

Articles of By-Laws for Brookings County Planning Commission

By-Laws of the Brookings County Planning Commission in the State of South Dakota, as adopted January 2, 2001.

Article 1: Authority

- The Brookings County Commission is authorized by SDCL 11-2-2 to appoint a commission of three or more members, the total membership of which shall always be an uneven number and at least one member of which shall be a member of the County Commission, to be known as the county planning commission.

Article 2: Jurisdiction

- The commission shall have jurisdiction in all the unincorporated area of Brookings County. This does not include any of the cities and towns in Brookings County.
- The commission will share jurisdiction with the City of Brookings in the 3 mile Joint Jurisdiction Area around the City of Brookings.
- The failure of the planning commission to act within 65 days from and after the date of official submission to it under the provisions of SDCL 11-2-24, shall be deemed approval, unless a longer period be granted by the board or other submitting official.

Article 3: Appointment and terms of members

- The planning commission members shall be appointed by the Brookings County Commission.
- The planning commission shall consist of one county commissioner and eight members, two from each of four established districts. These districts are as follows: District 1 consists of Bangor, Volga, Brookings, Lake Sinai, Oslo, and Medary Townships; District 2 consists of Laketon, Preston, Eureka, Winsor, Oakwood, and Sterling Townships; District 3 consists of Argo, Oak Lake, Lake Hendricks, Afton, Sherman, and the northern portion of Richland (Sections 3-34) Townships; District 4 consists of the southern portion of Richland (Sections 3-34), Alton, Aurora, Trenton, Parnell, and Elkton Townships.
- Planning commission members are appointed to four-year terms. These terms overlap; the terms of two members expire in any given year.
- Because the following conditions impair the quality of decision-making and diminish the integrity of the planning commission, a member of the commission may be removed for cause. Reasons for dismissal include but are not limited

to continuing unpreparedness, continuing absence from meetings (three consecutive meetings or four regular meetings within a calendar year), biased participation, and conflicts of interest.

- If a planning commission member does not complete their term, the County Commission will appoint another member from that district to complete the term.
- At the first regular meeting in January the Planning Commission shall elect a chairperson, a vice-chairperson and appoint a recording secretary who need not be a member of the Board. The recording secretary can be a member of the planning staff or an employee of the planning commission.

Article 4: Duties of planning commission officers and members

- Chairperson - presides at all hearings and meetings of the commission, assures proper order of the commission and the public in all proceedings, signs all documents of the commission, calls special meetings of the commission in accordance with the by-laws, and ensures that all actions of the commission are properly taken.
- Vice-chairperson – performs the duties and has the responsibilities of the chairperson during the absence, disqualification, or disability of the chairperson. The vice-chairperson shall succeed the chairperson and serve the remainder of the term if the position is vacated before the term is completed.
- Chairperson-pro-temp – where both the chairperson and vice chair-person are absent from a hearing or meeting, the remainder of the members of the planning commission shall elect a chairperson-pro-temp from among their own number by majority vote.
- Planning commission members – General duties of the planning commission members include reading mailed materials prior to commission meetings, maintaining familiarity with the Brookings County Zoning Ordinance, visiting sites of agendized zoning items as necessary, attending planning and zoning commission meetings, and participating in the deliberation and decision-making processes of the planning commission. See also “Riggins Rules” on page 16, “Being a Planning Commissioner” on page 24, and “Just what is your Planning Commission’s Role” on page 28.

Article 5: Staff of the commission and their duties

- Zoning Administrator - advises the planning commission and County Commission on matters related to planning, development, and redevelopment, coordinates and supervises the work of all other staff and consultants, prepares all documents for presentation to the planning commission with assistance from the secretary, and assists the chairperson in the exercise of his or her duties.

The zoning administrator or designee shall have the privilege to address the planning commission during regular meetings.

- Secretary - Keeps the minutes of all meetings of the commission and other commission records, prepares the agenda for all meetings of the commission, and informs the members of the time of any special meetings, informs the commission of correspondence relating to business of the commission and attends to such correspondence, and handles funds allocated to the commission in accordance with its directives, the law and county regulations.
- Commission staff - the planning commission may appoint other staff members to carry out appropriate functions.
- Consultants - the planning commission may hire consultants to perform planning-related activities under terms of contract prepared by the zoning administrator and approved by the planning commission.
- The deputy state's attorney shall serve as legal counsel to the planning commission; prepares memoranda of law as requested by the planning commission, and reviews drafts of ordinances, resolutions, and by-laws, and their amendments.

Article 6: Meetings and Hearings of the Planning Commission

- The number of meetings per month and a schedule of meeting dates shall be established and may be altered or changed at any regularly scheduled meeting. The commission must meet at least once a month unless there are no agenda items. The regular meeting date is established on the first Tuesday of the month at the Brookings County Resource Center. The regular meeting time is established as 8:00 p.m. from April through October and 7:00 p.m. from November through March.
- All board meetings of the Brookings County Planning & Zoning Commission will be recorded.
- A working session is a noticed official hearing open to the public to discuss specific matters before the commission. Information is the intent of the working session; the planning commission may neither deliberate nor take a substantive vote during a working session.
- Special meetings can be held at any time and may be called by the zoning administrator, chairperson, vice chairperson, or a majority of the members of the planning commission. At least 24 hours notice should be given to each member of the commission.
- Any meeting of the commission may be continued or adjourned from day to day or for more than one day. An adjournment can only last until the next

regularly scheduled meeting.

- An executive meeting is closed to the public with topics of deliberation that are truly confidential in nature; the planning shall neither deliberate nor vote on agenda items before the commission. Executive meetings can be called on an as-needed basis.
- A majority of the members of the commission entitled to vote shall constitute a quorum.

Article 8: General Order of Business: Any regular meeting of the Planning Commission shall follow this order.

- 1) Call To Order
- 2) Approval of minutes from the preceding meeting
- 3) Addition of items to the agenda
- 4) Scheduled matters

Consent items. There are items that require little or no discussion by the planning commission, public, or applicant. The planning commission may act on these items in one motion. If any concerns are expressed regarding one of these items, it will be considered by the planning commission in its regular position on the agenda

- 5) Public hearings
- 6) Appeals
- 7) Personal appearances. Any citizen wishing to speak on a matter not scheduled on the agenda may do so during this time. The planning commission does not take immediate action on items presented under personal appearances.
- 8) Committee Reports from sub-groups of planning commission (if any).
- 9) Adjournment

Article 9: Order of a Public Hearing

- 1) At the chairman's request, sign-in sheets by agenda item, listing printed name, signature, address of persons wishing to testify, and indication of support or opposition to items will be provided.
- 2) Determination of quorum

- 3) The planning staff presents its report and makes recommendations. At this time, the planning commission may ask the staff any questions regarding its report.
- 4) Testimony of agencies related to the item
- 5) Applicants and proponents of the item make their presentation
- 6) Any opponents or interested citizens make presentations
- 7) Concluding comments of the applicant in order to make additional comments or answer arguments not previously covered.
- 8) Concluding comments of the planning staff
- 9) The planning commission asks any questions it may have of the applicant, the public, or the staff
- 10) Request of the Chairperson for a motion to close the public hearing
- 11) The commission takes a vote on the public hearing

Article 10: Form and character of motions.

- Motions should be brief, clear, and complete. The commission should not simply move approval of a project, but instead should move approval with specific, stated reasons.
- The form and character of motions shall conform to those offered within Robert's Rules of Order, Revised, except as specified below.
- Motions shall include not only direction (Approval, Approval with specified conditions, or Disapproval) but also a recitation of findings which support the motion. A second, citing compatible findings shall be required.
- Other commission members may support the motion with other compatible findings.
- A motion shall die for lack of second.
- Where a motion to disapprove an item has been defeated, a member of the planning commission initially in the opposition may make a motion to approve or approve with conditions.
- The following outline modifies, withdraws and inserts motions into the order provided within Robert's Rules of Order (Revised 1971 and Newly Revised 1990). The following motions are not presented in order of precedence, but

in the order in which they are most likely to appear within the meeting of the planning commission. In this outline, a single public hearing is heard within a deliberative meeting.

Each motion is coded in four categories:

Requires Second (S), or not (NS),
Is debatable (D), or not (ND),
Is amendable (A), or not (NA),
And requires vote (V), or not (NV).

A simple majority is required, unless otherwise noted. Immediately below the motion and its codes is a brief explanation of the motion's use and relevance.

1. CALL TO ORDER NS | ND | NA | NV

Action of the chairperson to bring the members, staff, and audience into order.

2. CALL FOR QUORUM NS | ND | NA | NV

Action of the chairperson, with confirmation by the secretary, that the commission may conduct official business.

3. CALL TO FOLLOW THE AGENDA NS | ND | NA | NV

Action of the chairperson to proceed with the agenda as published, so that persons attending and possibly wishing to testify may know the order of issues to be heard and decided.

4. Motion to AMEND THE ORDER OF THE AGENDA S | D | A | V

A commission member may move to alter the order but not the content of the agenda.

5. Motion to FIX THE TIME TO ADJOURN S | ND | A | V

Once the order of the agenda has been decided, a planning commission is under an obligation to estimate how much of its work can reasonably and responsibly be concluded within a single meeting. Where a public hearing is required, the chairperson can impose reasonable but equitable time constraints upon public testimony.

6. Motion to APPROVE THE MINUTES S | ND | A | V

Action to approve the minutes of a previous meeting. The minutes are amendable to improve clarity, accuracy, and completeness, but not to re-open debate

on a previously decided agenda item.

7. Motion to RECONSIDER S | D | NA | V

A procedural motion that is used where a commission member in the majority on a previously decided item wishes to have the commission reconsider its vote. The motion is appropriate only when: (1) crucial information, not available at the time of the initial vote, is now available, or (2) there has been a substantial change of circumstances since the initial vote. Great care should be taken with respect to this motion so as not to violate notice requirements or time limitations on action. If the motion for RECONSIDERATION is passed, the item is re-represented in total, after which a new substantive motion may be made.

8. Motion to RECESS INTO PUBLIC HEARING S | ND | NA | V

To this point the commission is in regular deliberate meeting; It now may RECESS INTO PUBLIC HEARING in order to take public testimony on a specific agenda item. During a public hearing, a commission member may not make substantive motions.

9. Motion to ACCEPT FOR THE RECORD S | ND | NA | V

A procedural motion to officially incorporate an application, agency report, consultant's report, letter, petition, or other written or visual materials into the public record.

10. Motion to CLOSE THE PUBLIC RECORD S | ND | NA | V

If the planning commission wishes to proceed with debate on the item, it must close the public record. Both the record of written and visual materials and the oral testimony form the basis of consideration and decision. Where the commission is to deliberate the case at a future meeting, it may leave the public record open for a specific period of time, usually two business days, to receive any additional written materials.

11. Motion to CLOSE THE PUBLIC HEARING S | ND | NA | V

A procedural motion made when all public testimony has concluded; the planning commission has now returned to deliberative meeting.

12. CALL TO ENTERTAIN A MOTION NS | ND | NA | NV

After board discussion and deliberation among the members of the planning commission, the chairperson may invite a motion.

13. Motion to CLOSE DELIBERATION

S | ND | NA | V

A procedural motion to test whether the planning commission is ready to move from deliberation to decision. For smaller commissions, the CALL TO ENTERTAIN A MOTION (see #12) would be sufficient to move the commission toward substantive motion.

14. Motion to APPROVE, APPROVE WITH CONDITIONS, or converse motion to DISAPPROVE

S | D | A | V

A substantive motion (often called the MAIN motion); it may take one of two forms: (1) a definitive action, or (2) a recommendation. Requires recitation of reasons in support of the motion; both the Mover and Secunder must concur in the reasons and in the conditions, if such are attached. A tie vote constitutes defeat of the motion. When a motion to DISAPPROVE is defeated, a converse motion should be made to secure APPROVAL or APPROVAL WITH CONDITIONS.

15. Motion to AMEND the Previous Motion

S | D | A | V

Amending motions may be either procedural or substantive. When a motion has been moved and seconded and is within the period of debate, it is subject to substitution, alteration or perfection. When an amendment is seen as "friendly," that is, compatible with the previous motion by the initial mover and seconder, the amendment may be incorporated directly into the previous motion by verbal assent; where the amending motion is seen as "unfriendly" it must be debated and decided first. All motions to AMEND the previous motion must be decided prior to deliberation and vote on the MAIN motion (see #14).

16. Motion to RECESS

S | ND | A | V

A procedural motion to permit a very brief suspension of public hearing or deliberative meeting to facilitate commission operations or for the comfort of the public. Planning commission members should avoid contact with interested parties during recess.

17. Motion to DEFER TO SPECIFIC TIME

S | D | A | V

Where testimony on a public hearing or deliberation by the commission on an agenda item cannot be concluded within a single session, a motion to DEFER TO A SPECIFIC TIME, that is, the immediately next meeting, is appropriate. The deferred item becomes the first item in the succeeding agenda. Care must be taken to not violate notice or time limitation requirements (as with #7, Motion to RECONSIDER).

18. Motion to EXTEND THE TIME TO ADJOURN S | ND | A | V

Having already fixed the time of adjournment (see #5, Motion to FIX TIME TO ADJOURN), the commission may nevertheless extend such time, but by a two-thirds vote.

19. Motion to ADJOURN S | ND | NA | V

While a motion to ADJOURN is always appropriate, planning commissions are obligated to expedite items on the meeting agenda. A Motion to ADJOURN is only used when all agenda items have been decided or remaining items have been DEFERRED TO SPECIFIC TIME (see #17).

An additional number of motions are necessary to facilitate the internal operations of the commission or acknowledge right of its members. The following motions have no order of precedence.

20. Motion to ADOPT or the converse motion to REJECT S | D | A | V

Action to incorporate, alter, or eliminate policies that guide the decision-making of the commission or board. Policy adoption requires only a voting majority; adoption of, or amendment to, by-laws requires a two-thirds vote. (For more on by-laws, see David Alor's "Keeping Things In Order: Planning Commission By-Laws, in PCJ #14).

21. Motion to REFER TO COMMITTEE S | D | A | V

Some larger planning commissions have provision in their by-laws allowing referral of specific issues to smaller committees for deliberation and subsequent recommendation back to the full commission. This does not delegate power to the committee to decide the issue.

22. Motion to DIVIDE A MOTION S | ND | A | V

Used when a motion has been both moved and seconded and is under deliberation, but where that motion is considered as complex. Any member of the commission may seek to divide the motion, thereby permitting independent votes on specific issues. Care must be taken not to divide a motion in such a manner as to subsequently make contradictory decisions among the features of the divided motion.

23. Action to WITHDRAW A MOTION NS | ND | NA | V

Where the mover finds that an initial motion is flawed, inappropriate, or premature, he or she may seek to withdraw the motion in its entirety. This action is not permissible if the original motion is either subject to an amending motion or has been amended.

24. Motion to SUSPEND THE RULES

S | D | A | V

Where, in extraordinary conditions, established rules would hinder rather than promote effective deliberation, specific rules may be suspended for specific time within a meeting --- the reasons for such suspension should be entered into the minutes of the meeting. Any suspension of rules requires a two-thirds vote. Great care must be taken under a suspension of rules to avoid the appearance (or the fact) of unfairness. No rule may be suspended which is otherwise required by law.

25. Action to RULE OUT OF ORDER

NS | ND | NA | NV

To assure the orderly progress of a meeting or hearing, the chairperson may rule individuals --- whether members of the commission, staff, or the public --- out of order where: (1) comments are irrelevant to the item under discussion, (2) comments have already been made, (3) the specified period of time in which to speak has expired, or (4) comments are disruptive to the order of the meeting.

26. Instruction to DISREGARD

NS | ND | NA | NV

To assure the objectivity of the hearings and meetings, the chairperson may instruct the members to DISREGARD comments and/or written or visual materials that are inflammatory or prejudicial. Such comments, however, are retained in any recordings or transcribed minutes of the meeting, and in the public record.

27. Motion to APPEAL THE RULING OF THE CHAIR

S | D | NA | V

A right of members of a commission to challenge the action of a chairperson, so as to ensure that proper procedures are followed, not to impede deliberation and decision.

28. A POINT OF ORDER

NS | ND | NA | NV

A right of members of a commission to request that the chairperson follow proper order. The intent is to assure proper progress of deliberation, not to contest action of the chairperson (as in #27 Motion to APPEAL THE RULING OF THE CHAIR). The point of order seeks to address an immediate concern, not debate larger procedural issues. Repeated use of A POINT OF ORDER to delay or frustrate decision is inappropriate and damages the continuity of deliberation.

29. A POINT OF INFORMATION

NS | ND | NA | NV

A right of members of a commission to request the specific inclusion or clarification of matters of fact from the chairperson.

30. A POINT OF PERSONAL PRIVILEGE

NS | ND | NA | NV

A right of any member of the commission to express matters of serious concern. For example, if a member of the commission is aware of a conflict of interest in a specific case, that member should at the time that the case is brought forward on the agenda, raise A POINT OF PERSONAL PRIVILEGE, declare that a conflict of interest exists, and withdraw from all further participation on that case. The member, having declared a conflict of interest, should leave the chamber until that case has been decided.

Article 11: Items relating to Joint Meetings of the City and County Planning Commissions regarding the Joint Jurisdictional Area

- The city and county chairpersons shall alternate presiding over the joint meetings.
- Whichever planning commission first makes a motion for an agenda item shall also be the commission that shall second the motion. A motion shall die for lack of a second. The meeting chairperson shall recognize any member of either planning commission who wishes to speak to the motion or the second. Following discussion on the motion, the chairperson of the planning commission that made the motion shall call for a vote on the pending motion.

Article 12: Quorum and voting requirements

- A majority of the appointed citizen members of the planning commission shall constitute a quorum; ex officio members shall not be counted within a quorum. A quorum must be in attendance before the commission can begin business or make recommendations. Special exceptions and variances require a two-thirds majority of the full board as required in SDCL 11-2-59.
- All members of the commission have one vote. Voting is by a verbal "yes" or "no" and shall be recorded in the minutes. The order of voting is to be rotated each month, with the chairperson voting last. No explanation of the vote is to be given at this time.
- A majority of the citizen members of the planning commission shall be required to pass a motion.
- All votes shall be taken by the Secretary in random order, except that the chairperson shall vote last.

- Abstention from voting shall not be counted in the determination of a motion but shall be recorded.
- In the event of a tie vote, the motion shall have been defeated.
- The chairperson has the same rights to propose motions and vote as any other member.
- Any member of the planning commission who feels he/she has a conflict of interest on any matter on the planning commission agenda shall voluntarily excuse him/herself, vacate his seat, and refrain from discussion and voting on the item as a planning commissioner.

Article 13: Requirements for the submission of requests

- Applications for certain actions that require public hearings (special exceptions and variances) need to be in the office of the zoning supervisor by 5 PM on the 2nd Tuesday of any month in order to be placed on the following month's agenda for action. Any plans or maps needed for the public and the planning board members to study before the meeting must be included with the application. Legal notice shall be publicized in the appropriate newspaper two weeks prior to the meeting when action is proposed to take place. Failure to comply with the application deadline will mean automatic delay of one month before action will be taken.
- The secretary of the planning commission shall certify the completeness of submissions.
- Certified requests shall be fully noticed under requirements of law and agendized on the planning commission calendar on the same day.
- Any request disapproved by the planning commission shall not be resubmitted for a period of six months.
- The County commission may establish a reasonable fee schedule in order to recover costs associated with notice publication, request processing, agenda, staff report and related materials (such as duplication and distribution); moreover, the planning commission may require the applicant to post signs on the affected property, in conformance with provisions of the ordinance, and to notify adjacent property owners, tenants, and community residents of the nature of the applicant's request.

Article 14: Instruments and documents of the planning commission

- The official instruments of the planning commission are the record of notice, the agenda, and the minutes of hearing, and meetings. Where in special cases the planning commission wishes to provide advice to the legislative body or

administrative agency, it may do so by resolution

- Any and all materials submitted to the planning commission regarding an item shall be entered into the public record by a motion to "Accept for the record."
- All notices, agendas, requests, agency or consultant letters or reports, citizen petitions, staff reports, minutes of hearings and meetings, and resolutions shall constitute the documents of the planning commission and shall be indexed as a matter of public record.

Article 15: Administrative calendar

- Notice for all hearings and meetings shall conform to requirements of law.
- The election of planning commission officers for the coming year shall occur at the annual meeting of the planning commission.
- The regular meeting schedule for the coming calendar year shall be determined determined at the annual meeting of the planning commission.
- Copies of the agenda, requests, staff reports, and related documents shall be delivered to each planning commission member no less than five working days prior to a public hearing and regular meeting.
- All maps, plats and other matters required by law are to be filed at the County Zoning Office.
- Matters referred to the commission by the County Commission shall be placed on the agenda for consideration and action at the next commission meeting.

Article 16: Conduct of the members of the planning commission

- The planning commission represents the whole community. Its principle responsibility is neither to the developer nor to the applicant. Members must be objective and make decisions that further the best interests of the whole community.
- Planning commission members must be committed to the concept of planning and zoning.
- Members must have the ability to grasp and discern the essential facts and issues of a problem and without becoming waylaid by side issues. They must have the strength to make decisions. The commission can pull together the different sides of an issue and try to reach an acceptable middle ground.
- Members of the planning commission shall take such time as to prepare themselves for hearings and meetings.

- Any citizen member of the planning commission absent from three consecutive regular meetings or any four regular meetings within a calendar year, without being excused by the chairperson, may be removed for cause.
- A planning commission member with a conflict of interest in an item before the commission must state that a conflict of interest exists and withdraw from participation in the public hearing, working session, emergency meeting, or regular meeting on that item.
- The interests of that planning commission member may be represented before the planning commission by a specifically designated representative or legal agent at the public hearing or working session, and testimony entered into the public record.
- When a member stands to gain or lose money as a result of a planning commission, the member should abstain and not participate in any presentation, discussion, or voting related to the item.
- If a planning commission member makes application to the planning and zoning commission on their own behalf, they will be permitted to make their presentation to the commission in the same manner that any other applicant would be allowed to do. However, they will abstain from discussion and voting related to the item.
- If at all possible, planning commission members who will not be able to attend the meeting should notify the planning office by 5:00 p.m. the day of the meeting or sooner.
- Planning commission members will not accept gifts from applicants with matters pending before the board.

Article 17: Conduct of persons before the planning commission

- During all public hearings and working sessions, members of the public shall be given equitable opportunity to speak. Comments should be addressed to the item before the planning commission. Where a comment is irrelevant, inflammatory, or prejudicial, the chairperson may instruct the planning commission to "disregard" the comment, which nevertheless remains in the public record.
- During all regular and emergency meetings of the planning commission, the public may be present but shall remain silent unless specifically invited by the chairperson to provide comment.
- During all planning commission proceedings, members of the public have the obligation to remain in civil order. Any conduct which interferes with the equi-

table rights of another to provide comment or which interferes with the proper execution of commission affairs may be ruled by the chairperson as "out-of-order" and the offending person directed to remain silent. Once having been so directed, if a person persists in disruptive conduct, the chairperson may entertain a motion to "eject" from the planning commission hearing or meeting. Where the person fails to comply with the successful motion to eject, the chairperson may then call upon civil authority to physically remove the individual from the chamber for the duration of hearing or deliberation on that item.

Article 18: Separability

- Should any article of the planning commission by-laws be found to be illegal, the remaining articles shall remain in effect.

Article 19: Adoption and amendment of by-laws

- By-law adoption or amendment shall be made following review by the legal counsel.
- The by-laws shall be adopted or amended upon a vote of a majority plus one of the citizen members of the planning commission.
- Adoption or amendment of by-laws takes effect immediately following a successful vote.
- The by-laws may be amended at any meeting of the planning commission provided that notice of said proposed amendment is given to each member in writing at least 2 weeks prior to the meeting.

The "Riggins Rules":

SUGGESTED DO'S & DON'TS FOR THE CONDUCT OF PUBLIC HEARINGS AND THE DEPARTMENT OF MEMBERS OF BOARDS, COMMISSIONS, & OTHER BODIES

1. **Don't accept an appointment** or nomination to a Board, Commission, or Council unless you expect to attend 99.9999 percent of the regular and special meetings, including inspection trips, briefings and public functions where your presence is expected. If your participation falls below 85 percent during any six months' period, you should tender your resignation. You aren't doing your job. You aren't keeping well enough informed to make intelligent decisions, and you are making other people do your work for you and assume your not inconsiderable responsibility. Your effectiveness and the regard given to your opinions by other members will be in direct ratio to your attendance.
2. **Do create a good impression of city government.** Remember that this is the first important contact that many of the people in the audience have had with the administration of their city and for some this is the most important matter in which they have ever been involved. Many will never be back again and many will never have another such contact and experience. Your performance will create in their minds the picture, which they will always carry with them of "the way the city is run." Make it as pleasant and comforting a picture as possible.
3. **Do be on time.** If the hearing is scheduled at 7:30, the gavel should descend at the exact hour, and the hearing begin, if there is a quorum. If you have to wait ten minutes for a quorum and there are 100 people in the room, the straggler has wasted two full working days of someone's time besides creating a very bad beginning for what is a very important occasion for most of those present.
4. **Don't dress like a bum.** Shave, wear a tie, and remember that a coat is never out of place. The people in the audience think you are a very important person. Don't disappoint them by your appearance, conduct, and attitude.
5. **Don't mingle with friends, acquaintances, unknown applicants or objectors in the audience** before the meeting or during a recess period, if it can be politely avoided. You will invariably create the impression with the uninformed that there is something crooked going on, especially when you vote favorably on the case of the applicant you were seen conversing with. When the other fellow's case comes up and you deny it, he says, "Well, it's easy enough to see that you've gotta know the right people if you ever expect to get anywhere around here." Save your socializing and fraternizing for some other time and place.

6. **Don't discuss a case privately** and as a single member of a body with applicant or objector prior to the filing and prior to the hearing if it can be politely avoided. In the event that it is not avoidable, and many times it is not, be very non-committal, don't be too free with advice, and by all means explain that you are only one member of the body, that you have not had an opportunity to study the matter thoroughly, that you have not seen the staff recommendation, and that you have no way of knowing what opposition there may develop or what will occur at the public hearing. Be certain that the person concerned understands that you cannot commit yourself in any manner, except to assure him that he may expect a fair and impartial hearing. Even if the case looks pretty good to you, it is wise to be pessimistic about his chances of securing approval. If you give him any encouragement and any advice and he is then denied, he will hate you until your dying day and tell everyone in town that he did just exactly what you told him to do and then, like a dirty dog, you voted against him.
7. **Do your homework.** Spend any amount of time necessary to become thoroughly familiar with each matter, which is to come before you. It is grossly unfair to the applicant and to the City for you to act on a matter with which you have no previous knowledge or with which you are only vaguely familiar. And you will make some horrible and disturbing decisions.
8. **Don't indicate by word or action how you intend to vote** during the portion of the hearing devoted to presentations by the applicant, presentations by any persons appearing in objection, and comments by members of the staff. During this period your body is the judge and the jury and it is no more appropriate for you to express an opinion as to the proper decision, prior to hearing all of the testimony, than it would be for a judge or jury member to announce his firm conviction in the middle of a court trial regarding the guilt or innocence of the defendant. This is not clearly understood by a majority of persons sitting on hearing bodies. It is not too difficult to phrase one's questions or comments in a manner that implies that you are seeking information rather than stating an irrefutable fact and that your mind is closed to further argument. One does not say "I happen to know that the applicant has no intention of placing an apartment building on this site. In fact, it has been sold subject to zoning and the purchaser intends to put a mobile home park here if he can get a special permit." Rather than this, one could say, "We have been furnished with some information which indicates that perhaps your plans are not too firm regarding the development you propose. In fact, there are some who are concerned about a rumor that the property is being sold and that the new owner planned to put a mobile home park at this location, if he can secure the necessary permit. Would you care to comment on this concern of the neighborhood and tell us if there is any truth in this rumor?" The same result is accomplished, the information is brought out and made part of the record and you don't look as if you are leading the attack to secure defeat of the applicant's request.

9. **Don't fail to disqualify yourself** if either directly or indirectly you have any financial interest in the outcome of the hearing, *and* let your conscience be your guide where it could be said that moral, ethical, political, or other considerations, such as personal animosity, would not permit you to make a fair and impartial decision. In disqualifying yourself, *do not* state your reasons inasmuch as the mere stating of your reasons can be construed as exerting undue influence on your fellow members. To avoid all accusations of undue influence, it is generally wise to leave the room and ask that the record show that you did so and that you did not indicate by word or action whether you were in favor of, or opposed to, the matter under discussion.
10. **Do rotate the seating** in some regular manner each successive meeting to prevent a "strong" member from gradually dominating a "weak" and indecisive member always seated next to him. This will also prevent the forming of little cliques or a not infrequent grouping of members to the left of the Chair who always oppose those to the right of the Chair, regardless of the merits of the case, to the great detriment of the applicant, the City and other interested parties.
11. **Do be polite and impartial;** as helpful as possible to the nervous, the frightened and the uneducated, and patient with the confused.
12. **Do be attentive.** Those appearing before you have probably spent hours and hours preparing and rehearsing their arguments. The least you can do is listen and make them think that you are as interested as you should be. Refrain from talking to other members, passing notes and studying unrelated papers.
13. **Don't interrupt a presentation** until the question period, except for very short and necessary clarifying remarks or queries. Most applicants have arranged their remarks in a logical sequence and the thing about which you are so concerned will probably be covered if you can force yourself to be quiet for a few minutes. You can wreck his whole case by a long series of unnecessary questions at the wrong time. He will be your enemy forever.
14. **Don't permit more than one person** at the podium and microphone at any one time.
15. **Don't permit a person to directly question or interrogate other persons in the audience.** All questions should be addressed to the Chair and to the hearing body. When this person has finished his discussion and stated the questions to which he would like to have answers, then the Chair will permit those who care to make an answer to come forward and do so, but only voluntarily. Do not permit anyone to demand answers to all and sundry questions, especially if it is obviously done for the purposes of harassment.

16. **Don't use first names** in addressing anyone at all during the course of the hearing. This includes audience, applicants, members of your particular body, even if the person concerned is your brother or your best friend. Nothing, repeat nothing creates a more unfavorable impression on the public than this practice. It is poor "hearing manners," destroys the formality of the occasion, and makes the uninformed certain that some sort of "buddy buddy deal" is about to be consummated. If you just can't bring yourself to calling someone Mr. or Mrs., use the third person form and call him "the applicant," or "the person who is objecting," or "the gentleman (or lady)," who is appearing here in connection with this case.
17. **Do show great respect for the chair**, always addressing the Chairman as "Mr. Chairman," "The Chairman," or "Chairman Jones," and always wait to be recognized before continuing. This will set an example for applicants and others wishing to be heard and will contribute a great deal toward the orderliness of the proceedings.
18. **Don't be critical** of attorneys who sometimes feel impelled to give unnecessarily lengthy presentations on behalf of their clients. Avoid the strong temptation to make matters as difficult as possible for them. They are just trying to make a living and must convince their clients that they are really earning the rather substantial fee, which they feel, their service merits.
19. **Don't indulge in personalities** and don't permit anyone else to do so.
20. **Don't try to make the applicant or any other person appearing before you look like a fool** by the nature of your questions or remarks. This is often a temptation, especially when it is apparent that someone is being slightly devious and less than forthright in his testimony. But don't do it. If you must "expose" someone, do it as gently and kindly as possible.
21. **Don't become involved in altercations.** Some persons seem to come to hearings with the express purpose of "telling them guys down there how the cow ate the cabbage." If you answer their irrelevant rantings, you are immediately involved in a fight.

Don't answer or try to defend yourself. You are there to hear testimony and make decisions based thereon, not to head up a debating society. Remember, you are the judge and the jury. In most cases, it is sufficient to say, "thank you very much for coming here and giving us the benefit of your thinking. I am sure that the members of this body will give your remarks serious consideration when they are making their individual determinations on the merits of this case. Is there anyone who wishes to be heard?"

22. **Do invite interested persons to come forward** where they can see when an applicant is discussing or talking from a diagram, site plan, or exhibit which is not visible to the audience.

23. **Do not permit people to speak from the audience.** If it is important enough for them to speak at all, it is important enough for them to be recognized, come forward, give their name and address and say what they care to, if their remarks are pertinent.
24. **Do not permit people to leave the podium and microphone** and approach closer to the hearing body except in unusual circumstances, usually to show a small exhibit or to explain some detail. This ordinarily breaks down into a small mumbling session at one of the dais with one or more members of the hearing body; the others are uncertain about what is going on. The conversation usually does not get recorded, cannot be heard by the audience, and is almost impossible to control from the Chair.
25. **Don't become involved in neighborhood quarrels** or wind up as the referee even if you are a veritable Solomon. No matter how fair or impartial you should be, both sides will be mad at you. Stick to the merits of the case and rule out-of-order testimony which is irrelevant, personal, hearsay, and not pertinent to the matter being heard.
26. **Don't be vindictive and "punish" the applicant** for some real or imagined affront to you or your Body on some previous occasion, perhaps bearing no relation to the present hearing. It must be assumed that he is there legally, he has a right to be heard, and he has a right to a fair and impartial hearing on the merits of his present case without reference to something, which he might or might not have done in the past or will perhaps do in the future.
27. **Don't try to be a hero** to beautiful women, little old ladies, widowed mothers with tiny infants in their arms, and the financially and socially distressed. Be sympathetic, but objective, and don't get carried away with such a strong desire to help that you throw the rulebook out the window. Ninety nine times out of a hundred you will do them some questionable service at the expense of their neighbors or the City and your kind-hearted action will come back to haunt you much sooner than anyone could have imagined. Stick to the rules.
28. **Don't assume the role of a fairy godfather** to those who have become involved in bad business deals or other self-imposed difficulties.
29. **Do not fail to give a reason** when making a motion for approval or denial of an applicant's request. If you fail to do this, the applicant, any objectors, a reviewing body of higher authority, or the courts may well assume that your decision was an arbitrary one not supported by the facts and should be reversed. Always mention the staff recommendation.
30. **Do not take staff recommendations lightly.** These recommendations are made after much study by professional people with years of experience in their field and are based on pertinent laws ordinances regulations, policies, and practices

developed by you and your predecessors. The recommendations of a good staff in possession of all the facts will almost always produce a technically correct recommendation.

Your job is to temper this recommendation with information developed during the hearing, which was not available to the staff. It is not unusual for a staff to voluntarily reverse or change the details of its recommendation during the course of a hearing. Always announce the staff recommendation prior to hearing any testimony and always make appropriate mention of it in the final decision.

31. **Don't forget that the staff is there to help you in any way possible.** It is composed of very capable professional people with vast experience. Lean on them heavily. They can pull you out of many a bad spot if you give them a chance. Or they may just sit and let you stew, if you do not give them the respect, which is their due.

Remember that their usual practice is to remain silent unless they are specifically asked to comment. Most of them consider it presumptuous and unprofessional to inject any unsolicited comments into the hearings. Always ask them to comment prior to the final vote.

32. **Don't try to answer technical questions** even if you are sure that you know the answer. You probably don't and will wind up looking like a fool. Refer these matters to the staff. That is one of the things they are there for. They have intimate day-by-day working experience with all pertinent ordinances and can nearly always give a timely, up-to-the-minute, professional dissertation on any subject in their field. And besides, it makes them more important and helps create an image of competency, which is most helpful in assuring the public that their case has received more than a cursory glance and an arbitrary decision.

Lay members of a hearing body who "explain" ordinances to the audience usually wind up their less than accurate remarks with the pretty lame comment, "That's the way I understand it and if I am wrong, I would appreciate it if the staff would correct me." The staff usually does correct them, and ordinarily at some length. Don't try to show how smart you are, because you're not.

33. **Don't try to ease your conscience and toss the applicant a bone** by granting him something less than he asked for, something he doesn't want, and something he can't use. In *all* cases where it is appropriate, give him what he asked for or deny it. To do otherwise will only encourage applicants to ask for the "moon and the stars" in the hope that they will, at the worst, get the minimum requirements. A reputation for approving or denying applications as filed will result in much more realistic requests and make your job much easier.

34. **Do vote by roll call**, except for routine administrative matters. This is wonderful character training for each member of the body and emphasizes the "moment of truth" when he must look the applicant in the eye, make his own individual decision, and say "*aye*" or "*nay*" in a loud clear voice, all alone, with no one to hide behind. The alternate voting method is difficult for the Secretary to record, doesn't mean anything on a tape recording, is many times quite confusing, and gives cowards an opportunity to change their minds and vote twice when they are caught in the minority.
35. **Don't show any displeasure or elation**, by word or action, over the outcome of a vote. This is very bad hearing manners and won't lead to the maintenance of a friendly cooperative spirit among members of a Body. It will lead to the creation of little cliques whose members vote in a block and become more interested in clobbering each other than in making fair and equitable decisions.
36. **Do discourage any post-mortem remarks** by applicant, objectors, or members after the final vote and decision is announced, especially those afterthoughts designed to reopen the case. It will invariably result in an unpleasant wrangle. Just say, "I'm sorry, but the final decision has been made. If you wish to submit additional testimony, it will be necessary for you to state your reasons by letter and the Body will decide at a subsequent meeting whether or not they wish to reopen the case. The next case on the agenda will be -----."
37. **Do not hesitate to continue a case or take it under advisement** if more information or greater deliberation is truly necessary, but do not use these administrative actions merely to avoid or delay making a decision before a hostile applicant or audience.
38. **Do sit down and have a long soul searching session with yourself** if you find that you are consistently "out in left field," that no one seems inclined to second your profound motions, and that you are quite often a minority of one. You might be theoretically right, and probably are, but give some thought to what is practical, possible, and just. Don't be "stiff-necked" in your opinions. Give a little.
39. **Don't select chairmen on a seniority basis alone** and *don't* pass the office along from member to member as a reward and honor. The nicest guy in the world, the hardest working, the most interested and your most valuable member can be indescribably horrible in the Chair. This is just one of those facts of life which is hard to explain, but, unfortunately, all too true. As occasion presents itself, give prospective chairmen a chance to preside, head up a subcommittee, report on special projects, and otherwise prepare themselves and demonstrate their abilities and leadership under pressure.

by Fred Riggins

[Editor's Note: The "Riggins Rules" were brought to my attention by Bev Moody. Bev spent 26 years with the City of Phoenix Planning Department before moving to his current position with the Arizona Department of Commerce. During that time he knew the late Fred Riggins, a former Chairman of the Phoenix Planning Commission and author of these "Suggested Do's and Don'ts" (since re-titled the "Riggins Rules" in his honor). Bev Moody notes that the Riggins Rules have been left just as Fred Riggins wrote them in 1967 "because in their bluff, crusty, no-nonsense style, the man himself shines through." As Bev further explains, "you may notice that Mr. Riggins did not follow the principles of non-sexist language that prevail today ... please be forgiving as he was raised in and wrote these in less sensitive times – and it doesn't detract from the good advice he offers."

Being a Planning Commissioner

by Steven R. Burt

They jump into the middle of their neighbors' business, staying up late at night to attend meetings, attempting to play Solomon. If they had any sense, they'd be at home playing cards. Around the neighborhood they may be considered opinionated, nosy, busybodies, or "butt-in-skis." But around City Hall they're accorded the title of "planning commissioner." Whether it's an honor or a burden depends on what you're able to make of it.

Allow me to share with you ten lessons learned from nine years' service on a local planning and zoning commission lessons that might help make being a planning commissioner more of an honor, and less of a burden.

1. **Your Obligation to Contribute.** Recognize that you have an obligation to contribute to your planning and zoning meeting, even if you don't have a set of initials following your name and can't name the planner who laid out the streets of Paris. It's not a "chance" to contribute; it's an "obligation" by virtue of your appointment. Study any staff reports, maps, and the like, and come prepared to contribute. If you can't muster the interest to have an opinion, get off the commission. Planning commissions are places for people who care and want to make a difference to their communities. They're not the place for fence-straddlers who are unable to make up their mind.
2. **Figure Out Why You're There.** I don't mean you personally, but the commission as a whole. Are you making a recommendation to a city council? Are you making a final decision? What are the limits to your authority?

Understand your role in the planning process and who are you responsible to. The mayor or council who appointed you? Your neighbors? The general plan? It's like suddenly coming on stage in the middle of a play and being asked to act out a role: if you don't know your part, and how it fits in with everyone else's, you'll be an embarrassed failure.

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Planning commissions serve a valuable function by taking land-use conflicts out of the political arena (in theory, anyway) and into that sane, levelheaded sphere governed by "rules of good planning." Make no mistake, every issue that comes before you will involve some kind of land use conflict, and in spite of the theory some will be politically supercharged. See through it.

3. **Identify Interests.** Learn the difference between personal interest, special interest, private interest, and public interest. Everyone with any interest in a decision has a personal interest of some type. As a planning commissioner, however, you, have to be wary of also having a conflict of interest. If you stand to gain financially, or in some way apart from the manner in which the community will benefit from your decision, ask yourself some hard questions. Better that you ask them, than someone else.

Special interests are easy to identify. They're usually well financed, well-organized, and have a narrow focus, wielding influence far out of proportion to their standing. Recognize them for what they, are. Private interests will be what most people bring to the commission meeting, while public interest will be that rare quality that you'll see in yourself and almost no one else! Try to develop some perspective on this. Every issue will likely come down to competing interests; learn to recognize and balance them fairly.

4. **Ask the Right Questions.** Learn to ask the right questions of applicants, staff, and the public and don't assume the unstated. If you ask the wrong kinds of questions the answers will be meaningless. For example, it may be "logical" that a developer would only propose development on safe, stable soil. It seems "logical" that he wouldn't want to risk future problems with development on soil of unknown or unstable characteristics. He may even profess to "value" safe, well-engineered projects. Everyone values safety, surely. But neither issue of "logic" or "value" has anything to do with the reality of whether the soil is stable or not. Don't take things for granted. Ask the right questions, and make sure of the fact that the soils are indeed stable.
5. **Ask the Hard Questions.** My favorite is, "Is this just your idea, or do you have any cadence to back it up?" No category of comment is more common at a zoning hearing than unsubstantiated "fact." Comments like, "It will decrease my property values," or "The traffic impacts will hardly be noticeable" will plague you all your days. Sift through the testimony for relevant planning information corroborated by evidence. Keep in mind that aside from expert witnesses, and without evidence, one persons opinion is just about as valid as another's. Be fair, but be discriminating in what you choose to accept as truth.
6. **Have a Method for Evaluating What You Hear and See.** Not everything can be reduced to a mathematical formula, or correspond to a diagram in a book. Your zoning code will only be a guideline. Its application and interpretation is your job. If evidence is in conflict or inconclusive, use the principle of "Ockhams Razor": the simplest explanation is probably the truth.

Clarify issues with some kind of thought organizing system. I've mentally drawn the Quadrant Diagram above in my mind hundreds of times. Issues that end up as Desirable and Necessary for the community, or Undesirable and Unnecessary are no-brainers. The really tough decisions are found in the other two quadrants — especially the Undesirable but Necessary.

7. **You Are What You Eat.** Learn what not to eat prior to a meeting (do I have to say it?) and then don't eat it. Don't chew gum in the microphone. Don't apply cosmetics, lipstick, or lotion during the meeting. Remember that actions sometimes speak louder than words. Make a personal list of things not to do with your nose or other body parts during the meeting. Use discretion in determining when it's appropriate to laugh, eat, or feign sleep. Above all, keep in mind that the meetings you participate in might be the only time a good percentage of the public will ever encounter their local government. Be patient, and act professional. Then make your decisions and votes with a firm, sure sound. No whimpering out.
8. **Making Motions.** Learn to form a coherent motion. Write it out in advance if you have to. Be aware that the motion maker has a decided advantage in influencing the outcome of a vote. Often, if there is indecision on the part of one or more commissioners, the person making a clear, strong motion will carry votes to his or her position. If there are two sides forming up in discussion, don't be caught unprepared to make a motion to support what you believe. And if you do make the motion, frame it clearly. Speak up and make the motion with conviction.
9. **No Excuses, Please.** Don't feel obligated to justify your votes or respond to criticism in a meeting. Nothing (with the possible exception of arguing with someone in the audience) can undermine your authority more than the appearance of making an excuse for a decision. That doesn't mean that you cannot or should not explain what is going on in the meeting; usually the public doesn't understand the process or your role in it. Take time, if necessary, to briefly explain to everyone what is occurring and what the basis of your decision will be. As a body you have the responsibility to make a decision. Then, after due consideration, make it your decision and move on. You don't need to convert anyone to agree with you. Take control of the meeting and keep it.
10. **Don't Apologize for Being a Planning Commissioner.** Sometimes developers or citizens may make you feel uncomfortable for even being in a position to render a decision. Don't fall into that trap! Acting properly, planning and zoning commissions perform a valuable service to the community as a whole. Since most communities make substantial investments in plans, parks, roads, sewer systems, and so on, they have every right to exert reasonable control, through planning and zoning, over how private development affects the community's built environment and whether development conforms to the adopted master plan and ordinances.

SUMMING UP:

So there it is — ten tips gleaned from nine years. It's not all that much, and it's not complex. Yet there is nothing easy about being a planning commissioner — not the time commitment, not the study and deliberation, and not the uncomfortable position of never being able to satisfy everyone. It's an easier place to lose friends than to make them, and for every successful moment there are hours of frustration. Honor or burden — you decide. But once you've sat in the position, your perception of the place you live will never be the same. It will be your city, your county, or your town in a way it never was before. Hopefully, it will bear the mark of your care, your concern, and, from time to time, even your courage. I wish I could tell you that if you follow these tips you'll make no mistakes. But I can't. And I wish I could tell you that your hard work will all pay back someday and that the issues you've helped decide will make life better for everyone. But I can't. What I can tell you is this: You didn't take the job for what you could get out of it. You took it for what you felt you could give. Focus on that. Work at it. Live with it. Then you'll likely find serving as a commissioner an honor, not a burden.

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Just What is Your Planning Commission's Role?

By Elaine Cogan

Though planning processes vary among communities, the commonality we probably share is the belief that government has a role in planning and managing orderly growth. The difference is in the details. How do planning commissions and commissioners view their roles in the process?

This is more than an esoteric issue, for how you perceive yourselves individually and as a unit underlies how and why you make decisions. It also can be a basis for explaining your actions to elected officials and citizens.

One way of looking at the question is to ask whether you view your role primarily as that of: (1) a defender of the status quo; (2) a citizen voice in the planning process; or (3) an advocate for planning principles or a particular planning style? Assuming that most of you would answer you are "a little bit of this and a little bit of that," the question still is relevant: what are you most of the time? While painted with a broad brush, the following descriptions may help you and your fellow commissioners think about your basic philosophical underpinnings.

Is your planning commission a defender of the status quo? Are you reluctant to break new ground or consider new ideas? You can judge if this "shoe fits" if you view your role as administering the community's zoning code —leaving policy matters (including changes in land use policy) to others. Such commissions often serve principally as development review boards, concentrating their time and energy to review how projects conform to existing zoning standards.

Is your planning commission primarily a voice for citizens in your community? Planning commissions that see themselves in this role tend to believe that any rules or regulations that may impede access or services for citizens can and should be changed. Within this context, planning board meetings are likely to be prolonged affairs where citizens and commissioners have carte blanche to speak as long as they like, and it is difficult for board members to know when they have heard enough to make a decision. Moreover commissions that consider themselves a

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citizen voice may have difficulty determining which "citizens" they represent. For example, does an individual who has lived in the community all his life but is now a controversial developer lose his "citizen status" to newcomers who represent today's politically correct neighborhood or environmental interests?

Is your planning commission primarily an advocacy group? Of the three, this implies the most active role for a planning board. As advocates, commissioners make tough decisions based on strongly held beliefs or points of view. Advocacy also implies a willingness to speak out in other forums... newspaper opinion columns, speeches to community groups ... and to try to convince others. At meetings, commissioners may tolerate and be polite to staff or citizen views that differ from their own, but the commissioners' own opinions are stated clearly and difficult to change. Advocates take a high profile, and their victories — as well as their defeats — are well known in the community. Which of these must accurately defines your commission's situation?

If you are a defender of the status quo, are you confident that your current zoning regulations and plan policies adequately meet your community's needs for the future?

As a citizen voice, do you try to find out how most people might be affected by matters before you and take that into consideration as you make decisions?

Or as an advocate, are there lines you will not cross, principles you will not violate, even in the face of determined opposition?

You and your commission need not take on one of the above roles to the exclusion of others. But taking the time to examine what unique combination of these attributes makes the most sense in your community may be a valuable exercise.

Elaine Cogan, partner in the Portland, Oregon, planning and communications firm of Cogan Owens Cogan, is a consultant to many communities undertaking strategic planning or visioning processes. Her column appears in each issue of the PCJ.