

# MEMO



**TO:** Planning Commission

**FROM:** James Kramvik, Community Development Director

**DATE:** March 15, 2023

**RE:** Review and Authorize Changes to the Planning Commission Bylaws

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**Introduction:**

At the February 15<sup>th</sup> Planning Commission meeting, a proposed revision of language to the Planning Commission Bylaws was presented. After much deliberation over the terminology related to the agenda section labeled *"Commission Member Reports"*, revised from the previous heading *"Commissioners' Questions/Comments"*, the revision of language was not approved by the Commission.

After discussion with Administrator Bergman, staff is bringing back the revised bylaws as proposed. City Council reaffirmed and amended the "RULES OF PROCEDURE AND DECORUM - CITY COUNCIL AND COMMITTEE MEETINGS BRAINERD, MINNESOTA" on November 2<sup>nd</sup>, 2020.

Section 2, Subd. 3

Applicability. These Rules also apply to committees of the Council as well as City boards and commissions, whether created by Charter or City Code. The term "Council" shall be substituted with "Committee," "Commission" or "Board," and terms "President" and "Vice President" shall be substituted with "Chair" and "Vice Chair", as appropriate.

**Staff Recommendation:**

Staff recommend approval of the bylaws as revised and presented.

# **Planning Commission Bylaws**

## **Article I. Introduction**

### Section 1. Purpose

It is the intent of the City of Brainerd Planning Commission to conduct its business and perform its responsibilities and duties in an orderly, efficient, fair and lawful manner. These bylaws are established for that purpose.

### Section 2. Application of Bylaws

Unless otherwise specifically indicated, these bylaws shall apply to the transaction and administration of all Planning Commission business and the conduct of all Planning Commission meetings and hearings.

## **Article II. Offices and Duties**

### Section 1. Offices Designated

The Commission, at its first regular meeting in January of each year, shall select a Chairperson and Vice Chairperson.

### Section 2. Recording of Meetings

The Planning Department shall supply a qualified staff member to perform all general corresponding and recording secretarial duties for the Planning Commission.

### Section 3. Duties of Offices

The duties and powers of the office of the Planning Commission shall be as follows:

#### A. Chairperson

- 1) Preside at all meetings of the Commission
- 2) Call special meetings of the Commission in accordance with the City Ordinance
- 3) Sign documents of the Commission
- 4) See that all actions of the Commission are properly taken
- 5) Cancel or postpone any regularly scheduled meetings
- 6) Order end to disorderly conduct and direct law enforcement to remove disorderly persons from Planning Commission meetings

#### B. Vice Chairperson

In the event of the absence, disability or disqualification of the Chairperson, the Vice Chairperson shall exercise or perform all the duties and be subject to all the responsibility of the Chairperson.

#### C. Secretary

A city staff member will be assigned to perform the functions of Secretary. The Secretary shall keep record of the proceedings of every meeting of the Planning Commission.

Section 4. Preparation of the Comprehensive Plan

The Commission shall prepare, adopt and revise from time to time a Comprehensive Plan for the physical development of the City, including proposed public buildings, street arrangements and improvements, public utility services, parks, playgrounds, and other similar developments, the use of property, the density of population, and other matters relating to the physical development of the City. Such plan may be prepared in sections, each of which shall relate to, a major subject of the plan.

Section 5. Means of Executing the Comprehensive Plan

Upon the adoption of the Comprehensive Plan or any section thereof, the Commission shall recommend to the City Council reasonable and practicable means for putting into effect such plan or section thereof in order that the same will serve as a pattern and guide for the orderly physical development of the City and as a basis for the efficient expenditures of the funds thereof relating to the subjects of the plan. Such means shall consist of a zoning plan, the control of subdivision plats, a plan of future streets, coordination of the normal public improvements of the City, a long-term program of capital expenditures and such other matters as will accomplish the purpose of the plan.

**Article III. Members**

Section 1. Number

The Planning Commission shall consist of seven (7) voting members, one of which is a City Council member.

Section 2. Members Appointed.

Voting member shall be appointed by the City Council for three years. Terms shall run from January 1 through December 31. Terms shall be staggered so that there will be continuity of the Commission.

Section 3. Removal

City Council has the power to remove a Commissioner by a 5/7 vote.

Section 4. Voting

A member must be present to vote.

Section 5. Vacancies.

Vacancies shall be filled by appointment of the City Council for the unexpired portion of the term.

**Article IV. Meetings and Hearings**

Section 1. Notice

Notices of all meetings and hearings of the Planning Commission shall be made in accordance with all statutory and ordinance notification requirements.

Section 2. Meetings

All meetings of the Planning Commission shall be open to the public.

### Section 3. Workshops

Workshops and other meetings whose sole purpose is for general information and/or educational purposes will be open to the public. Public testimony may or may not be allowed.

### Section 4. Meeting Records

All tapes, minutes, evidence, exhibits, correspondence, maps, plats, etc. shall be made a part of the record, become the property of the City Brainerd, and be maintained as a permanent record.

### Section 5. Meetings

#### A. Date and Time

The Planning Commission shall meet regularly on the third Wednesday of each month at 6:00 pm, or as soon as practical.

#### B. Location

The Commission shall meet in regular session in the City Hall Council Chambers.

#### C. Order of Business

- 1) Call to Order
- 2) Roll Call
- 3) Pledge of Allegiance
- 4) Approval of Agenda
- 5) Approval of Minutes
- 6) Presentations
- 7) Unfinished Business
- 8) New Business
- 9) Public Forum
- 10) Staff Reports (Verbal: Any updates since the packet)
- 11) Commission Member Reports
- 12) Adjournment
- 4) ~~—~~
- 5) ~~Approval/Amendment of Agenda~~
- 6) ~~Approval of Minutes~~
- 7) ~~New Business~~
- 8) ~~Public Forum~~
- 9) ~~Old Business~~
- 10) ~~Commissioners' Questions/Comments~~
- 11) ~~City Planner Report~~
- 12) ~~Adjourn~~

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#### N.D. Special meetings

The Chair person, Vice Chairperson, City Council, or Mayor may call for a special meeting at any time. Notice of the time and place shall conform to the Open Meeting Law.

#### O.E. Additional Agenda Items

After an agenda has been published, at the discretion of the Chair and approval by the Commission items may be added up to the time of the published meeting.

### Section 6. Parliamentary Procedure

All Commission meetings shall be governed by Sturgis Standard Code of Parliamentary Procedure in all cases to which they are applicable and not in conflict with these bylaws, City Code, or other rules this Commission may adopt.

#### Section 7. Agenda

- A. The agenda shall be prepared by the Community Development Director ~~City Planner~~ with the input of the Chair as requested for the Planning Commission meeting and shall close 7 days prior to the meeting.
- B. Any Planning Commission member can place an item on the agenda. No item shall be placed on the agenda unless the item is expressed in such a way as to clearly show the subject matter involved.
- C. The agenda may be amended during a Planning Commission meeting by a majority vote of the Commission.
- D. The agenda shall generally organize matters to be addressed at the meeting so as to best promote opportunities for effective public input and the timely and efficient performance of Planning Commission responsibilities. Items of business likely to attract the attendance of many persons should generally be placed early on the agenda.
- E. Planning staff shall prepare a written report detailing the request and the ordinance provisions that apply to the matter.

#### Section 8. Procedure for Public Hearings

Planning staff or consultants, if any, shall summarize for the public the relevant issues of the application contained in the written staff report. The Commission members may direct question to staff regarding the application.

- A. The Chairperson shall call the public hearing to order and declare the time, and prior to taking testimony, shall explain:
  - 1) The order of testimony
  - 2) The purpose and requirements of the public hearing under Minnesota Law
  - 3) That each speaker shall provide their name and address and that public comments should be limited to matters pertinent to the application under review and avoid duplicative testimony. The Chairperson may place reasonable time limits on public comments, depending on the number of persons waiting to testify on the matter.
- B. The applicant and/or representative shall be given an opportunity to present evidence in support of the request and rebut any issues or conditions identified in the staff report
- C. Members of the public, if any, may testify, either in person or through their agent. Written testimony submitted may be read and will be added to the public record.

- D. The applicant shall have an opportunity to answer questions from the Commission.
- F. The Commission may direct questions to the applicant, planning staff, or public to clarify issues but no further testimony may be received from the public.
- G. When all public comment has been received the Commission shall close the public hearing by motion and majority vote of the Commission. The Commission may deliberate and decide the matter. Should the Commission identify relevant facts that remain unknown or disputed the Commission may postpone closing the hearing by motion and majority vote until the Planning Commission's next meeting and refer the issue to planning staff for further fact finding.

#### Section 9. Protocol for Public Hearings

- A. Everyone who wishes to give testimony shall be given a reasonable opportunity to speak.
- B. All statements or questions should be directed to the chairperson.
- C. All statements should be as factual as possible and should not involve personalities.
- D. Speakers should refrain from repeating what has already been stated.
- E. Each speaker shall provide his or her name and address to the recorder.
- F. The Planning Commission reserves the right to question any speaker.
- G. Written testimony may be received.
- H. No additional testimony may be offered after the close of the public hearing.

#### Section 10. Communication with Public and Applicant

- A. General. Prior to the public hearing or Commission deliberation, no Commission member shall lobby the merits of a pending case with staff, applicant, Commission member, or the general public.
- B. Disclosures. If a commissioner has discussed the pending case, the commissioner shall disclose the facts relating to such discussion during the public hearing.
- C. Exception. Nothing in this section shall preclude the general information communication by Commission members relating to the general conduct of a meeting or hearing, nor shall anything in this section forbid staff or commissioners from discussing with commissioners an upcoming meeting, so long as the facts or merits of the meeting are not discussed.

#### Section 11. Quorum

A majority of the Commission members entitled to vote shall constitute a quorum for the transaction of business.

Section 12. Conflict of Interest

Any member of the Planning Commission who shall feel that he or she may appear to have or in fact has, a conflict of interest on any matter that is on the Planning Commission agenda shall voluntarily excuse himself or herself, vacate his or her seat, and refrain from discussing and voting on said matter as a Planning Commissioner.

A conflict of interest is any direct contractual, pecuniary, or other beneficial interest in the outcome of a matter before the Planning Commissioner.

Section 13. Orientation of new Planning Commissioners

To assist new Planning Commission members in learning their responsibilities, and to develop their understanding of the planning process as quickly as possible, they will be required to:

- A. Attend an orientation session with the Community Development Director~~City Planner~~, Planning Commission Chair, and City Council member.
  
- B. Read the Comprehensive Plan and Zoning Ordinance.

**Article V. Education, Conference and Convention Policy**

The City Council and Planning Commission of the City of Brainerd recognize and accept the concept that the acquisition and maintenance of a body of knowledge and skills are necessary and desirable to perform the job of the Planning Commissioner. Further, both groups encourage and highly recommend periodic attendance at various educational opportunities conferences and conventions.

The following is the policy of the City of Brainerd Planning Commission on educational meetings, conferences, and conventions:

- A. Attendance at educational meetings, conferences, and conventions is subject of availability of funds.
  
- B. Attendance at educational meetings, conferences, and conventions is voluntary. Planning Commission members are encouraged to attend educational meetings, conferences, and conventions.
  
- C. Involvement in relevant professional organizations such as APA-MN, office holding, or committee work is considered educational.
  
- D. Planning Commission members are encouraged to participate in the budget process and to request allocations for educational purposes.

**RULES OF PROCEDURE AND DECORUM  
CITY COUNCIL AND COMMITTEE MEETINGS  
BRAINERD, MINNESOTA**

**Adopted April 4, 1994**

**Reaffirmed and Amended December 1, 2003; November 2, 2020**

SECTION 1. PURPOSE

Subd. 1. General. It is recognized that in order to enhance the concept of effective and democratic government, it is essential that a legislative body establish formal rules of procedure and decorum so that a true deliberative process will be observed and not disturbed.

SECTION 2. GENERAL

Subd. 1. Law. The City Charter, Ordinances and State Statutes governing the City Council ~~and Committees as established by the City collectively referred to as the "CITY"~~ shall be followed and supplemented by the se Rules of Procedure and Decorum of the City Council.

Subd. 2. General Rules. In all matters of parliamentary procedures, the Council shall be governed by the latest printed edition of the Sturgis Standard Code of Parliamentary Procedure as published from time to time except as modified by these rules.

Subd. 3. Applicability. These Rules also apply to committees of the Council as well as City boards and commissions, whether created by Charter or City Code. The term "Council" shall be substituted with "Committee," "Commission" or "Board," and terms "President" and "Vice President" shall be substituted with "Chair" and "Vice Chair", as appropriate.

SECTION 3. PRESIDING OFFICER

Subd. 1. Who Presides. The Council President shall preside at all meetings of the Council. In the absence of the Council President, the Council Vice-President shall preside. The presiding officer shall have the power to preserve strict order and decorum at meetings, enforce the rules of procedure and determine without debate, subject to the final decision of the Council on appeal, all questions of procedure and order.

Subd. 2. Appeal of the Ruling of the Presiding Officer. Any member of the Council may appeal from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain the ruling, but no other Council member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority vote.

Subd. 3. Rights of the Presiding Officer. The presiding officer may speak on any question.



The presiding officer may only make motions and second motions after stepping down as presiding officer.

#### SECTION 4. AGENDA

Subd. 1. Matters for Consideration. Matters for Council action shall be submitted by members of the Council and residents to the City Administrator or to ~~the~~ city staff representatives in the case of Committee business.

Subd. 2. Preparation. An agenda of business for each regular and special meeting shall be prepared in the Office of the City Administrator or by City Staff in the case of Committees and copies thereof delivered to each Council member as far in advance of the meeting as time for preparation will permit.

Subd. 3. Order of Business at Regular Meetings. At the hour appointed for the regular meeting of the City Council, the meeting shall be called to order by the presiding officer. If a quorum is present, the City Council shall then proceed with its business in the following order as applicable:

- \* Call to Order
- \* Roll Call
- \* Pledge of Allegiance
- \* Approval of Agenda
- \* Consent Calendar, including approval of minutes, licenses, reports, bills, fund transfers and other routine, non-controversial items needing little or no deliberation
- \* Presentations (if any)
- \* Council Committee Reports (Personnel & Finance; Safety & Public Works)
- \* Unfinished Business - action items including public hearings, ordinance readings and various other items requiring Council action
- \* New Business - action items including public hearings, ordinance readings and various other items requiring Council action
- \* Public Forum
- \* Staff Reports (Verbal: Any updates since the packet)
- \* Mayor's Report
- \* Council Member Reports
- \* Adjournment

Subd. 4. Varying Order of Business. The order of business may be varied by the presiding officer.

Subd. 5. Consent Calendar. Matters for the Council of a routine or non-controversial nature which need minimal Council deliberation shall be placed on the Consent Calendar. A motion to approve the Consent Calendar shall not be debated. At the request of any individual Council member, an item shall be removed from the Consent Calendar and placed upon the regular agenda for debate immediately following the Consent Calendar. The Consent Calendar shall only be adopted by a roll call vote of those Council members present at the meeting.

- Subd. 6. Items Not on the Agenda. The Council may consider items not appearing on the agenda as normal business if an objection is not raised by the Mayor or a Council member. If an objection is raised by the Mayor or a Council member to consider an item not appearing on the agenda, a vote shall be taken by the Council to determine the appropriateness of further consideration of the matter at that time.
- Subd. 7. Public Participation. Members of the public may address the City Council during:
- A: Public Hearings.
- B: Public Forum. This portion of the meeting shall be limited to fifteen minutes and individuals shall be requested to limit their comments to four minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue may be continued under New Business at the end of the agenda.
- C: Specific issues scheduled on the agenda but in accordance with Section 6, Subd. 6, of these rules entitled, Addressing the Council.
- Subd. 8. Written Communications on All Matters. All interested parties or their authorized representatives may address the Council by written communication regarding all matters under the Council's consideration. The City Administrator shall copy these communications to the Council and forward said communications with the Council meeting packet if possible. If written communications are received after meeting packets are delivered to the Mayor and Council, such communications will be handed out at the meeting.

## SECTION 5. VOTING

- Subd. 1. Procedure. The votes of the members on any ordinance or resolution pending before the Council shall be by roll call vote. The votes of the members on any motion shall be by voice vote unless the Mayor or any member of the Council requests that a roll call vote be taken. The presiding officer shall call for a roll call vote whenever a voice vote of the Council is not clear as to the disposition of the action before the Council.
- Subd. 2. Abstention. If a Council member does not vote, the abstention shall be recorded as Abstain - name.
- Subd. 3. Voting Order for Roll Call (applicable to City Council only). The City Administrator shall call for the vote in consecutive order of Wards, with Ward One voting first rotating one position every two months. The presiding officer shall always vote last.

## SECTION 6. RULES OF DECORUM

- Subd. 1. Members of Council. While the meeting Council is in session, the members must preserve order and decorum. A member shall neither, by conversation or otherwise,

delay or interrupt the proceedings or the peace of the ~~meeting Council~~ nor disturb any member while speaking or refuse to obey the orders of the presiding officer.

- Subd. 2. Recognition. No person or member ~~of the Council~~ shall address the other members Council without being recognized by the presiding officer.
- Subd. 3. Discussion. No member of the Council shall speak more than twice on any question, nor more than five minutes each time without consent of the Council.
- Subd. 4. Staff. Members of the City staff shall observe the same rules of order and decorum as are applicable to the City Council.
- Subd. 5. Pertinent to Matter Under Debate. Members ~~of the Council~~, staff and public shall confine remarks to the matter under debate.
- Subd. 6. Addressing the Council. Each member of the public addressing the Council shall step up to a microphone provided for the use of the public after being recognized by the presiding officer and give his/her name and address in an audible tone of voice for the records, state the subject to be discussed and state who the speaker is representing if representing an organization or other persons. Unless further time is granted by a majority vote of the Council, remarks from the public shall be limited to four (4) minutes. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Council, without permission of the presiding officer. No question may be asked of a ~~Council~~ member or a member of the staff without the permission of the presiding officer.
- Subd. 7. Spokesperson for Group of Persons. In order to expedite matters and to avoid repetitious presentations, whenever any group of persons wishes to address the Council on the same subject, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and, in case additional matters are to be presented by any other member of said group, to limit the number of such persons addressing the Council.
- Subd. 8. After Motion. After a motion has been made or a public hearing has been closed, no member of the public shall address the Council from the audience on the matter under consideration without first securing permission to do so by a majority vote of the City Council.
- Subd. 9. Conduct. Any member of the Council, staff or person indulging in personalities or making impertinent, slanderous or profane remarks or who willfully utters loud, threatening or abusive language, or engages in any disorderly conduct which would impede, disrupt or disturb the orderly conduct of any meeting, hearing or other proceeding, shall be called to order by the presiding officer and, if such conduct continues, may at the discretion of the presiding officer, be ordered barred from further audience before the Council during that meeting.

Subd. 10. Members of the Audience. No person in the audience shall engage in disorderly conduct such as hand clapping, stamping of feet, whistling, using profane language, yelling and similar demonstrations, which conduct disturbs the peace and good order of the meeting.

## SECTION 7. ENFORCEMENT OF DECORUM

Subd. 1. Warning. All persons shall, at the request of the presiding officer, be silent. If, after receiving a warning from the presiding officer, a person persists in disturbing the meeting, said officer may order this person removed from the meeting. If this person does not leave willingly, the presiding officer may call a recess and order that the person be removed by the Sergeant-at-Arms.

Subd. 2. Sergeant-at-Arms. The Chief of Police, or such member or members of the Police Department, shall be Sergeant-at-Arms of the Council meetings or as asked to be present at a Committee meeting. The Chief or other Police Department representative shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at the Council meeting. Upon instruction of the presiding officer, it shall be the duty of the Sergeant-at-Arms to remove from the meeting any person who intentionally disturbs the proceedings of the Council.

Subd. 3. Resisting Removal. Any person who resists removal by the Sergeant-at-Arms may be charged with violating City Ordinance.

Subd. 4. Motions to Enforce. Any Council member may move to require the presiding officer to enforce these rules and the affirmative vote of a majority of the Council shall require the presiding officer to do so.

Subd. 5. Adjournment. In the event that any meeting is willfully disturbed by a group or group of persons so as to render the orderly conduct of such meeting unfeasible and when order cannot be restored by the removal of individuals who are creating the disturbance, the meeting may be adjourned with the remaining business considered at the next regular meeting.

Subd. 6. Special Meetings. If the matter being addressed prior to adjournment is of such a nature as to demand immediate attention, the presiding officer may adjourn the meeting to another date.

## SECTION 8. CAMERAS AND RECORDING DEVICES

Subd. 1. Use of Cameras and Recording Devices Limited. Cameras, including television and motion picture cameras, electronic sound recording devices and any other mechanical, electrical or electronic recording devices may be used in the Council Chamber, but only in such a manner as will cause a minimum of interference with or disturbance of the proceedings of the Council and at the discretion of the presiding officer.

## SECTION 9. SEVERABILITY

- Subd. 1. General. If any section, subsection, sentence, clause, phrase or portion of these Rules of Procedure and Decorum is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

# CITY ~~COUNCIL~~ MEETINGS

## CITIZEN PARTICIPATION GUIDELINES

The City Council is meeting as a legislative body to conduct the business of the City. Unless so ordered by the Council President, citizen participation is limited to the following times and always within the prescribed rules of conduct for public input at meetings.

A) Public Hearings. Public hearings are conducted so that the public affected by a proposal may have input into the decision. During hearings, all affected residents will be given an opportunity to speak.

B) Public Forum. Any member of the public may speak at this time on any item NOT on the agenda. In consideration for the public attending the meeting for specific items on the agenda, this portion of the meeting will be limited to fifteen (15) minutes. Individuals are requested to limit their comments to four (4) minutes or less. If the majority of the Council determines that additional time on a specific issue is warranted, then discussion on that issue may be continued under New Business at the end of the agenda.

Before addressing the City Council, members of the public are asked to step up to the microphone, give their name, address and state the subject to be discussed. All remarks shall be addressed to the Council as a whole and not to any member thereof. No person other than members of the Council and the person having the floor shall be permitted to enter into any discussion without permission of the presiding officer. No question may be asked of a ~~Council~~ member or a member of the staff without permission of the presiding officer.

Your participation, as prescribed by the se City's rules, ~~Council=s~~ RULES is welcomed, and your cooperation is greatly appreciated.