Bylaws of the City of Newark Planning Commission

July 7, 2020 - Revised February 2, 2021

The Planning Commission of the City of Newark, established in conformance with State Code and the Charter of the City of Newark, has adopted the following Bylaws in order to facilitate its power and duties in accordance with the Code of Delaware, as amended.

Legal Authority

Newark City Code, Chapter 2, Sections 78 through 90; Newark City Charter, Section 901; Delaware State Code, Title 22, Chapter 7.

Meetings

All regular and special meetings of the Planning Commission shall be open meetings to which all members of the public shall be admitted without restriction or qualification. Meetings will be held at locations accessible to persons with disabilities, and reasonable accommodations shall be made to the greatest extent possible. All procedures of the Planning Commission shall comply with the Delaware Freedom of Information Act, as contained in Title 29, Chapter 100 of the Delaware Code, as amended. To the extent that any provision herein shall conflict with the provisions of the Delaware Freedom of Information Act, the more restrictive provision shall apply.

The Commission may hold executive sessions as provided in Title 29, Chapter 100 of the Delaware Code and the Code of the City of Newark. Executive sessions must be on the agenda of a regular or special meeting and the purpose for such a session must be on the agenda. The vote to enter executive session must be made publicly by the members of the Planning Commission prior to entering executive session.

In all respects, the conduct of the Planning Commission, its meetings, and its Members, shall comport with the City's Code of Ethics.

Regular Meetings

Regular meetings of the Commission shall be held on the first Tuesday of each month at 7:00 P.M. in Council Chambers in the Municipal Building, or as otherwise specified and approved by the Planning Commission. When a meeting falls on a legal holiday the meeting shall be held on the day following unless otherwise designated by the Commission.

Regular meetings may be cancelled by the Chair upon notice to all members and to the public at least two weeks in advance of the meeting date. If the Chair declares that weather or other conditions make it hazardous for members to attend, all hearings and other matters previously

advertised shall be conducted at the next regular meeting. Regular meetings may be cancelled for reasons other than weather or other hazardous conditions provided there are no applications, public hearings, or other business pending or advertised for that meeting date and provided that the Commission meets at least every two months.

An applicant may notify the Planning and Development Director, in writing, to withdraw or defer their project with no additional action required.

Special Meetings

Special Meetings of the Planning Commission may be called by a majority of the Planning Commission, by the Chair, by staff in consultation with the Chair, or by staff with notification to the Chair when advance consultation is infeasible. Staff and/or the Chair shall make a good-faith attempt to gain majority consensus where feasible before calling a Special Meeting, and shall at a minimum issue notification to all members immediately upon determining to call a Special Meeting.

There shall be no limit to the number of Special Meetings that may be called in a given year.

Order of Business

Meetings shall be conducted in accordance with the adopted Planning Commission Public Hearing Rules of Procedure.

The privilege of the floor may be granted to the public at any time by the Chair.

Agenda

Working within the framework of the Commission work plan, budget, and other policy direction set by Council; staff will identify the need for and schedule the majority of Planning Commission agenda items. The Chair shall review and approve the proposed agenda prior to publication.

Standard agenda items shall include Chair's Remarks, Approval of Minutes, items for consideration by the Commission, New Business, Informational Items, and General Public Comment regarding items not on the agenda but related to the work of the Planning Commission. Items carried over from previous meetings (Old Business) shall be considered before new items.

Agenda items shall be annotated "Discussion", "Action" or "Information" as applicable.

Agendas will be scheduled so that meetings do not exceed two hours of planned time. Each agenda item shall have an estimated time noted using the following list as a guide:

- Ordinances 30 minutes
- Minor subdivisions 30 minutes
- Major subdivisions 45 minutes
- With site plan approval add 15 minutes
- With special use permit add 15 minutes

- With parking waiver request add 15 minutes
- With rezoning request add 15 minutes
- With annexation request add 20 minutes
- With Comprehensive Plan Amendment add 20 minutes

Future agenda items may be requested by a Member of the Planning Commission in open session. Such items shall be added by staff if approved by a majority of the Planning Commission. If a future agenda item is requested by a member of the public in open session, the Planning Commission shall not be obligated to deliberate on the agenda item request, however any Member may request that the Planning Commission consider adding the item, in the manner described in this paragraph. Occasional agenda item requests from a member of the public received outside of a noticed meeting, or other atypical agenda items, may be considered by staff, in consultation with the Chair, for suitability for being added when consulting with a majority of the Planning Commission is infeasible due to time constraints. Issues may also be referred to the Planning Commission by Council and staff shall add them in a timely fashion.

Recusal (Disqualification due to Conflict of Interest)

In accordance with the City of Newark's Code of Ethics, Planning Commission Members shall disqualify themselves from making, participating in the making of, or in any way using their official position to influence a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect, that is distinguishable from its effect on the public generally, upon the Member and certain immediate family members. Any Member with such a disqualifying financial interest relating to a particular agenda item shall openly announce the nature of the conflict following the Chair's announcement of the item, but before discussion has begun.

A Member who is recused due to conflict of interest may not be called upon to break a tie.

Officers

Election of Officers

In addition to the officers designated in the City Code, the Planning Commission shall also elect a Vice-chair. If no Vice-chair is nominated or elected than the most senior member of the Commission shall serve the role of Vice-chair.

Duties of Officers

The Chair shall:

Preside at all meetings. Points of order and meeting conduct shall be settled by the Chair, unless overruled by a majority vote of the Planning Commission, in compliance with these Bylaws, the Commission's Public Hearing Rules of Procedure, and the advice of the City Solicitor. Staff will assist the Chair where appropriate.

- Review and Approve the Agenda for meetings.
- Appoint committees and chairs.
- Act as the primary contact for staff for certain matters not requiring action by a majority of the body
- Represent the Planning Commission before City Council whenever deemed necessary or desirable by the Planning Commission or Council.

The Vice-chair shall:

- Act in the absence or inability of the Chair to act.
- Have the power to function in the same capacity as the Chair in cases of the Chair's inability to act.

In the absence of both the Chair and Vice-chair, and provided that there is a quorum, the remaining members shall choose who shall preside at the meeting.

The Secretary shall be responsible for:

Reading the official motions for agenda items.

Standing and Special Committees

Committees may be created by the Planning Commission for purposes and terms approved by the Planning Commission. The Planning Commission, and committees thereof, may work with member(s) of the public in pursuit of the Planning Commission's purpose and duties. All committees, regardless of its composition or number or office of members, shall be required to comply with the Open Meeting requirements of the City Code.

The Chair shall be an ex officio member of every committee.

The Planning and Development Director or their designee shall serve as an ex officio member of every committee.

Standing Committees

Standing Committees may be established by a majority of the Planning Commission to gather information or deliberate on issues deemed necessary to carrying out the functions and purpose of the Planning Commission, on an ongoing basis.

All standing committees shall provide written or oral reports in public session, no less than quarterly, to the Planning Commission.

Special Committees

Special Committees consisting of less than a majority of the Planning Commission and members of the public may be established by a majority of the Planning Commission. Such committees shall be established to gather information or deliberate on a particular issue deemed necessary to carrying out the functions and purpose of the Planning Commission, for a limited duration.

The final report of the Special Committee on its subject of investigation shall be entered into the public record. The Planning Commission shall deliberate and act upon on the designated issue. Special Committees shall be dissolved once their specific task is completed.

Staff

Staff Relationship to the Planning Commission

Staff support and assistance is provided to the Planning Commission in pursuit of the achievement of approved work plan items. While Staff members may work closely with advisory bodies, those advisory bodies do not exercise supervisory authority. Staff members remain responsible to their immediate supervisors and ultimately to the City Manager and Council. In order that Members may be fully prepared to engage in productive discussion and take action when in open session, individual Members are encouraged to maintain a rapport with staff outside of meetings and ask clarifying questions regarding report materials and general matters within the body's purview prior to meetings.

However, individual Members shall not make separate work product requests of staff without discussion and approval of the Planning Commission in open session, and shall not request that staff undertake work outside the scope of authority of the Planning Commission.

Agenda Reports to Planning Commission

Matters placed upon an agenda for consideration by the Planning Commission shall be accompanied by a written report by staff if the request involves the adoption of a resolution or approval of other written policy or procedural document, the rendering of a formal recommendation on a matter to be heard by higher body, and in other cases determined appropriate by staff. A consistent report format shall be adopted.

Staff reports shall clearly state staff's recommendation for action and the rationale therefore, and shall provide sufficient background information and context to allow the Planning Commission to render a well-informed decision or recommendation. Documents that are the subject of, or will substantially aid, deliberations shall be attached to and discussed within such reports. Where an agenda item requires deliberation and/or recommendation on project design or other aesthetic considerations, plans, photographs, or other relevant visual aids shall be included with the agenda materials for consideration in advance of the meeting.

Rendering of Recommendations to Council

Recommendations of the Planning Commission deemed necessary or desirable for consideration by Council shall be presented to the Council in a manner deemed appropriate by the Director of Planning and Development. Recommendations to be forwarded to the Council in open session shall be prepared by staff in the manner typical of all other Council matters. A report conforming to the format and standards for Council agenda items shall be prepared by department staff.

In the event that staff's professional recommendation on a matter differs from the recommendation rendered by the Planning Commission, staff's report to Council on the matter shall include both recommendations, and a thorough analysis of each, for the Council's consideration.

ADOPTION OF BYLAWS

These rules as amended shall become effective upon adoption by a majority vote of all the Members of the Planning Commission.

These Bylaws shall not be construed in any manner conflicting with controlling provisions of state or federal law, and shall not be construed as attempting to supersede any ordinance of the City of Newark. In the event of conflict between these Bylaws and other policies enacted by Council regulating these same matters, the newer of the policies shall prevail. If any portion of these Bylaws shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. The provisions of these Bylaws shall not preclude the preparation and adoption of further procedural manuals and policies by which the Planning Commission may direct its activities.

These Bylaws are the sole work product of the Planning Commission. They are not intended to be adopted in any form by City Council.

Amending of Bylaws

The bylaws may be amended by a Member through a two step process:

- 1) Submitting the proposed amendment at a regularly scheduled meeting
- 2) Review and adoption at the next regularly scheduled meeting.

Setting Aside the Bylaws

Any section of the bylaws may be set aside by a unanimous vote of the Members present. The justification for the set-aside shall be placed on the public record.