

MEMORANDUM

TO: City Planning Commission

FROM: Wendy Rampson, Planning Manager

DATE: February 20, 2014

SUBJECT: **Amendments to City Planning Commission Bylaws regarding Public Hearings and City Council Participation**

STAFF REPORT

The City Planning Commission provided notice at the November 6, 2013 Planning Commission meeting of its intent to amend the Planning Commission Bylaws to clarify the speaking time allowed at public hearings. At the working session of February 4, 2014, an additional amendment was suggested to clarify City Council member participation in Commission meetings. The report addresses each amendment separately.

Article VIII, Public Hearings

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby adopts amendments to Article VIII, Public Hearings, of the Planning Commission Bylaws, subject to Council review and approval.

Commissioner Peters has drafted amendments to the Planning Commission bylaws Article VIII, Public Hearings, to clarify the allowed speaking time at continued public hearings. There was concern expressed that speakers could speak multiple times on a postponed project, even no changes were made.

The proposed changes clarify that public hearing speaking time is limited to a total of 3 minutes (or 5 minutes for registered organizations) for an item, with the opportunity for the Commission to waive the limitation via a majority vote. This would allow for the Commission to maximize discussion time on certain postponed items, but still allow for public commentary in situations where a petition or proposal has changed from the time of the original public hearing.

Article V, Ethics and Conflict of Interest

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby adopts an amendment to Article V, Ethics and Conflict of Interest, of the Planning Commission Bylaws, subject to Council review and approval.

Commission members have expressed concern that Section 9 of the Conflict of Interest section is not clear as to the specific situations where a member of City Council “shall not be heard before the Commission.” The language suggests that Council members shall not speak at a public hearing related to a petition (i.e., development project), but does not indicate whether a Council member can address the Commission about items other than petitions.

The suggested amendment removes the references to petitions and indicates that City Council members shall not be heard before the Commission during their term of office. Commissioners indicated this approach reduces due process concerns, respects the independence of the Planning Commission and reinforces the importance of City Council providing collective feedback to the Commission, rather than individual feedback.

Draft Amendments

The draft amendments are attached. These are being reviewed by the City Attorney’s Office, consistent with Council Resolution R-08-496. Once adopted, the bylaws must be reviewed and approved by City Council before going into effect.

Attachments: 1/7/14 Draft Bylaw Amendments to Article VIII, Public Hearings
2/11/14 Draft Bylaw Amendment to Article V, Conflict of Interest

c: City Attorney

Amendment to the Bylaws of The Ann Arbor City Planning Commission

Article VIII Public Hearings

Section 1. In addition to those required by law, the Commission may, at its discretion, hold such public hearings or conferences as it decides will be in the public interest. Special accommodations, including a sign language interpreter, shall be made for people with disabilities, when requested at least twenty-four (24) hours in advance.

Section 2. The public shall receive proper legal notice as to time and location of public hearings as required by law.

Section 3. An individual wishing to address the Planning Commission during a public hearings may speak for up to three (3) minutes in total. The first person identifying him/herself as the petitioner, or as a person representing the petitioner, or representing an organized neighborhood group registered with the City of Ann Arbor, may speak for five (5) minutes in total. Subsequent speakers identifying themselves as the petitioner, or as a person representing the petitioner or representing an organized neighborhood group, may speak for three (3) minutes in total. The commission may, by majority vote, modify or waive the limitations made within this section. The Chair may extend the speaking time further at his/her discretion.

Section 4. During public hearings, subject matter shall be limited to the topic under consideration. Commission response to the public's remarks shall be confined to clarification of the presented facts.

Section 5. At the discretion of the Chair, or by vote of a majority of the members present, public hearings may be continued to another date meeting, but will not be deemed to be a new hearing but a continuation of the original.

**Amendment to the Bylaws of
The Ann Arbor City Planning Commission**

Article V Ethics and Conflicts of Interest

Section 1. A member of the Commission shall abstain from discussion, voting, or otherwise acting on any matter where that member is involved in a conflict of interest. A conflict of interest shall at a minimum include, but not necessarily be limited to, a member:

- a. Discussing, voting on, or otherwise acting on a matter directly and specifically involving that member.
- b. Discussing, voting on, or otherwise acting on a matter involving work on property which is owned by that member or which is adjacent to property owned by that member.
- c. Discussing, voting on, or otherwise acting on a matter directly involving a corporation, company, partnership, or any other entity in which that member is an owner, board member, or otherwise has a direct financial interest.
- d. Discussing, voting on, or otherwise acting on a matter, the outcome of which may result in a direct financial or other benefit to that member or to immediate family of that member.
- e. Discussing, voting on, or otherwise acting on a matter where the member's employee or employer is:
 - (1) an applicant or agent for an applicant, or
 - (2) has a direct interest in the outcome.

Section 2. When a conflict of interest exists with regard to a particular matter, the member of the Commission who is subject to the conflict, shall do all of the following immediately, upon first knowledge or realization that a conflict exists:

- a. At the next meeting of the Commission or a committee, declare that a conflict exists and that the member will recuse him or herself from the matter.
- b. Disclose, except where it violates a confidence, the general nature of the conflict, and the minutes shall so record the conflict and recusal.
- c. Cease to participate in any manner when the matter is discussed, voted on, or otherwise acted on at Commission or committee meetings, or in any other forum.
- d. During deliberation of the matter before the Commission or a committee, leave the meeting or the area where members of the Commission sit, until action on the matter is concluded.

Section 3. When there is a potential conflict of interest, before voting, the member shall disclose

all pertinent facts relating to the potential conflict, except where it violates a confidence, and those facts shall be included in the minutes of the proceedings. Consistent with MCL § 125.3816(9), a member must make this disclosure whenever the member may reasonably be considered to have a conflict. Failure of a member to disclose a potential conflict under this section constitutes malfeasance in office and is grounds for removal by City Council.

Section 4. If facts are presented which raise the question of whether any member(s) of the Commission are subject to a conflict of interest, the question may be decided by a majority vote of the remaining members of the Commission. Upon a finding that a conflict exists, the member(s) subject to the conflict shall be disqualified from voting on the matter.

Section 5. A member of the Commission shall neither solicit nor accept gratuities, favors, gifts, or anything of monetary value from persons or entities in a position to benefit from a decision of the Commission.

Section 6. Members of the Commission shall complete an annual disclosure of employer and any other organization affiliations that reasonably could lead to a conflict of interest and shall update this disclosure in writing at any time during the year when such affiliations change.

Section 7. Members of the Commission shall make reasonable efforts to avoid individual communications with interested parties regarding site specific proposals or site petitions before the Commission. If a member receives such communications, the member shall make note of the content of the communication and report it to the Commission at a public meeting or hearing, so that every member of the Commission and other interested parties attending are made aware.

Section 8. A Commission member shall not be heard before the Commission as a petitioner, representative of a petitioner, or as a party interested in a petition during the member's term of office.

Section 9. A member of the City Council shall not be heard before the Commission ~~as a petitioner, representative of a petitioner or as a party interested in a petition~~ during the Council member's term of office.

Section 10. A Commission member, when speaking to individuals, groups or organizations on planning matters, shall identify him/herself as a member of the Commission and shall indicate whether he/she speaks on behalf of the Commission or in an individual capacity. A member of the Commission may only speak on behalf of the Commission after being given authority to do so by resolution of the Commission.

Section 11. The Commission or its individual members shall not intrude into the management of the City Planning and Development Services Unit or into those matters which are handled administratively within the service unit.

Section 12. Commission members shall not engage in any employment or endeavor, or in any business transaction, wherein the membership on the Commission would be a qualification for such employment or endeavor, or a significant reason for the business transaction.

Section 13. Commission members shall carry out the business of the Commission as a public service and shall conduct themselves at all times in a fair, courteous, and understanding manner.