



TO: Knoxville-Knox County Planning Commission
FROM: Amy Brooks, AICP, Interim Executive Director
DATE: 10/26/2020
RE: **Agenda Item #54** 11-B-20-OB
Consideration of amendments to Article III, Sections 8 and 9.B. of the Restated Bylaws of the Knoxville-Knox County Planning Commission

STAFF RECOMMENDATION:

Approve amendments to Article III, Sections 8 and 9.B. of the Restated Bylaws of the Knoxville-Knox County Planning Commission.

BACKGROUND

Section 8

As currently written, Section 8 of the Bylaws requires two readings of the consent agenda. The first reading is to vote to *hear* the consent agenda, and the second is to *approve* the consent agenda as read. It is an unnecessary step to require a vote to hear the consent items. All items are provided to the Commission in advance of the monthly meeting and posted on Planning's website for public review. Any member of the public or the Commission can request to remove an agenda item from the consent list prior to a vote to approve. In addition, Commissioners can ask questions, request clarifications, or engage in short dialogue about any consent item prior to the vote to approve the items as read.

Section 9.B.

To streamline discussion and debate on items, and to continue to allow consideration of all views, applicants will be required to provide comments first, followed by proponents, and then opponents. Commission may still grant time for rebuttal for anyone speaking on an item.

Attachment 1: Marked version of Restated Bylaws of the Knoxville-Knox County Planning Commission



RESTATED
**BYLAWS OF THE KNOXVILLE-KNOX COUNTY
PLANNING COMMISSION**

AS AMENDED THROUGH November 12, 2020

Deleted: MARCH 12

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ARTICLE I – NAME AND PURPOSE

The name of this regional planning commission is The Knoxville-Knox County Planning Commission (“the Commission”). The Commission provides all the services and benefits of a regional planning commission to the City of Knoxville and to Knox County, Tennessee, (excepting only the Town of Farragut) in accord with the provisions and authorities set forth in Title 13, Chapter 3 of TENN. CODE ANN.

ARTICLE II – FISCAL YEAR

The fiscal year of the Commission shall begin on July 1 and shall end on June 30.

ARTICLE III – MEETINGS

SECTION 1. REGULAR MEETINGS

All proposals or applications requiring Commission action shall be considered in a public hearing that invites public comment.

Regular meetings of the Commission shall be held on the second Thursday of each month at 1:30 o’clock p.m. in the Main Assembly Room of the City-County Building in Knoxville, Tennessee. When conflicts arise, such as holidays or inclement weather, the regular meeting shall be held at such other time and place as may be designated by the Commission Chair, after appropriate notice.

SECTION 2. ANNUAL MEETINGS

An annual meeting of the Commission shall be held on the regular November Commission meeting date or such other date as specified by the Commission Chair, with the specific date, hour, and location to be designated by the Commission Chair. Written notice of the date, hour, and location shall be given by the Executive Director of the Commission to each member of the Commission not less than five (5) business days prior to the meeting date.

The following business shall be conducted at the annual meeting:

- A. The Executive Director shall present a report on activities of Knoxville-Knox County Planning (“Staff”) during the immediately prior fiscal year and a statement of the fiscal status of the Commission.

B. The Commission shall elect officers for the next calendar year.

C. The Commission may conduct such other business as may properly come before the Commission.

SECTION 3. SPECIAL MEETINGS

Special meetings of the Commission may be called by the Commission Chair or by a majority vote of the entire membership of the Commission (not less than eight (8) votes). Written notice of any special meeting, stating the date, hour, location, and purpose of the meeting shall be given by the Executive Director to each member of the Commission not less than five (5) business days prior to the meeting date.

A member of the Commission, either before or after any special meeting, may waive notice of the meeting, and such waiver shall be deemed the equivalent of giving notice. Attendance at a special meeting by a member of the Commission shall constitute a waiver of notice of the special meeting, unless that member attends for the express purpose of objecting to the transaction of business on the grounds that the meeting was not lawfully convened.

SECTION 4. OPEN MEETINGS LAW

All meetings of the Commission convened in order to make a decision or to deliberate toward a decision on any matter shall be an "open meeting," in accord with the provisions set forth in TENN. CODE ANN. § 8-44-101 et seq.

SECTION 5. PROXIES

Members of the Commission shall not be permitted to vote by proxy.

SECTION 6. QUORUM

The presence of eight (8) members of the Commission shall constitute a quorum at a duly convened meeting.

SECTION 7. ADJOURNMENT

Any meeting of the Commission may be adjourned. Notice of the adjourned meeting or of the business to be transacted, other than an announcement at the meeting adjourned, shall not be necessary. Any business which could have been transacted at the meeting originally called may be transacted at the adjourned meeting.

SECTION 8. ORDER OF MEETING

The monthly public meeting of the Commission shall be conducted in the order of the printed meeting agenda, which shall be prepared in advance, and approved by the Commission at the public meeting. Amendments to the order in which matters appear on the printed agenda may be permitted by the affirmative vote of a majority of the Commission members present at the meeting.

Agenda items that are routine in nature or are deemed non-controversial may be aggregated, and considered and voted upon in a single motion (the "Consent Agenda"). Prior to consideration, the Consent Agenda shall be read into the record by the Chair, or the Chair's designee. If any person requests the removal of any item from the Consent Agenda, such item shall be removed, and considered separately, per the order of the printed agenda.

SECTION 9. DISCUSSION AND DEBATE

A. Commissioners shall consider the views of the applicant, other interested parties, staff reports, and the standards set forth in the Knoxville Zoning Ordinance, the Knox County Zoning Ordinance, and/or the Knoxville-Knox County Subdivision Regulations, as is appropriate, and all applicable plans and formal policy statements.

B. Each matter on the agenda will be considered in the following order:

- 1 Staff recommendations.
- 2 Applicant comments.
- 3 Proponents' comments.
- 4 Opponents' comments.
- 5 Rebuttals.
- 6 Discussion among Commissioners.
- 7 Motion.
- 8 Second.
- 9 Discussion among Commissioners.
- 10 Vote.

C. Public participation in the discussion and debate shall be conducted in conformity with the following:

Deleted: Provided, however, any applicant has the option to defer comments until hearing first any comments of opposition.

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- 1** Those in favor of an application will be allowed a total of five (5) minutes to address the Commission. The Commission Chair may grant additional time to those speaking in favor of an item, in the absence of objection by a majority of Commissioners present.
- 2** Those in opposition to an application will be allowed a total of five (5) minutes to address the Commission. The Commission Chair may grant additional time to those speaking in opposition to an item, in the absence of objection by a majority of Commissioners present.
- 3** Any group wishing to speak will be encouraged to select a spokesperson.

SECTION 10. COMMISSION ACTION

POSTPONEMENT

Commission may postpone action on any application or other matter properly on its agenda, in accord with the following:

- 1** Any matter appearing on Commission's agenda for the first time shall, upon the prior request of the applicant, be postponed until the next regularly scheduled Commission meeting without debate or the necessity of a vote or other formal action by Commissioners. The applicant's request to postpone in such instance must be submitted to Staff in writing or via email, and received by Staff not later than 3:30 o'clock p.m. on the Friday immediately prior to the Commission meeting date at which the application is scheduled for hearing. Any request for postponement failing to meet the deadline will require Commission action.
- 2** Any matter appearing on Commission's Agenda may be postponed to a subsequent meeting upon a majority vote of the Commission. Provided, however, any application for Final Subdivision Plat Approval may not be postponed without the concurrence and consent of the applicant.
- 3** Every motion to postpone shall include the date of the Commission meeting at which the matter will be heard.
- 4** Any matter postponed in accord with this Section 10.A may not be subject to a motion for reconsideration.

DENIAL

If the Commission votes to deny any application for Rezoning, Use on Review, Special Use, or One-Year Plan Amendment, a new application for the same proposal shall not be accepted by Staff for a period of one (1) year from the date of the denial.

If, on appeal from Commission action, either the City Council or the County Commission denies an application for Rezoning, Use on Review, Special Use, or One-Year Plan Amendment, a new application for the same proposal shall not be accepted for a period of one (1) year from the date of the legislative denial.

For purposes of Subsection 10.B, “same proposal” is defined as the same zone for Rezoning, or substantially the same use or design for a Use on Review, a Special Use, or a One-Year Plan classification.

WITHDRAWALS

Commission may permit or approve withdrawal of any application in accord with the following:

- 1** Prior to Public Notice – Withdrawal of an application shall be permitted upon written request by the applicant, provided that neither public notice of the application has been published, nor signs have been posted as provided in the Commission’s Administrative Rules and Procedures. In such instance, the application shall not be placed on the Commission’s agenda, and the applicant’s fee shall be subject to the Staff fee schedule regarding refunds. A new application for the same proposal may be filed thereafter without restriction.
- 2** After Public Notice – After public notice of an application has been published, or signs have been posted on the property in accord with the Commission’s Administrative Rules and Procedures, the relief available under Subsection 10.C.1 above is not available, and the application shall be placed on the Commission’s agenda.
- 3** Withdrawal without Commission Action – If Staff receives a request from an applicant for withdrawal of an application not later than 3:30 o’clock p.m. on the Friday immediately prior to the Commission date at which the application is scheduled for hearing, the application will be withdrawn from consideration by announcement at the Commission meeting, without debate or the necessity for a vote or other formal action. Any request for withdrawal received after this deadline will require Commission action.

- 4 Withdrawal by Commission Action – Upon the request of an applicant, any application may be withdrawn at the Commission meeting by an affirmative vote of a majority of the Commissioners present.
- 5 Any withdrawal of an application which was placed upon Commission’s agenda is deemed a denial of that application. A new application for the same proposal shall not be accepted for a period of one (1) year from the date of the withdrawal.

TABLING

- 1 Review - All tabled applications shall be listed on each month’s agenda for the purposes of review only.
- 2 Twelve Month Limit - All tabled matters must be removed from the table and acted on by Commission within twelve (12) months after being placed on the table. If a tabled matter has not been acted on by the Commission within such twelve (12) month period, Staff will place the application on Commission’s agenda for the next regularly scheduled monthly meeting for consideration of withdrawal only. Public notice of the application by publication, posting, or otherwise, shall not be required. No application will be permitted to remain on the table longer than twelve (12) months.
- 3 Removal from the Table – All applications may be removed from the table upon written or email request by the applicant to Staff, and upon an affirmative vote by Commission. If the applicant requests removal from the table for purposes of withdrawal, Commission may vote on the withdrawal request at the same meeting at which the application is removed from the table. In all other instances, any application removal from the table will be placed on the Commission’s agenda for the next regularly scheduled monthly meeting, and public notice of the untabled application will be made in accord with the Commission’s Administrative Rules and Procedures, and general law.

APPLICATIONS REQUIRING LEGISLATIVE ACTION

Some applications before Commission require legislative approval, and action by the Commission on such applications constitutes recommendations to the appropriate legislative bodies.

Subsequent to Commission acting on an application requiring legislative action, Staff shall:

- 1** Arrange for publication of required public notice of the hearing before the legislative body hearing the appeal.
- 2** Forward copies of the Commission's recommendations, together with related reports, letters, and maps to the appropriate City or County agency responsible for preparation of the legislative agendas.
- 3** Advise the applicant in writing of the Commission's action on the application, and the date, time, and location the application will be considered in public hearing by the legislative body.

APPLICATIONS NOT REQUIRING LEGISLATIVE ACTION

- A. Use on Review and Special Use - Upon Commission approval of any Use on Review or Special Use application, Staff shall notify:
 - 1** The appropriate building official(s) of the approval and any conditions imposed by the approval.
 - 2** The applicant of the approval, any conditions imposed on the approval, and the effective date.

- B. Other Matters Not Requiring Legislative Action –Commission approval or amendments to the General Plan, Sector Plans, Capital Improvements Program, Recreation and Greenway Plan, Major Road Plan, or similar comprehensive plans, do not require legislative adoption for validation, but shall be submitted to the appropriate legislative body for adoption, review, or other action. In such instances, Staff shall:
 - 1** Arrange for publication of the required public notice of the hearing before the legislative body.
 - 2** Forward copies of Commission approval and recommendation, together with related reports, documents, and maps to the appropriate City or County agency responsible for preparation of the legislative agendas.

SECTION 11. VOTING

All matters to be voted on by the Commission shall be put in the form of a motion, duly seconded. The Commission Chair shall conduct the voting by asking those in favor to signify by saying "Yes," and those

opposed to signify by saying "No." The Commission Chair shall inform the recording secretary of the number of "Yes" votes and the number of "No" votes. If there is any question about the results of the vote, or upon the request of any member of the Commission, a roll call vote shall be taken. Any vote to "Pass" shall be deemed and recorded as a "No" vote. Except as is provided otherwise in these Bylaws, a majority of the votes cast shall be sufficient for the adoption of any motion that is in order. If a motion fails adoption by a majority vote, another motion upon which there is an affirmative vote shall be necessary for resolution of the issue.

Any motion considered by the Commission which fails adoption may be reconsidered at any time prior to adjournment, upon a motion, duly seconded, and without necessity of a precedent Motion to Reconsider.

SECTION 12. MINUTES

A record, or minutes, of the proceedings of all meetings shall be kept by a recording secretary, appointed by the Executive Director.

The minutes shall reflect:

- A. Every motion upon which a vote is taken by the Commission.
- B. The names of the members of the Commission making and seconding any such motion.
- C. The number of "Yes" votes and "No" votes on each motion.
- D. A record of any roll call vote taken.
- E. The name of any member of the Commission that abstains from the discussion and vote on any matter.

When published, the minutes shall be signed by both the Commission Chair and the Executive Director.

ARTICLE IV – OFFICERS

SECTION 1. OFFICERS

Officers of the Commission shall consist of a Chair and a Vice-Chair, chosen by the Commission at the annual meeting of the Commission, and a Secretary, who is the Executive Director of the Commission.

SECTION 2. VACANCIES

When a vacancy occurs in the office of Chair or Vice-Chair, the Commission shall elect a successor, who shall serve the remainder of the term for that office.

SECTION 3. REMOVAL

An officer may be removed by a majority vote of the entire membership of the Commission (not less than eight (8) votes) when, in its judgment, the best interests of the Commission will be served by the removal.

SECTION 4. COMMISSION CHAIR

The Commission Chair shall preside at all meetings of the Commission and shall perform such duties as the Commission shall from time to time prescribe. The Commission Chair may participate in all discussion and shall be entitled to vote as any other member of the Commission.

SECTION 5. VICE-CHAIR

In the absence of the Commission Chair, the Vice-Chair shall perform the duties of the Chair.

SECTION 6. SECRETARY

The Executive Director, or their designee, shall serve as Secretary of the Commission, and shall be responsible for maintaining a full record of all proceedings of the Commission. The Secretary shall give, or cause to be given, notice of all meetings of the Commission, and shall perform such other duties as the Commission may direct.

SECTION 7. DELEGATION OF DUTIES

The power and duties of any officer may be delegated from time to time to any member of the Commission by a majority vote of the entire membership of the Commission (not less than eight (8) votes) whenever, in its judgment, the best interests of the Commission will be served by the delegation.

SECTION 8. NOMINATION OF OFFICERS

During or before September of each year, the Commission Chair shall appoint a Nominating Committee consisting of three (3) members of the Commission, none of whom are incumbent officers. The Nominating Committee shall identify and present a slate of nominees for the offices of Chair and Vice-Chair at the regular Commission meeting in October. In addition to the slate of nominees offered by the Nominating Committee, nominations for elected officers may be made from the floor.

SECTION 9. ELECTION OF OFFICERS

The Commission Chair and the Vice-Chair shall be elected at the annual meeting of the Commission in November. All elected officers of the Commission shall serve a term of one (1) year beginning January 1, or until a successor has been elected. Elected officers shall be eligible for re-election.

ARTICLE V – EXECUTIVE COMMITTEE

In January, the Commission Chair shall appoint an Executive Committee, consisting of the elected officers and three (3) other members of the Commission. The appointment shall be for one (1) year, co-terminous with the Chair's term, or until a successor committee is appointed. Members of the Executive Committee may be reappointed.

The duties of the Executive Committee are:

- A. To review and to recommend the annual budget and work program, and any amendments thereto, to the Commission for adoption.
- B. To review and to resolve Staff employee grievances in accordance with the provisions of the adopted Employee Handbook.
- C. To provide consultation and advise on such matters as the Executive Director may bring before the Executive Committee.
- D. Other duties as assigned by the full Commission and/or the Mayors of Knox County and the City of Knoxville.

A record, or minutes, of all Executive Committee meetings shall be kept by a recording secretary, appointed by the Executive Director, which, when published, shall be signed by the Chair.

ARTICLE VI – EXECUTIVE DIRECTOR

SECTION 1. EXECUTIVE DIRECTOR

The Mayors of the City of Knoxville and Knox County, acting jointly, appoint the Commission's Executive Director, who shall be qualified by advanced education, extensive experience in the field of planning, and membership in the American Institute of Certified Planners. Compensation for the Executive Director will

be determined by the City and County Mayors, with funds appropriated by the City and County legislative bodies. The Executive Director is the Secretary of and chief advisor to the Commission.

The Executive Director shall have general administrative responsibilities, including:

- A. Supervision of the daily operations of the Commission and Staff.
- B. Development of the budget and work program, in cooperation with the Executive Committee.
- C. Execution of the work program.
- D. Employment, supervision, training, discipline, all staff members and employees of Staff.

The Executive Director shall provide monthly reports on Staff activities and/or the fiscal status of the Commission.

SECTION 2. RELATIONSHIP WITH CITY AND COUNTY GOVERNMENT

The Executive Director and Staff shall at all times be available to the departments of both City of Knoxville and Knox County governments, to provide information and advice on day-to-day developments and planning issues, when requested by the Mayor(s) of the City and/or County. Any request for a study, research program, or planning project made by the City or County governments shall be adopted by the Executive Committee and incorporated into the work program prior to any Staff work on the request.

ARTICLE VII – CONFLICT OF INTEREST

Any member of the Commission having a conflict of interest regarding an application before the Commission shall advise the Commission Chair of such conflict prior to the meeting at which the proposal is scheduled to be heard. The Commissioner shall abstain from all discussion and voting on the application, and will not be considered present for purposes of establishing a quorum.

A conflict of interest shall exist under the following circumstances:

- A. When a member of the Commission or any member of their immediate family has a financial interest in property that is the subject of an application being considered by the Commission.

- B. When a member of the Commission or any member of their immediate family has a financial interest in property that is contiguous to or closely associated with property that is the subject of an application being considered by the Commission.
- C. When a member of the Commission or any member of their immediate family has a financial interest in a company or other entity that is seeking consideration of an application by the Commission, or is actively working for or against an application that is before the Commission.
- D. When a member of the Commission or any member of their immediate family may receive some private benefit, either direct or indirect, from the approval or the disapproval of an application being considered by the Commission.
- E. When a member of the Commission determines in their own mind that there are compelling reasons that will prohibit them from acting in the best interest of the community, or that their participation will create the impression of impropriety in the eyes of the general public.

ARTICLE VIII – ADMINISTRATIVE RULES AND PROCEDURES

The Commission shall adopt and maintain Administrative Rules and Procedures to govern the conduct of business before the Commission, and by the Executive Director and the Staff. The Administrative Rules and Procedures may be adopted, amended, repealed, or suspended by the affirmative vote of not less than a majority of the entire membership of the Commission (not less than eight (8) votes).

ARTICLE IX – RULES OF ORDER

When a parliamentary matter not covered by these Bylaws arises, Simplified Rules of Order may be applied at the discretion of the Commission Chair.

ARTICLE X – AMENDMENTS

The Bylaws may be amended, repealed, or suspended by the affirmative vote of not less than a majority of the entire membership of the Commission (not less than eight (8) votes). Provided, no amendment or repeal shall be adopted until five (5) days' notice of the proposal has been provided to all members of the Commission.