PERCENT OF RESPONDENTS
BUSINESS	50	56%	EDUCATION	20	26%
SELF-EMPLOYED	41	54%	ARCHITECTURE	18	24%
RETIRES	41	54%	CLERICAL/BLUE-COLLAR	11	15%
REAL ESTATE/ DEVELOPMENT	31	41%	LANDSCAPE ARCHITECTURE	10	13%
ENGINEERING	28	37%	HEALTH	9	12%
CONSTRUCTION	27	36%	MILITARY	6	8%
FINANCE	25	33%	LAW ENFORCEMENT	4	5%
PLANNING/URBAN DESIGN	24	32%	YOUTH	3	4%
LAW	21	28%			

SOURCE: AMERICAN PLANNING ASSOCIATION SURVEY, 2013

EXHIBIT NO. 01

the city, while the clergy looks above and beyond revenue generation to more of a quality-of-life approach—what is good for the people. The discussions that result raise issues that our staff doesn't always consider, and it's good to be taken out of our comfort zones like that."

In some states, statutory requirements for planning commissions enable or require localities to appoint a governmental official to the commission. Most of the respondents—80 percent—reported having no such local governmental representation on their commissions. For those few who did, city managers or local council members were the most common positions to be represented. Lucero reports that the city engineer sits on the River Falls commission and brings valuable technical expertise. "The layperson on the commission doesn't always understand the impacts or costs of a proposed project to the city and future residents, but the city engineer can address this and ask the questions that others might not think to ask."

Education and training for planning commissioners is not often mandated by state or local statute; only 21 percent of respondents reported formal requirements for commissioner training. However, planning education still occurs in a variety of ways. Copeland notes that education is important to her commissioners, even though Missouri has no training requirements for commissioners on the books. "We try to weave training opportunities into our monthly meetings, whether it's just providing an article for them to read or putting together a more detailed presentation with time for Q&A. Our commissioners want to know more about planning issues; right now the city is studying the potential for a new streetcar, so redevelopment and transit-oriented development are at the top of their list. The challenge is fitting in the time without overloading those nights."

Finally, when asked what factors or attributes were the most important for commissioners to have for optimal functioning of the planning commission, the overwhelming response was open mindedness; good commissioners are able to stay

objective and to consider all sides of an issue. Notes Plonczynski, "In my 35 years in local government, I have found that keeping an open mind—as well as keeping politics out of local decision making—is vital when you serve the community. There will never be total agreement on any issue, and commissioners must take into account all factions within the community and understand all the arguments both for and against an issue."

Another trait was good listening, as well as a willingness to ask questions. Treating others with courtesy and respect and maintaining a professional demeanor were also highly rated. A willingness to put in the time and effort demanded by the position was likewise valuable, with many respondents noting meeting preparedness as key.

Another important attribute listed by many was civic pride: an interest in and knowledge of the community and the desire to make it better. As Gillie puts it, "Our commissioners really care about their community and what is best for the long-term future of the city. At meetings they always ask, 'What effect will this decision have on Danville in 40 years' time?'" Respondents also rated highly an understanding of planning and zoning basics, along with the importance of the comprehensive plan and how it should guide decision making for future development.

Planning commissions reviewed in this survey displayed a wide variety in commission composition, but several basic themes and commonalities emerged. Many professions provide special expertise and perspectives to the commission, but more important than any one profession is the varying backgrounds and perspectives different commissioners bring to the group. Perhaps the most valuable characteristics are the basic ones: open-mindedness, courtesy, and civic pride, paired with an understanding of the role of planning and zoning in helping to make communities great.

—Ann Dillemath, AICP

Dillemath is a research associate with APA's Planning Advisory Service.

Who Sits on the Planning Commission?

APA ASKED respondents to indicate which professions were represented on their commissions. As the table on page 57 shows, more than half of the respondents indicated having small business owners, retirees, or the self-employed on their commissions. The real estate, engineering, and construction industries were also well represented. Nearly a third of respondents indicated having

RELATED TOPIC

a planner on their commission, more so than those reporting architect (24 percent) or landscape architect

(13 percent) members. Also fairly well represented were the financial industry, lawyers, and educators. In addition, 23 respondents told us about other professions represented on their commissions, including farming, the ministry, IT, community organizing, and advertising.

Has the composition of the planning commission changed over the years? In 2005, *The Commissioner* ran an article on who should serve on the commission and also provided a look back to see what the makeup of the commission has been over time. Based on surveys conducted in 1950, 1965, 1979, and 2002, the answer is "somewhat."

Read the article and compare the survey results at www.planning.org/thecommissioner/2005/pdf/sum.pdf.

—Ann Dillemath

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Communicating in an Electronic Age

WITH EVERY TECHNOLOGICAL ADVANCE COME NEW QUESTIONS about appropriate use. Electronic communications such as e-mails, text messages, and social media posts have opened up new possibilities for planning commission members to communicate with each other and the public about pending developments and projects in a timely and cost-effective manner. However, the benefits of these new communication technologies must be weighed against the potential drawbacks to their use, including the creation of new legal and ethics issues.

Open meetings laws

Electronic communications could trigger compliance issues with open meetings laws. As members of government bodies are finding new ways of communicating outside the formal meeting process, the media and citizens have complained that public business is being conducted in secret, rather than in the public eye. As a result, the concept of “gathering” has greatly expanded to encompass all types of modern communications, including e-mails, text messages, social media, and other forms of contemporaneous communications.

Unfortunately, there are very few legal cases that apply open meeting laws to electronic communications. Those cases typically considered whether the government officials (1) deliberated or discussed public business, (2) exchanged messages with each other contemporaneously, and (3) gave proper notice and access. As a general rule, the quicker the response, the more likely a court will find an electronic communication (e-mail, text, social media post) to be a “contemporaneous” communication subject to compliance with open meetings requirements.

There are a number of common-sense measures that an official should take to ensure compliance with open meeting requirements. First, check applicable state laws to see if electronic communication is covered (it most likely is). Second, see if the state attorney general or any courts have issued opinions that provide guidance on the use of electronic communications. Third—and this is absolutely critical for officials—if you use electronic devices or social media to communicate with other members of your commission, make sure you are not using these devices or sites to deliberate, ask questions of one other, or engage in simultaneous exchanges with one other regarding government business. Finally, pause for at least a few minutes or hours before responding to a newly arrived e-mail or text message from a fellow member.

Are you subject to public release rules?

Freedom of information laws must also adjust to the influence of electronic communications on government. However, just what is considered a “public record” can become complicated for governments, particularly in the social media arena. Comments, posts, tweets, “friending,” and chats may all be subject to freedom of information acts, even where the government has no control over the creation of a particular “record.”

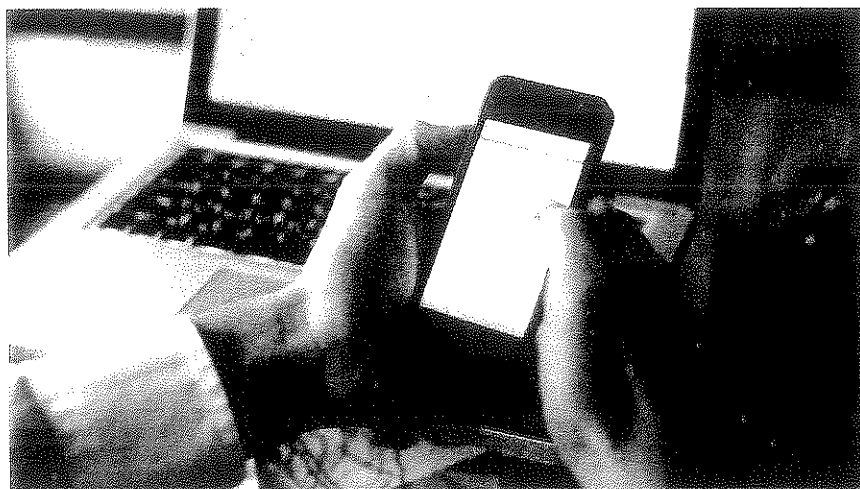
Planning commissioners should under-

stand that the device used to transmit an electronic record is probably irrelevant because courts usually look to the content of the communication and not the device used to transmit the communication in determining whether a record is a “public record” required to be released and retained.

For example, an Illinois court ruled that text messages between members of a city council were subject to release under the state FOIA law even though the messages were transmitted on private cell phones rather than city equipment. That means that text messages sent between planning commissioners on private devices could be subject to public view and inspection if the communications relate to public business. Because of the difficulty in enforcing these laws on government officials, some government bodies have enacted policies prohibiting members from discussing public business on private devices.

Ethics and electronic communications

Ethics rules do apply to electronic communications. Many states and local governments have enacted codes of ethics for elected and appointed officials to ensure that their duties are executed in an independent and unbiased manner. These codes will likely apply to electronic com-



Commissioners should text and tweet with caution, as electronic and social media communications may become part of the official record.

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munications by these officials.

Government officials who serve in a quasi-judicial or administrative role such as a planning commission must be able to perform their duties without having their independent judgment compromised. Several cases have found that government officials demonstrated a disqualifying bias by communicating with someone who was interested in the upcoming proceeding or by making comments before or during the proceeding. Planning commissioners should be cautious, therefore, in commenting or communicating in any way that might illustrate prejudgment bias.

Planning commissioners should also be particularly wary of actual and perceived conflicts of interest. For example, members who "friend" or communicate with parties who appear, or may in the future appear, before them could raise issues of impropriety, or even the appearance of impropriety, and should be avoided in order to maintain the integrity of the quasi-judicial board and the process. Also, planning commission members should not favor or appear to favor one party over another in a matter merely because of a personal relationship through a social media site. Activities such as "friending" or "liking" on Facebook, or making comments that could be interpreted as advocating for a particular project or party, could result in a real or apparent conflict of interest.

Consider an e-communications policy

Since the law rarely keeps up with technology, there is still very little guidance from the courts or state legislatures on legal and ethics issues with government electronic communications. As a result, governments should consider enacting local electronic communication policies to provide guidance to their elected and appointed government officials on open meeting and records compliance as well as ethics rules in their use of electronic communications.

—Julie Tappendorf

*Tappendorf is a planning attorney with the law firm
Ancel Glink in Chicago.*

Ethical Principles in Planning

(As Adopted May 1992) American Planning Association

This statement is a guide to ethical conduct for all who participate in the process of planning as advisors, advocates, and decision makers. It presents a set of principles to be held in common by certified planners, other practicing planners, appointed and elected officials, and others who participate in the process of planning.

The planning process exists to serve the public interest. While the public interest is a question of continuous debate, both in its general principles and in its case-by-case applications, it requires a conscientiously held view of the policies and actions that best serve the entire community.

Planning issues commonly involve a conflict of values and, often, there are large private interests at stake. These accentuate the necessity for the highest standards of fairness and honesty among all participants.

Those who practice planning need to adhere to a special set of ethical requirements that must guide all who aspire to professionalism.

The Code is formally subscribed to by each certified planner. It includes an enforcement procedure that is administered by AICP. The Code, however, provides for more than the minimum threshold of enforceable acceptability. It also sets aspirational standards that require conscious striving to attain.

The ethical principles derive both from the general values of society and from the planner's special responsibility to serve the public interest. As the basic values of society are often in competition with each other, so do these principles sometimes compete. For example, the need to provide full public information may compete with the need to respect confidences. Plans and programs often result from a balancing among divergent interests. An ethical judgment often also requires a conscientious balancing, based on the facts and context of a particular situation and on the entire set of ethical principles.

This statement also aims to inform the public generally. It is also the basis for continuing systematic discussion of the application of its principles that is itself essential behavior to give them daily meaning.

The planning process must continuously pursue and faithfully serve the public interest.

Planning Process Participants should:

1. Recognize the rights of citizens to participate in planning decisions;
2. Strive to give citizens (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;

3. Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons;
4. Assist in the clarification of community goals, objectives and policies in plan-making;
5. Ensure that reports, records and any other non-confidential information which is, or will be, available to decision makers is made available to the public in a convenient format and sufficiently in advance of any decision;
6. Strive to protect the integrity of the natural environment and the heritage of the built environment;
7. Pay special attention to the interrelatedness of decisions and the long range consequences of present actions.

Planning process participants continuously strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained.

Planning Process Participants should:

1. Exercise fair, honest and independent judgment in their roles as decision makers and advisors;
2. Make public disclosure of all "personal interests" they may have regarding any decision to be made in the planning process in which they serve, or are requested to serve, as advisor or decision maker.
3. Define "personal interest" broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision;
4. Abstain completely from direct or indirect participation as an advisor or decision maker in any matter in which they have a personal interest, and leave any chamber in which such a matter is under deliberation, unless their personal interest has been made a matter of public record; their employer, if any, has given approval; and the public official, public agency or court with jurisdiction to rule on ethics matters has expressly authorized their participation;
5. Seek no gifts or favors, nor offer any, under circumstances in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant's objectivity as an advisor or decision maker in the planning process;
6. Not participate as an advisor or decision maker on any plan or project in which they have previously participated as an advocate;
7. Serve as advocates only when the client's objectives are legal and consistent with the public interest.
8. Not participate as an advocate on any aspect of a plan or program on which they have previously served as advisor or decision maker unless their role as advocate is authorized by applicable law, agency regulation, or ruling of an ethics officer or agency; such participation as an advocate should be allowed only after prior disclosure to, and approval by, their affected client or employer; under no circumstance should such participation commence earlier than one year following termination of the role as advisor or decision maker;
9. Not use confidential information acquired in the course of their duties to further a personal interest;

10. Not disclose confidential information acquired in the course of their duties except when required by law, to prevent a clear violation of law or to prevent substantial injury to third persons; provided that disclosure in the latter two situations may not be made until after verification of the facts and issues involved and consultation with other planning process participants to obtain their separate opinions;
11. Not misrepresent facts or distort information for the purpose of achieving a desired outcome;
12. Not participate in any matter unless adequately prepared and sufficiently capacitated to render thorough and diligent service;
13. Respect the rights of all persons and not improperly discriminate against or harass others based on characteristics which are protected under civil rights laws and regulations.

APA members who are practicing planners continuously pursue improvement in their planning competence as well as in the development of peers and aspiring planners. They recognize that enhancement of planning as a profession leads to greater public respect for the planning process and thus serves the public interest.

APA Members who are practicing planners:

1. Strive to achieve high standards of professionalism, including certification, integrity, knowledge, and professional development consistent with the AICP Code of Ethics;
2. Do not commit a deliberately wrongful act which reflects adversely on planning as a profession or seek business by stating or implying that they are prepared, willing or able to influence decisions by improper means;
3. Participate in continuing professional education;
4. Contribute time and effort to groups lacking adequate planning resources and to voluntary professional activities;
5. Accurately represent their qualifications to practice planning as well as their education and affiliations;
6. Accurately represent the qualifications, views, and findings of colleagues;
7. Treat fairly and comment responsibly on the professional views of colleagues and members of other professions;
8. Share the results of experience and research which contribute to the body of planning knowledge;
9. Examine the applicability of planning theories, methods and standards to the facts and analysis of each particular situation and do not accept the applicability of a customary solution without first establishing its appropriateness to the situation;
10. Contribute time and information to the development of students, interns, beginning practitioners and other colleagues;
11. Strive to increase the opportunities for women and members of recognized minorities to become professional planners;
12. Systematically and critically analyze ethical issues in the practice of planning.