

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Planning and Community Development *ff*

BOARD AGENDA # *D-1

Urgent Routine

AGENDA DATE December 17, 2013

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval to Amend the Stanislaus County Planning Commission Rules and Regulations Relating to Appointment and Conduct of Business as Recommended by the Stanislaus County Planning Commission on November 21, 2013

STAFF RECOMMENDATIONS:

1. Find the proposed amendment to the Stanislaus County Planning Commission Rules and Regulations are exempt under the provisions of the California Environmental Quality Act pursuant to State Guidelines Section 15061(b)(3).
2. Adopt the proposed amendment to the Stanislaus County Planning Commission Rules and Regulations as recommended by the Stanislaus County Planning Commission on November 21, 2013.

FISCAL IMPACT:

Each member of the Planning Commission is entitled to receive compensation for attendance at meetings of the Planning Commission as fixed (currently \$50.00 per meeting). Each member also receives traveling expenses to and from a usual place of business to the place of meeting of the commission or a committee thereof at the rate fixed for reimbursement of traveling expenses of county employees. The current requirement to hold at least one regular meeting each month, regardless of the need to meet,

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BOARD ACTION AS FOLLOWS:

No. 2013-647

On motion of Supervisor Monteith, Seconded by Supervisor O'Brien
and approved by the following vote,

Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

FISCAL IMPACT: (Continued)

requires that the Planning Department compensate each attending member for their attendance and travel. There is also staff time cost associated with preparing the Planning Commission agenda and attending the meeting.

Requiring the Planning Commission to meet only as needed will reduce costs currently funded by the General Fund and application fees.

DISCUSSION:

This item is an accompaniment to the second reading of a proposed ordinance amending Title 2 of the Stanislaus County Code relating to Planning Commission Appointment and Conduct of Business, also on the same agenda. This item proposes to amend the Stanislaus County Planning Commission Rules and Regulations (hereafter referred to as "Rules") to provide consistency with the proposed amendment to the County Code. Specifically, the following amendments are proposed:

Planning Commission Appointment Term Periods:

Rules, Article 2 - Membership, Officers, Organization, and Attendance, Section 2 – Term of Office, states that Planning Commissioners are appointed to four-year terms and that a Commissioner may serve up to two consecutive four-year terms.

The process of finding a member of the public willing and able to serve on the Planning Commission has resulted in vacancies on the Planning Commission for extended periods. Currently, the Planning Commission has one such vacancy and, of the remaining eight seated members, one will be ending their first term and two will be ending their second terms on December 31, 2013. The proposed amendment to the County Code and Rules will allow a member whose last term has expired to continue serving until a successor is appointed.

Planning Commission Regular Meeting Requirements:

Rules, Article 3 – Meetings, Section 2 – Regular Meetings require that at least one Planning Commission meeting be held each month.

In compliance with these sections, Planning Commissioners and County staff are required to attend at least one meeting a month even when there is a lack of Planning Commission business. The proposed amendment to the County Code and Rules will require the Planning Commission meet only as needed.

In addition to the above, the following amendments to the Rules are also proposed:

Voting Requirements:

Rules, Article 4 – Agendas, Order of Business, Section 14 – Voting Requirements provide a process allowing the Planning Commission to conduct business in the absence of a quorum. The process has been determined by County Counsel to be inconsistent with the Brown Act. The proposed amendment clarifies the need for a quorum.

Additional minor amendments to the Rules are proposed to provide consistency within the document and reflect current practices. Attached is the “strike-out” version of the proposed Rules reflecting deleted and new text in ~~strikethrough~~ and **bold/underlined** print. (See Attachment 1.)

The proposed amendments to the County Code and Rules were presented to the Planning Commission on November 21, 2013, and on a vote of 5-0 the Planning Commission recommended the Board of Supervisors adopt, as proposed.

POLICY ISSUES:

Approval of the amendment to the Stanislaus County Planning Commission Rules and Regulations support the Board’s priorities of Efficient Delivery of Public Services and A Well Planned Infrastructure by allowing for more efficient and cost effective use of the Stanislaus County Planning Commission through the avoidance of unnecessary meetings and by providing an opportunity for seamless representation for each supervisorial district during the period when a new Planning Commission member appointment is needed.

STAFFING IMPACT:

Planning and Community Development department staff prepares the Planning Commission agenda and attend the meetings along with staff from County Counsel, Environmental Resources, and Public Works.

CONTACT PERSONS:

Angela Freitas, Planning and Community Development Director, (209) 525-6330

ATTACHMENTS:

1. Stanislaus County Planning Commission Rules and Regulations. (Strike-out Version)

**STANISLAUS COUNTY PLANNING COMMISSION
RULES AND REGULATIONS**

ARTICLE 1 - FUNCTIONS AND DUTIES

The Stanislaus County Planning Commission, referred to hereafter as the "Commission," functions pursuant to the California Government Code (Title 7, Chapters 3 and 4) and the Ordinance Code of Stanislaus County (Title 2, Chapter 2.44). The following articles shall govern all proceedings of the Commission.

ARTICLE 2 - MEMBERSHIP, OFFICERS, ORGANIZATION, AND ATTENDANCE

Section 1 - Membership: The Commission shall consist of nine (9) members appointed by the Board of Supervisors. The membership is based upon Supervisorial District representation.

Section 2 - Term of Office: Commissioners are appointed to ~~four (4) year terms~~ and serve at the pleasure of the Board of Supervisors. A Commissioner may serve up to two (2) ~~consecutive four-year terms~~ **of four (4) years each and may continue to serve at the pleasure of the board of supervisors until their respective successors are appointed and qualified.**

Section 3 - Officers:

- (a) Selection. A Chair and Vice-Chair shall be elected annually from among the Commission's membership at the second meeting in January.

before completion of the term and shall serve the remainder of the unexpired term. A new Vice-Chair shall be elected at the next regular meeting to fill the balance of the Vice-Chair term.

- (c) Chair and Vice-Chair Absent. In the absence of the Chair and Vice-Chair, any member may call the Commission to order, and a Chair pro tem shall be elected from the members present and shall assume the responsibilities of the Chair.
- (d) Consecutive Year. A member shall not serve as Chair for more than one consecutive year or Vice-Chair for more than one consecutive year.
- (e) Chair's Responsibilities. The responsibilities and powers of the Chair shall be as follows:
 - (1) Preside at all meetings of the Commission and rule on all questions of order.
 - (2) Call special meetings of the Commission in accordance with legal requirements and the Rules of Procedure.
 - (3) Sign documents on behalf of the Commission.
 - (4) Appoint all subcommittees of the Commission.
 - (5) Direct appropriate action on items raised that are not listed on Planning Commission agendas.

Section 4 - Vice-Chair Responsibilities: In the absence of the Chair, or when the Chair is disqualified from participation or voting, the Vice-Chair shall assume the responsibilities of the Chair.

Section 5 - Secretary: The Stanislaus County Director of Planning and Community Development or a designated member of the Planning staff, shall function as the Secretary of the Commission. The Secretary shall notify Commission members of meetings, present the reports and recommendations of the Commission's staff, enter into the minutes all official actions or decisions of the Commission, keep the official records of the Commission, transmit the findings of the Commission to the Board of Supervisors, and perform such other duties as the Commission may require.

Section 6 - Advisory Staff: County Counsel, the Director of Public Works and the Director of Environmental Resources, or their designated staff, serve as advisory staff to the Commission.

Section 7 - Standing Committees: The Commission may establish whatever standing committees it deems appropriate for the conduct of its business. The Chair shall appoint and replace the members of each standing committee.

Section 8 - Special Committees: The Commission may establish whatever special committees it deems appropriate for the conduct of its business. The Chair shall appoint and replace the members of each special committee.

Section 9 - Attendance: Any member who misses three consecutive regular meetings without a valid excuse, approved by the Planning Commission, is subject to removal from the Commission by the Board of Supervisors.

ARTICLE 3 - MEETINGS

Section 1 - Conduct of Meetings: Except as herein or otherwise provided, Robert's Rules of Order, Revised shall govern all proceedings of the Commission.

Section 2 - Regular Meetings: The Commission's ~~shall hold~~ regular meetings **shall be scheduled for** on the first and third Thursdays of each month. The meeting shall start at 6:00 p.m. The Commission agenda shall state the location of the meeting. Any regular meeting may be adjourned from time to time.

Section 3 - No meeting on Holidays: Whenever a regular meeting falls on a public holiday, no regular meeting shall be held on that day. Such regular meeting may be rescheduled to another business day, or canceled at the direction of the Chair.

Section 4 - Adjourned Meetings: In the event it is the wish of the Commission to adjourn its regular meeting to a certain hour on a day, other than a regularly scheduled meeting, a specific date, time and place must be set by the Commission prior to the regular motion to adjourn.

Section 5 - Special Meetings: The Chair may call special meetings as necessary, providing that each member of the Commission, and each newspaper, television station, and other news media which so requests in writing, is notified at least twenty-four (24) hours before the meeting.

Section 6 - Study Sessions and Workshops: The Chair may convene the Commission as a whole or as a committee of the whole, for the purpose of holding a study session provided that no official action shall be taken and no quorum shall be required. Such meetings shall be open to the public; but, unless the Commission invites evidence or comments to be given, participation by interested members of the public shall not take place at such study sessions.

Section 7 - Cancellation of Meetings: The Chair **Secretary** may cancel any regular or special meeting of the Commission if it is determined there is no significant business to be conducted. ~~However, the Commission shall hold at least one (1) meeting each month.~~ **The Planning Commission shall hold regular meetings as needed each month.**

ARTICLE 4 - AGENDAS, ORDER OF BUSINESS

Section 1 - Agendas: An agenda for each meeting of the Commission shall be prepared by the Secretary or assigned staff.

Section 2 - Agenda - Order of Business: Unless the Secretary determines otherwise, the following sequence shall be used in the preparation of agendas:

- I. Roll Call (silent)
- II. Pledge of Allegiance
- III. Explanation of Planning Commission Function
- IV. Minutes of Previous Meeting(s)
- V. Correspondence - Included in agenda packet and received after packet has been distributed.
- VI. Conflict of Interest Declarations

- VII. Public Hearings - Consent Items - Non Consent Items
- VIII. Other Matters
- IX. Citizen's Forum
- X. Report of the **Planning** Director
- XI. Additional Matters at the Discretion of the Chair
- XII. Adjournment

The order of business may be altered at the discretion of the Chair.

Section 3 -Requests for Continuance: If a request is made for continuance, a motion may be made and voted upon to continue the public hearing to a definite time and date or to continue indefinitely. A motion may also be made and voted on to place the item anywhere under the "Public Hearing Items" heading on the agenda. Any person desiring to be heard on the item may be given an opportunity to make a presentation.

Section 4 - Public Hearings - Consent Items: Those applications which are determined by the Secretary to be consistent with all regulations and requirements and have not generated any controversy may be placed on the consent item calendar. At the hearing, the Chair shall identify each individual item on this calendar and indicate the Commission's intent to approve all items, with findings noted in the Staff Report, unless a Commissioner or member of the audience wishes a discussion of a particular item. For those items where no one wishes a discussion, a motion to approve is in order. Any item that has been requested for further discussion shall be removed from the consent portion of the calendar and placed on the non-consent portion of the calendar. A full public hearing shall be conducted on the item.

Section 5 - Public Hearings - Non-Consent Items: The Chair shall announce, open, request the Secretary's report and preside over each public hearing conducted by the Commission.

Section 6 - Secretary's Report: The Secretary or designated staff shall present a report on each application for which a public hearing is conducted. The report shall include the name and address of the applicant, location of the project, any correspondence or other communication concerning the proposal, and any information which the Commission's staff feels is pertinent. The report may include a staff recommendation. When any hearing is held on an application for a change of zone for parcels of 10 or more acres, the Secretary's report shall contain a staff recommendation and the basis for the recommendation. The Commission may ask technical questions of staff or advisory staff.

Section 7 - Oral Public Testimony: Upon the completion of the Secretary's report, the Chair shall invite proponents and opponents of the proposal under consideration to address the Commission. The Chair shall recognize speakers and determine the order in which they address the Commission.

Section 8 - Conduct of Speakers: Each speaker shall be required to approach the microphone and ~~give their name and address~~ **identify themselves for the record**. The speaker may then proceed to offer information. However, speakers will be limited to the item under consideration and irrelevant and off-the-subject comments may be ruled out of order by the Commission. The Chair will not tolerate any complaints regarding individual Commissioners or the staff or any remarks of a personal nature during a public hearing. All comments shall be addressed to the Commission.

Section 9 - Time Limits for Testimony: In the event that a large number of speakers wish to address the Commission, the Chair may limit the amount of time afforded to each speaker to five (5) minutes. In addition, the Chair may foreclose any testimony which presents evidence which is repetitious, incompetent, irrelevant, immaterial, which constitute offensive or inappropriate language or remarks of a personal nature.

Section 10 - Written Testimony: The Commission's policy is to encourage the early submission of all written material to allow sufficient time to comprehend the material. In order to be included in the Commissioner's agenda packet, written material should be presented to the Planning and Community Development Department not later than ten (10) days prior to the scheduled Commission meeting. Written material received after the agenda has been mailed to the Commission may be presented to them at the scheduled meeting by the Secretary.

Section 11 - Documentary Evidence: Any documents, writings, pictures, exhibits, video tapes or other forms of tangible expression once submitted to the Commission shall become the property of the Commission and part of the public record.

Section 12 - Closing of Public Hearing: The Chair shall close the public hearing when it is determined that all solicited testimony has been received. Subsequently, at the discretion of the Chair, comments may be made by persons in the audience if any matter not previously discussed is introduced into the hearing or if clarification is necessary.

Section 13 - Discussion and Decision by the Commission: After the public hearing has been closed, the members of the Commission shall discuss the evidence presented and reach a decision on the proposal under consideration. The proposal may be continued to a future

meeting if the Commission determines that additional information is required or additional time is necessary to consider oral and written testimony.

Section 14 - Voting Requirements:

- (1) A quorum shall consist of five members. ~~In the absence of a quorum, the members present shall constitute a committee of the Commission and shall make a report of their action at the next succeeding meeting at which a quorum is present. The actions of the committee shall become effective when ratified by the members of the Commission at such succeeding meeting.~~
- (2) A majority vote is required for the Commission to take action unless otherwise required by state law.
- (3) In the case of a tie vote or where less than a majority vote is cast on a motion, the motion fails and a new motion is in order. If an alternative action is not possible, the proposal shall be considered denied.
- (4) Commissioners shall not vote on a motion unless they have been present during the entire hearing on the issue or have listened to the tape recording of that portion of the hearing presented in their absence.
- (5) When a member of the Commission abstains from voting on any matter before it because of a potential conflict of interest, said abstention shall not constitute nor be considered as either a vote in favor of or opposition to the matter being considered.

Section 15 - Disqualification from Voting: Commissioners shall disqualify themselves from voting in accordance with the Planning Commission Conflict of Interest Code and all applicable laws and regulations. When Commissioners disqualify themselves, they shall state prior to the consideration of such matter by the Commission that they are disqualifying themselves due to a possible conflict of interest and shall then step down from the dais.

Section 16 - Prohibition of New Items After 11:00 p.m. No new item will be started after 11:00 p.m. or discussed after 12:30 a.m. unless the rule is suspended by a majority of the Commission present.

Section 17 - Records of Meetings: Commission public hearings shall be recorded by mechanical means. When a request is made in writing for a stenographic record of a public hearing, the record shall be prepared and made available to the requesting party at cost. An advance deposit in the amount necessary for duplication will be required from the requesting party.