



AGENDA ITEM #: 40

MEMORANDUM

TO: Metropolitan Planning Commission
FROM: Mark Donaldson, Executive Director
DATE: Wednesday, December 04, 2013
SUBJECT: Amendments to MPC's Administrative Rules and Procedures, adding MPC's Record Management Policy
12-C-13-OB

STAFF RECOMMENDATION:

Approve an amendment to Administrative Rules and Procedures, adding a Record Management Policy.

BACKGROUND:

MPC adheres to statutory requirements for management of public records pursuant to Tennessee Code Annotated Title 10: Public Libraries, Archives and Records, Chapter 7: Public Records. Further, MPC consults state-authorized records management guidelines provided by County Technical Assistance Service (CTAS) in Records Management for County Governments (2013), following retention schedules for several types of records, including, but not limited to, planning and zoning records, accounting records, and employment records.

While MPC has followed the statutory requirements for public record access, retention, and storage, it was determined that agency policy and practice should be articulated in a written statement and included in the agency's Administrative Rules and Procedures. The policy basis (background) and policy statement will appear in Appendix F of the document.

APPENDIX F

KNOXVILLE/KNOX COUNTY METROPOLITAN PLANNING COMMISSION

RECORDS MANAGEMENT POLICY

November 20, 2013

MPC RECORDS MANAGEMENT POLICY

A. POLICY BASIS

1. Statutory Authority

In the course of its daily functions, the Metropolitan Planning Commission generates many records, most of which are considered “public records.” State law defines public records and specifies requirements for access, retention, and disposal in Tennessee Code Annotated (TCA) *Title 10: Public Libraries, Archives and Records, Chapter 7: Public Records*.

Further guidance for records management is provided by The University of Tennessee’s County Technical Assistance Service (CTAS). CTAS is authorized by the state to assist county offices in records management policies and practices. Its guidelines are published in *Records Management for County Governments* (2013).

2. Public Records Defined

The State of Tennessee defines public records as follows:

“Public record or records” or “state record or records” means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency. (TCA 10-7-301 (6))

Additional examples include budget documents, payroll documents, contracts, vendor vouchers, revenue reports, audit reports, and personnel files.

3. Public Records Commission

State requirements call for establishment of a county public records commission, charged with the responsibility to determine and order the proper disposition of local public records:

In order to provide for the orderly disposition of public records created by agencies of county government, the county legislative body shall create within the county a county public records commission. (TCA 10-7-401)

A public records commission has been established for Knox County. The Knox County Public Records Commission makes known to county departments the rules, regulations, standards, and procedures pertaining to record disposition.

Disposition of records includes:

- Destruction of records in their current file area
- Transfer of records to a county records center and subsequent destruction after expiration of an authorized retention period
- Permanent retention of records

Disposition of public records occurs through the process of an approved records disposition authorization, or RDA (TCA 10-7-509). Destruction of records must be authorized by the records commission in accordance with the RDA.

4. Knox County Records Management

The Knox County Records Management Department has been created to meet the public record keeping provisions of state law. Knox County Records Management stores, provides access, and preserves public records on behalf of the county's departments. Any county office may request to participate in the records management program, and MPC has elected to participate.

The county's records management department operates with an adopted record keeping policy, *Knox County Records Management Policy and Procedure Manual* (1995), compliant with statutory requirements of TCA and guidelines administered by CTAS.

Knox County Records Management policy covers:

- Records retention schedule
- Records disposition authorization
- Inactive records
- Public access to records
- Maintaining confidential records
- Alternative storage media
- Interacting with county public records commission

Knox County Records Management serves as a "secondary custodian and is legally responsible for the proper maintenance and integrity of all records placed in its custody. The office that transferred the records to the custody of the county records center remains the primary owning office" (*Knox County Records Management Policy and Procedure Manual*, p. 9). Accordingly, even while MPC's inactive¹ temporary and permanent records are stored in the care of Knox County Records Management, MPC retains full ownership of its records, and no other office has access to those records without MPC consent.

5. Types of Public Records and Retention Requirements

Management requirements of public records vary by type of record, which includes working papers, temporary records, and permanent records. The important difference in the three types of records is the retention requirement.

a. Working papers

The State of Tennessee defines working papers as follows:

"Workings papers" means those records created to serve as input for final reporting documents, including electronic data processed records, and/or computer output microfilm, and those records which become obsolete immediately after agency use or publication. (TCA 10-7-301 (14))

Additional examples include meeting notes, reference materials, copies of reports, general correspondence, interoffice memoranda, bulletins, and research documents.

¹ The Tennessee State Library and Archives defines *inactive records* as "records you must keep but do not need every day." *Active records* are defined as "those still being used by an office to do work, or needed for frequent reference. There is no precise definition in terms of time spans because the status depends on need, not an arbitrary term limit." (*Managing Inactive Records and Archives: Guidelines and Models for Local Governments*, 1999.)

Working papers can be discarded immediately after use. Meeting notes, rough drafts of reports, and other small records routinely generated in the course of a day are typically considered working papers. If a record becomes obsolete after use, it is considered a working paper.

According to CTAS guidance,

Any public record defined as a working paper may be destroyed in accordance with the rules and regulations adopted by the public records commission that oversees the document destruction process without retaining the originals of such record and without further review by other agencies. Any rules and regulations of a public records commission regarding working papers should be liberal, allowing county officials to eliminate these records as easily as possible before they become burdensome. Many working papers generated by county offices are extremely informal types of records. (Records Management for County Governments, p. 45)

b. Temporary records

The State of Tennessee defines temporary records as follows:

"Temporary records" means material which can be disposed of in a short period of time as being without value in documenting the functions of an agency. Temporary records will be scheduled for disposal by requesting approval from the public records commission utilizing a records disposition authorization. (TCA 10-7-301 (13))

Financial and payroll records are examples.

If a record needs to be retained for some reason after initial use, it is at least a temporary record. Most retention periods are short (three to five years) and, therefore, it is simplest to keep most temporary records in their original paper format during the retention period. Temporary records can be destroyed after their pre-determined retention period has expired and approval is granted from the county public records commission.

c. Permanent records

The State of Tennessee defines permanent records as follows:

"Permanent records" means those records which have permanent administrative, fiscal, historical or legal value. (TCA 10-7-301 (5))

Examples include deeds filed in a registers office, minutes of a county commission, and records useful for statistical or planning purposes.

Permanent records, or archival records, have enduring value and are held indefinitely, processed in accordance with standard archival practices, and made available for research.

According to CTAS guidance,

Permanent records are records of such value that they must always be retained in some kind of permanent format. Examples of permanent records are the deeds filed in a registers office, the minutes of the county commission, and the original process in a civil or criminal proceeding. Some records, like deeds, are kept permanently because the record continues to have legal significance in perpetuity. Other records are permanent because they preserve certain information about the way we live and conduct government and are therefore valuable historically. Still others are useful for statistical

or planning purposes. Then there are those that are permanent simply because there are laws that have declared them to be so. All of these need to be kept in such a manner as to preserve them indefinitely. (Records Management for County Governments, p. 46)

d. CTAS retention schedule for planning and zoning records

Knox County Records Management follows the document retention schedule prepared by CTAS and approved by the Tennessee State Library and Archives. CTAS has established a retention schedule for Planning and Zoning records, specific to county offices that oversee planning and zoning, that is, MPC in Knox County. The retention schedule is presented in the final section of this document.

Additional records, such as employment, accounting, and purchasing records, are kept by many county departments, including MPC. These types of records are retained in accordance with schedules defined by CTAS also. Refer to CTAS manual, *Records Management for County Governments* (2013) for details.

6. Records Officer

TCA establishes provisions regarding duties of county officials in Title 8, Public Officers and Employees. For most offices, a requirement is included to keep and preserve specific types of records. As characterized by CTAS,

It is the solemn obligation of each county official to act as the legal custodian of the records of that office, to provide for their security and care, and to turn them over in good order to his or her successor. (Records Management for County Governments, p. 7)

Accordingly, state law requires the designation of a Records Officer in each department, commission, board, or agency to oversee state record keeping functions (TCA 10-7-304). Since county governments are instrumentalities of the state, requirements for designating a Records Officer apply to county offices.

The Records Officer is responsible for duties outlined by Tennessee Secretary of State, Records Management Division, *Records Management Basics* (2013) (adapted here for local/MPC applicability):

- Manage agency records, ensuring the appropriate development, utilization, disposition, retention, and destruction of records
- Ensure compliance with procedural guidelines for paper and electronic records retention
- Attend training provided by the county records management department and educate agency record coordinators on best practices and any new policies and procedures
- Serve as administrative liaison between the agency and the county records management department
- Create and submit records disposition authorizations (RDAs) to the county records management department for review and approval whenever a new record series is created
- Keep the agency's RDAs current and submit revision and deletion requests when necessary
- Ensure compliance with statewide retention schedules
- Create and submit certificates of records destruction to the county records management department each time the agency needs to destroy records
- Create and submit records holding reports periodically to report on record growth to the county records management department
- Arrange for the delivery or retrieval of records to/from the records center

7. Public Access to Government Records

TCA 10-7-503 provides for public access to government records. Key elements include:

- All state, county, and municipal records shall, at all times during business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.
- The custodian of a public record shall promptly make available for inspection any public record not specifically exempt from disclosure. In the event it is not practicable for the record to be promptly available for inspection, the custodian shall, within seven business days:
 - make the information available to the requestor;
 - deny the request in writing or by completing a records request response form (the response shall include the basis for the denial); or,
 - furnish the requestor a completed records request response form stating the time reasonably necessary to produce the record.
- Failure to respond to the request shall constitute a denial, and the person making the request shall have the right to bring an action as provided in TCA 10-7-505.
- A governmental entity or public official is not required to sort through files to compile information, however, a person requesting the information shall be allowed to inspect the nonexempt records.
- A governmental entity or public official is not required to create a record that does not exist.

CTAS provides a summary characterization of state law regarding access to public records:

Every effort should be made to provide reasonable accommodation to parties requesting access to records; however, providing this service need not prevent the performance of other duties of the office. A request to see every record of an office and make a photocopy of each of them could obviously bring the entire operation of an office to a halt. For this reason, the official who has custody of the records is also authorized by law to adopt and enforce reasonable rules governing the making of extracts, copies, photographs or photostats of the records. These regulations should be reasonable and not interfere with the intent of the legislature to provide broad public access to records. The official with custody of the record should strive to balance the right to access records with his or her responsibility to preserve and protect the records. Regulations should be tailored to accommodate requests in a timely manner while allowing for the continued efficient functioning of the office and for the preservation and security of the records. Regulations that are intended to frustrate the ability of a citizen to access records will likely be found unreasonable and struck down by the courts. (Records Management for County Governments, p. 16)

B. MPC RECORDS MANAGEMENT POLICY

MPC will adhere to statutory requirements for management of public records pursuant to Tennessee Code Annotated *Title 10: Public Libraries, Archives and Records, Chapter 7: Public Records*.

MPC also will consult state-authorized records management guidelines provided by County Technical Assistance Service (CTAS) in *Records Management for County Governments* (2013). MPC will follow CTAS retention schedules for several types of records, including, but not limited to, planning and zoning records, accounting records, and employment records.

The MPC Executive Director and his/her designee(s) will serve as the agency's Records Officer(s), overseeing record keeping for the agency, assuming responsibility for access, retention, and disposal of agency records.

Under authorization of MPC's Executive Director, the agency will voluntarily participate in the records management program of Knox County Records Management (KCRM), with that organization acting as secondary custodian of MPC's inactive temporary and permanent records. While MPC records are in the care of KCRM, MPC will comply with the records disposition authorization of that organization and the Knox County Public Records Commission. MPC's Records Officer(s) will coordinate with KCRM to ensure compliance with the state's statutory requirements, policies, and procedures for records management.

MPC retains full ownership of its records held at the KCRM facility. Accordingly, no other agency or individual has access to those records without MPC consent. Inspection requests by the public, other agencies, or MPC staff must be made through MPC's Records Officer(s). MPC records will be temporarily removed from the KCRM facility and brought to MPC's offices where inspection will be permitted. Record removal policies and procedures of KCRM will be followed for such requests. Alternatively, KCRM can accommodate individuals at their facility if immediate access to MPC records is requested. In such instances, the requestor must first contact MPC's Records Officer(s) to identify specific storage locations at the KCRM facility. Without that information, KCRM staff may be unable to fulfill the records inspection request in a timely manner.

MPC, at its sole discretion, may withdraw from participation in the Knox County Records Management program at any time.

A portion of MPC's records are kept in the agency's offices. These records include, but are not limited to, active planning and zoning records, accounting records, and employment records that have temporary and permanent retention requirements, as well as working papers from active MPC projects. Records held in MPC's offices are available for inspection by the public, other agencies, or MPC staff. Requests for inspection must be made through the agency's Records Officer(s).

Requests for inspection of MPC records will be met in a timely manner, consistent with statutory requirements. Further, fees for copies of records may apply, as allowed by state law.

C. RETENTION SCHEDULE FOR PLANNING AND ZONING RECORDS

County Technical Assistance Service, *Records Management for County Governments* (2013) provides a retention schedule for Planning and Zoning records, presented here:

REF. NO.	CATEGORY	DESCRIPTION	RETENTION PERIOD	LEGAL AUTHORITY / RATIONALE
19-001	Board of Zoning Appeals Action	Application or documentation for hearing and decision before Board of Zoning Appeals.	Application - one year after application. Disapproval - one year after action. Approved Action - permanent.	Statute of limitations. Variance runs with land. Decisions related to uses on appeal or special exceptions continue as long as the use continues.
19-002	Building Inspection and Similar Reports	Reports building inspection and codes enforcement activities showing date, name of inspector, location inspected, etc.	Retain current inspection report until a new inspection report is received, as a minimum. Retaining three years is recommended.	For each jurisdiction adopting and enforcing its own codes, records are audited by the State Fire Marshall's Office at least once every three years.
19-003	Comprehensive Growth Plan	Plans required in accordance with the TN Growth Planning Law (Public Chapter 1101) that indicate Urban Growth Boundaries, Planned Growth Areas and Rural Areas, plus any supporting documentation, side agreements, minutes of the coordinating committee, etc.	Permanent record.	Documents must be retained to provide evidence of their existence and proof of their lawful enactment. Superseded documents have historical and legal value.
19-004	Minutes of Commissions and Boards	Recorded minutes of the Planning Commission and Board of Zoning Appeals. All recorded actions of Planning Commission and Board of Zoning Appeals, including records of members present and their votes on matters presented, the nature and results of votes.	Permanent record.	Actions recorded in minutes are effective until superseded or rescinded. Keep for historical purposes.
19-005	Plan and Plat Records	Drawings and blueprints of farms, subdivisions, cemeteries, city lots, and street improvements, showing name of subject, date of drawing, boundaries, scale used, location, name of engineer making survey, name of draftsman, and certificate of registration.	Permanent record.	Could have bearing on land title.
19-006	Regional Plan or Major Road Plan	Plan developed by the Planning Commission to designate major infrastructure and promote orderly and coordinated economic growth and development for the region.	Permanent record.	Documents must be retained to provide evidence of their existence and proof of their lawful enactment. Superseded documents have historical and legal value.
19-007	Reports / Recommendations of the Planning Commission to the Governing Body	All transmittals to governing body with recommendations regarding zoning, annexations, etc.	Permanent record.	Keep for historical purposes. If reports are included and incorporated into the minutes of the Board, there is not a need to keep additional copies separate from the minutes.

REF. NO.	CATEGORY	DESCRIPTION	RETENTION PERIOD	LEGAL AUTHORITY / RATIONALE
19-008	Request for Zoning Change	Request for permanent change to zoning map.	Retain for five years.	Appeals.
19-009	Studies and Reports of the Planning Commission	All studies and reports, including infrastructure studies, future facilities plans, etc.	Permanent record.	Keep for historical purposes.
19-010	Subdivision Regulations		Permanent record.	Documents must be retained to provide evidence of their existence and proof of their lawful enactment. Superseded documents have historical and legal value.
19-011	Zoning Map and Ordinance		Permanent record.	Documents must be retained to provide evidence of their existence and proof of their lawful enactment. Superseded documents have historical and legal value.