




**MULTNOMAH COUNTY**  
LAND USE AND TRANSPORTATION PROGRAM  
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## MEMORANDUM

September 1, 2011

To: Multnomah County Planning Commission

From: Chuck Beasley, Senior Planner 

Subject: Planning Commission Rules

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### INTRODUCTION

This memo and the attached information are intended to initiate a discussion between staff, legal counsel, and the Commission regarding the state of the ordinances and rules that govern the manner in which the Commission conducts its work.

This topic falls within the 2011 Work Program task *Housekeeping – Consolidation of Planning Authorities*. That task includes several subtasks that, when completed, will result in updated, streamlined and consistent ordinances and rules. These subtasks include:

- Consolidate Part 2–Planning Authorities in MCC c. 34–38 into MCC c. 37;
- Consider consolidating Part 1–General Provisions and Part 3–Administration and Enforcement into Chapter 37; and
- Incorporate certain planning authority provisions into MCC c. 37 and repeal MCC c. 11.05.

### DISCUSSION

The conduct of the Commission’s work is governed by state statute, local ordinance, and, if adopted, parliamentary rules of procedure (i.e., rules governing the disposition of matters before the Commission). Statutes and ordinances typically address the organization and membership of a public body, the filling of vacancies, and quorum and voting requirements whereas parliamentary rules of procedure govern the minutiae of the conduct of public meetings.

Oregon statutes authorize counties to establish a 5-, 7-, or 9-member planning commission and touch generally upon terms of appointment, removal of commission members, the filling of vacancies and other similar matters.

Multnomah County has provided for the establishment of the Planning Commission by ordinance codified at MCC 33.0100–33.0140 (Attachment A). Among other things, the ordinance addresses organization, membership, terms of appointment, and removal and vacancies. In addition, the County’s ordinance requires approval of Planning Commission recommendations by majority vote (MCC 37.0540 (E)) and, at least for certain matters, a 5-member quorum requirement (MCC 11.05.080(D) see Attachment B).

Lastly, attached to this memorandum (Attachment C), is a set of undated parliamentary rules of procedure purportedly governing the conduct of the Planning Commission’s work. The origin of this document is unknown at this time, which brings into question the present applicability of these rules. Whether or not presently valid, it is clear that these rules are quite outdated. For instance, the rules provide for the conduct of quasi-judicial actions, whereas present Planning Commission authority to conduct quasi-judicial hearings is limited to Type IV applications.

Aspects of the authorities described above overlap and, at times are inconsistent and/or outdated. Moreover, these authorities have not been maintained as a package for some time. Staff recommends that the Planning Commission consider the Board rules in Attachment D as an example of what is covered in parliamentary rules.

#### CONCLUSION

This topic has been placed on the agenda for purposes of obtaining direction from the Planning Commission regarding the Commission’s needs and desires, if any, to update, coordinate and streamline the authorities governing the conduct of the Commission’s work.

**PLANNING COMMISSION**

**§ 33.0100- PLANNING COMMISSION ESTABLISHED.**

The Planning Commission is designated as the land use planning advisory body to the Board and shall have the powers and duties described in this chapter and such other powers and duties as may be imposed on it by state, federal or local law, rule or regulation.

**§ 33.0105 MEMBERSHIP OF COMMISSION.**

- (A) The Commission shall consist of nine members, who shall be appointed pursuant to law and the charter of Multnomah County to fill designated positions numbered 1 through 9.
- (B) Members of the Commission shall be residents of the various geographic areas of the county and shall serve without compensation, except for reimbursement for duly authorized expenses.
- (C) A member who ceases to be a resident of Multnomah County shall then cease to be a member of the Commission.
- (D) No more than two members of the Commission shall be engaged principally, whatever be the form of doing business, in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the same kind of business, trade or profession.

**§ 33.0110 TERMS OF OFFICE OF COMMISSION MEMBERS.**

- (A) Terms of office of Commission members shall be four years, but any term shall continue until a successor is appointed.
- (B) No Commission member shall serve more than two consecutive terms excluding completion of an unexpired term, unless otherwise provided by unanimous concurrence of the Board.

**§ 33.0115 VACANCIES AND REMOVAL OF COMMISSION MEMBERS.**

- (A) Upon resignation, permanent disqualification or removal of any member of the Commission, the Chair of the Board shall, pursuant to the County Charter, appoint a successor to fill the remainder of the term.
- (B) After hearing, the Board may remove any member for cause, which may include misconduct or nonperformance of duty.
- (C) The absence of any member from three consecutive regular meetings shall be considered a resignation, which shall be presented by the chairperson of the Commission at the next regular Board meeting for acceptance or rejection by the Board.

**§ 33.0120 OFFICERS.**

The Commission shall, at or before its first meeting in April each year, elect and install a chairperson and vice-chairperson. The Commission may elect one of its members to serve as second vice-chairperson.

**§ 33.0125 COMMITTEES.**

The Chairperson of the Commission shall appoint advisory and other subcommittees as considered appropriate or as directed by the Commission or the Board. The Director of Land Use Planning and persons designated by the Director shall serve as staff for the Commission and its committees and shall provide such administrative and technical assistance as may be required.

**§ 33.0130 RULES OF PROCEDURES; CONFLICT OF INTEREST.**

- (A) A verbatim recording shall be made of the proceedings before the Commission.
- (B) A member of the Commission shall not participate in any Commission proceedings in which any of the following has a direct or substantial financial interest: the member, the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner in any business of which the member is or has been a member within the previous two years or in any business with which the member is negotiating or has an arrangement or understanding concerning prospective partnership or employment.
- (C) Any actual or potential financial or other interest which could lead to a member's bias or partiality in any action shall be disclosed by the member at the meeting of the Commission which the action is considered.

**§ 33.0135 COORDINATION.**

- (A) The Commission shall advise and cooperate with other planning commissions, hearings officers, agencies or bodies within the state, and shall, upon request or on its own initiative, make available advice or reports to the state or federal government or any regional association of governments, city, county, public officer or department on any problem comprehended within its powers and duties.
- (B) All County officials, departments and agencies having information, maps and data considered by the Commission to be pertinent to its powers and duties shall make that information available for the use of the Commission upon request.

**§ 33.0140 POWERS AND DUTIES OF COMMISSION.**

The Commission shall:

- (A) Recommend to the Board the adoption, re-vision or repeal of a comprehensive plan or portions thereof;
- (B) Report and recommend to the board the adoption, revision, amendment or repeal of zoning, subdivision, and other regulatory ordinances and regulations, intended to carry out part or all of a plan adopted by the board,
- (C) Where appropriate, initiate actions under MCC Chapter 37, as amended;
- (D) On request, provide written advisory opinions to the Board and Hearings Officer on the application of the Comprehensive Plan, zoning ordinance or other matter or regulation within the jurisdiction of the Commission to any pro-posed action before the Board or the Hearings Officer;
- (E) Recommend to the Board the institution of injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove any existing or proposed unlawful location, construction, maintenance, repair, alteration or use of any building or structure or the existing or proposed unlawful subdivision or other unlawful partitioning or use of any land;
- (F) Enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers on the land, as required to perform its functions;
- (G) Consult with advisory committees, as appropriate, in regard to any matter within the powers and duties of the Commission; and
- (H) Exercise such other powers and perform such other duties as may be given to the Commission by federal or state law or by this chapter or other ordinance.

PLANNING COMMISSION

**11.05.020. Planning commission established.**

The planning commission is designated as the land use planning advisory body to the board and shall have the powers and duties described in this chapter and such other powers and duties as may be imposed on it by state, federal or local law, rule or regulation.

[Ord. 133 § II(1.10) (1976)]

**11.05.030. Membership of commission.**

(A) The commission shall consist of nine members, who shall be appointed pursuant to law and the charter of Multnomah County to fill designated positions numbered 1 through 9.

(B) Members of the commission shall be residents of the various geographic areas of the county and shall serve without compensation, except for reimbursement for duly authorized expenses.

(C) A member who ceases to be a resident of Multnomah County shall then cease to be a member of the commission.

(D) No more than two members of the commission shall be engaged principally, whatever be the form of doing business, in the buying, selling or developing of real estate for profit. No more than two members shall be engaged in the same kind of business, trade or profession.

[Ord. 133 § II(1.11) (1976)]

**11.05.040. Terms of office of commission members.**

(A) Terms of office of commission members shall be four years, but any term shall continue until a successor is appointed.

(B) The terms of the commission members serving on November 18, 1976, shall expire on the following years:

Position No.	Expiration
1	1978
2	1977
3	1979
4	1979
5	1980
6	1980
7	1977
8	1980
9	1980

(C) No commission member shall serve more than two consecutive terms excluding completion of an unexpired term, but including any full terms being served on November 18, 1976, unless otherwise provided by unanimous concurrence of the board.

[Ord. 133 §II(1.12) (1976)]

**11.05.050. Vacancies and removal of commission members.**

(A) Upon resignation, permanent disqualification or removal of any member of the commission,

the chairman of the board shall, pursuant to the county charter, appoint a successor to fill the remainder of the term.

(B) After hearing, the board may remove any member for cause, which may include misconduct or nonperformance of duty.

(C) The absence of any member from three consecutive regular meetings shall be considered a resignation, which shall be presented by the chairperson of the commission at the next regular board meeting for acceptance or rejection by the board.

[Ord. 133 § II(1.13) (1976)]

**11.05.060. Officers.**

The commission shall, at or before its first meeting in April each year, elect and install a chairperson and vice-chairperson. The commission may elect one of its members to serve as second vice-chairperson.

[Ord. 133 § II(1.14) (1976)]

**11.05.070. Committees.**

The chairperson of the commission shall appoint advisory and other subcommittees as considered appropriate or as directed by the commission or the board. The director of planning and development and persons designated by the director shall serve as staff for the commission and its committees and shall provide such administrative and technical assistance as may be required.

[Ord. 133 § II(1.15) (1976)]

**11.05.080. Rules of procedures; conflict of interest.**

(A) The conduct of hearings of the commission shall be according to rules of procedure adopted by the commission and filed with the clerk of the board. They shall be effective 15 days after filing unless modified by the board.

(B) The staff of the planning and development division shall be responsible for keeping an accurate and permanent record of all proceedings before the commission.

(C) A verbatim recording shall be made of the proceedings before the commission.

(D) Five members of the commission shall constitute a quorum for the conduct of business; provided, however, that three members shall constitute a quorum when the commission acts as planning and zoning hearings officer, under MCC 11.15.8110 and 11.15.8230.

(E) A member of the commission shall not participate in any commission proceedings in which any of the following has a direct or substantial financial interest: the member, the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner in any business of which the member is or has been a member within the previous two years or in any business with which the member is negotiating or has an arrangement or understanding concerning prospective partnership or employment.

(F) Any actual or potential financial or other interest which could lead to a member's bias or partiality in any action shall be disclosed by the member at the meeting of the commission which the action is considered.

[Ord. 133 § II (1.16) (1976); Ord. 351 § 2 (1982)]

**11.05.090. Coordination.**

- (A) The commission shall advise and cooperate with the hearings council and with other planning commissions, hearings officers, agencies or bodies within the state, and shall, upon request or on its own initiative, make available advice or reports to the state or federal government or any regional association of governments, city, county, public officer or department on any problem comprehended within its powers and duties.
- (B) All county officials, departments and agencies having information, maps and data considered by the commission to be pertinent to its powers and duties shall make that information available for the use of the commission upon request.

[Ord. 133 § II(1.17)(1976)]

**11.05.100. Powers and duties of commission.**

The commission shall:

- (A) Recommend to the board the adoption, revision or repeal of a comprehensive plan or portions thereof;
- (B) Report and recommend to the board the adoption, revision, amendment or repeal of zoning, subdivision, and other regulatory ordinances and regulations, intended to carry out part or all of a plan adopted by the board, provided, however, that action proceedings, as defined in MCC 11.15.8205, as amended, shall be within the exclusive jurisdiction of the hearings council, except as otherwise provided in this chapter;
- (C) Where appropriate, initiate actions under MCC 11.15.8205, as amended;
- (D) On request, provide written advisory opinions to the board and hearings council on the application of the comprehensive plan, zoning ordinance or other matter or regulation within the jurisdiction of the commission to any proposed action before the board or the hearings council;
- (E) Recommend to the board the institution of injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove any existing or proposed unlawful location, construction, maintenance, repair, alteration or use of any building or structure or the existing or proposed unlawful subdivision or other unlawful partitioning or use of any land;
- (F) Enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers on the land, as required to perform its functions;
- (G) Consult with each advisory committee established under subsection (1) of ORS 215.046 (1975 Replacement Part) in regard to any matter within the powers and duties of the commission; and
- (H) Exercise such other powers and perform such other duties as may be given to the commission by federal or state law or by this chapter or other ordinance.

[Ord. 133 § II(1.18) (1976)]

**11.05.110. Meetings; notices.**

- (A) The commission shall hold at least one public meeting each month. Additional meetings and the time and place of all meetings shall be determined by the chairperson of the commission or as requested by a majority of the entire commission.

- (B) Before any meeting of the commission for the conduct of business, notice shall be given as required by statute or rule and also in the following manner:
- (1) Posting a notice in a conspicuous place in the Multnomah County courthouse not less than ten days prior to the meeting;
  - (2) Publishing a notice of the date, time, place and agenda of the meeting at least once in a daily newspaper having general circulation in excess of 50,000 in Multnomah County not less than ten days before the meeting; and
  - (3) Providing such notice and in such other manner as the board or the commission may direct.
- (C) Failure to give the notice provided in subsection (B) of this section shall not invalidate any action taken at a meeting.
- (D) The commission may continue any proceeding. A proceeding continued to a date certain requires no additional notice unless notice is required by statute, rule, this chapter, some other ordinance or is ordered by the commission.
- (E) The commission shall hold a public meeting jointly with the hearings council at least once each four months to consider such matters as the commission or the council may propose. Notice of each joint meeting shall be given as required by statute, rule and MCC 11.15.8120(B)(2).
- (F) The chairperson of the commission or the chairperson of the hearing council, or their designated member substitutes, shall preside at alternative joint meetings provided for under subsection (E) of this section.

[Ord. 133 §II(1.19) (1976)]

## COMPREHENSIVE PLAN AND LEGISLATIVE REVISIONS

### **11.05.120. Legislative and quasi-judicial plan revisions and zoning map amendments distinguished.**

- (A) If the commission determines that a proposed plan revision or zoning map amendment requested in connection with a required plan revision entails a change of policy, or the application of policy to a broad class of properties in a uniform manner, the proposal shall be considered a legislative plan revision or legislative zoning map amendment.
- (B) Quasi-judicial zoning map amendments shall be considered by the commission and board as action proceedings in accordance with MCC 11.15.8205 through 11.15.8295.

[Ord. 133 § II(1.21) (1976); Ord. 641 § 2 (1990)]

### **11.05.130. Consolidation of proceedings.**

Where a plan revision is required and, in connection with the same property, an action as defined in MCC 11.15.8205 as amended, or a subdivision or other land division approval, is requested, the matters shall be consolidated in one proceeding and heard by the commission.

[Ord. 133 § II(1.22) (1976)]

### **11.05.140. Revision of plan.**

- (A) Any revision of any adopted plan may be initiated by:
- (1) Order of the board;



- (2) Resolution of a majority of the entire commission; or
- (3) Application of a record owner of property, which is the subject of the revision, as determined by the records of the department of general services, or the authorized agent of the record owner.

(B) A plan revision initiated under subsection (A) of this section shall be filed with the director of planning and development on forms provided by the director. Proposed plan revisions shall not be processed unless all the information requested is provided and any required fee is paid.

[Ord. 133 § II(1.23) (1976)]

**11.05.150. Pre-application conference; written summary.**

(A) Prior to filing any plan revision under subsection (B) of MCC 11.05.140, an applicant or applicant's representative shall meet with the director of planning and development or the director's designee in a conference to discuss the plan revision proposed and the requisites of formal application.

(B) A written summary of the matters discussed in the preapplication conference shall be mailed to the applicant within five business days after the conference.

[Ord. 133 § II(1.24) (1976)]

**11.05.160. Staff reports required.**

(A) No proposed plan revision shall be heard by the commission unless a staff report is completed and available at the office of the director of planning and development at least five calendar days prior to the date fixed for hearing. A copy of the report shall be mailed to the person initiating the revision and to the commission. In addition, a copy shall be furnished to any other person who requests the same upon payment of the fee provided under subsection (C) of MCC 11.05.410. The staff report may be supplemented only at the hearing.

(B) In the event the chairperson of the commission determines that a staff report was not completed and available under subsection (A) of this section, the matter shall be continued to the next regular meeting of the commission.

[Ord. 133 § II(1.25) (1976)]

**11.05.170. Hearing on plan or revision.**

(A) The commission shall conduct at least one public hearing on a proposed comprehensive plan or any proposed revision of an adopted plan.

(B) A proposed comprehensive plan or proposed revision of an adopted plan shall be on file with the director of planning and development for public inspection at least ten calendar days prior to a public hearing on it.

[Ord. 133 § II(1.25) (1976)]

**11.05.180. Standards for plan and revisions.**

A plan adopted or revised under this chapter shall comply with ORS 197.175(2)(a), 197.610 through 197.625, and 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes.

[Ord. 133 § II(1.27) (1976); Ord. 641 § 2 (1990)]

**11.05.190. Vote requirements for plan or revisions.**

- (A) The commission may recommend approval of a plan or plan revision, approval with such modifications or conditions as may be necessary to carry out the plan or bring the plan or plan revisions into conformance with the standards set forth in MCC 11.05.180, or denial.
- (B) The affirmative vote of at least five members of the commission shall be required for a recommendation for approval of a plan or any revision of an adopted plan.
- (C) In the event the votes cast for approval are insufficient for a recommendation for approval pursuant to subsection (B) of this section, the proposed plan or plan revision shall be considered denied.

[Ord. 133 § II (1.28) (1976)]

**11.05.200. Notice of hearing on plan or legislative revision.**

Notice of a commission public hearing on a proposed comprehensive plan or legislative revision of an adopted plan shall describe the location of the property affected and shall include a copy of the proposed plan or revision or shall inform the public where all relevant materials and information may be obtained or reviewed.

[Ord. 133 § II(1.29) (1976)]

**11.05.210 Commission action on plan or legislative revision.**

- (A) Within ten days of determining a recommendation on a proposed comprehensive plan or legislative revision of an adopted plan, the commission shall cause the proposed plan or revision and a resolution of action signed by the presiding officer to be filed with the clerk of the board.
- (B) A member of the commission who voted in opposition to a recommendation by the commission on a proposed plan or legislative revision of an adopted plan may file a written statement of opposition with the clerk of the board prior to any board hearing on the plan or revision.
- (C) If the commission fails to recommend approval or denial of a proposed plan or legislative revision of an adopted plan within 90 days of its first hearing on that plan or revision, it shall report the failure, together with the proposed plan or revision to the clerk of the board, who shall place the matter on the agenda for the next board meeting on planning and zoning matters for which notice can be given under the charter.

[Ord. 133 § II(1.30) (1976)]

**11.05.220. Board hearing on plan or legislative revision.**

The board shall conduct at least one public hearing on a comprehensive plan or legislative revision of an adopted plan transmitted to it by the commission under this chapter.

[Ord. 133 § II(1.31) (1976)]

**11.05.230. Notice of board hearing; continuance.**

- (A) Notice of a board hearing on a proposed comprehensive plan or legislative revision of an adopted plan shall be given in accordance with statute, rule and subsection (B) of MCC 11.05.110 and MCC 11.05.200.

- (B) The board may continue any proceeding. Unless otherwise provided by the board or required by law, no additional notice shall be given of a continued proceeding if the matter is continued to a time certain.

[Ord. 133 § II(1.32) (1976)]

**11.05.240. Board procedures.**

A board hearing on a proposed comprehensive plan or legislative revision of an adopted plan shall be in accordance with its rules of procedures.

[Ord. 133 § II (1.33) (1976)]

**11.05.250. Board decision on plan or legislative revision.**

- (A) After public hearing, the board may adopt, adopt with modifications consistent with MCC 11.05.180, reject or remand to the commission for reconsideration and rehearing all or part of a proposed plan or legislative revision of an adopted plan transmitted to it under this chapter.

- (B) A board decision adopting a plan or legislative revision of an adopted plan shall be in the form of a board order.

- (C) A comprehensive plan or legislative revision of an adopted plan, adopted by the board, shall be signed by the chairman and filed with the clerk of the board within ten days after the board's decision, whereupon it shall be effective.

[Ord. 133 § II(1.34) (1976)]

QUASI-JUDICIAL PLAN REVISIONS

**11.05.260. Quasi-judicial plan revision hearing notice.**

- (A) Notice of a hearing before the commission regarding a proposed quasi-judicial plan revision shall contain the following:

- (1) The date, time and place of the hearing;
- (2) A legal description of the subject property;
- (3) The nature of the proposed revision;
- (4) A statement that all interested parties may appear and be heard;
- (5) A statement that the hearing shall be held pursuant to the rules of procedure adopted by the commission, and
- (6) The names of the members of the commission.

- (B) In addition to the notice required by subsection (B) of MCC 11.05.110, and any other notice required by statute or rule, notice shall be mailed at least ten days prior to a quasi-judicial plan revision hearing to the following persons:

- (1) The person initiating the revision; and
- (2) All record owners of property located within a minimum of 250 feet from the area subject to the proposed revision.

- (C) The records of the department of general services shall be used to determine who is entitled to

a mailed notice under this section. Persons whose names and addresses are not on record at the time of the filing of the proposed plan revision under subsection (B) of MCC 11.05.140, need not be notified of the hearing. The failure of a property owner to receive notice shall not invalidate the hearing if the owner was entitled to receive notice and if a good faith attempt was made to notify that person.

[Ord. 133 § II(1.34)(1), (2) (1976)]

**11.05.270. Notice required on property subject of quasi-judicial plan revision hearing.**

In addition to the notice required by subsection (B) of MCC 11.05.260, the person initiating a quasi-judicial plan revision shall, at the person's expense, post signs on the property conspicuously displaying notice of the pending hearing at least ten days prior to the date of the hearing. One sign shall be required for each 300 feet or part thereof of frontage of the subject property on any street. The content, design, size and location of the signs shall be determined by the director of planning and development to assure that the information is legible from the public right-of-way. As a precondition to a hearing, the party shall file an affidavit of the posting with the director of planning and development not less than five days prior to the hearing.

[Ord. 133. § II(1.34)(3) (1976)]

**11.05.280. Parties to quasi-judicial plan revision hearing.**

(A) The following persons only are parties and shall be entitled either themselves or through their representatives or counsel to make an appearance of record at a hearing on a proposed quasi-judicial plan revision before the commission and to seek review by the board and the courts:

- (1) Those persons entitled to mailed notice under subsection (B) of MCC 11.05.260, and
- (2) Other persons who demonstrate to the commission, pursuant to its rules of procedure, that the revision may affect some substantial right of those persons.

(B) As used in this section, "appearance of record" means either:

- (1) Testimony by a party or the party's counsel or other representative; or
- (2) A written statement bearing the name and address of the person making the appearance, signed by the person or the person's counsel, and filed with the director of planning and development at or prior to the hearing.

[Ord. 133 § II(1.36) (1976)]

**11.05.290. Burden of proof.**

(A) The burden of proof is upon the person initiating a quasi-judicial plan revision. That burden shall be to persuade that the revision is:

- (1) Consistent with the procedures of ORS 197.610 through 197.625 and the standards of ORS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes;
- (2) Evidence that the proposal conforms to the intent of relevant policies in the comprehensive plan or that the plan policies do not apply. In the case of a land use plan map amendment for a commercial, industrial, or public designation, evidence must also be presented that the plan does not provide adequate areas in appropriate locations for the proposed use; and
- (3) Evidence that the uses allowed by the proposed changes will (1) not destabilize the land

use pattern in the vicinity, (2) not conflict with existing or planned uses on adjacent lands, and (3) that necessary public services are or will be available to serve allowed uses.

- (B) Proof that circumstances in the area affected by the proposed revision have changed since adoption of the plan, or that there was a mistake in the plan, are additional relevant factors which may be considered under subsection (A) of this section.

[Ord. 133 § II(1.37) (1976); Ord. 641 § 2 (1990)]

**11.05.300. Findings of fact; conclusions.**

- (A) The commission shall cause written findings of fact and conclusions, based upon the record, to be filed with a recommendation on a proposed quasi-judicial plan revision under MCC 11.05.310. The findings shall specifically address the relationships between the proposed revisions and the factors listed in MCC 11.05.290, to the extent they form the basis for recommendation, provided, that in the event denial of a proposed revision is recommended, summary findings with reference to those factors may be filed.

- (B) A quasi-judicial plan revision considered denied under subsection (C) of MCC 11.05.190 shall be transmitted to the board with summary findings stating that the burden under MCC 11.05.290 has not been carried.

- (C) The commission shall announce a recommendation at the close of the hearing.

[Ord. 133 § II(1.38) (1976)]

**11.05.310. Notice of recommendations.**

- (A) Within ten days after a recommendation on a quasi-judicial plan revision is announced, it shall be reduced to writing by the director of planning and development, signed by the chairperson or vice-chairperson of the commission, filed by the director with the clerk of the board and mailed to those persons entitled to mailed notice under subsection (B) of MCC 11.05.260, and to other persons who request the same.

- (B) The written recommendation mailed under subsection (A) of this section shall indicate the date on which the recommendation shall be on the board's agenda under subsection (C) of this section.

- (C) The clerk of the board shall summarize the commission's written recommendation on the agenda for the next board meeting on planning and zoning matters for which notice can be given under the charter.

[Ord. 133 § II(1.39) (1976)]

**RULES FOR THE CONDUCT OF HEARINGS BY THE PLANNING COMMISSION  
ACTING ON QUASIJUDICIAL AND LEGISLATIVE ACTION PROCEEDINGS  
OF MJLTNOMAH COUNTY, OREGON**

Multnomah County Ordinances provide that a Planning Commission will consider and decide applications for all quasi-judicial land use actions, including applications under MCC 11.15 (Zoning Code) and MCC 11.45 (Land Divisions), affecting land within unincorporated Multnomah County. The Planning Commission also considers all legislative matters affecting land within unincorporated Multnomah County. Rules regarding the conduct of hearings at which these applications are considered are to be prescribed by order of the Planning Commission and to be filed with the Clerk of the Board of County Commissioners. The following Rules are adopted by Order the Planning Commission.

**SECTION 1. NATURE AND CONDUCT OF HEARINGS**

- A. The Planning Commission, in conducting a hearing which will result in determination of an action, acts in a quasi-judicial capacity. Parties are entitled to an opportunity to appear, in person or by a representative or Counsel, to present and rebut testimony and evidence to an impartial approval authority, to have the proceedings recorded and to receive a written decision which includes Findings of Fact and Conclusions based on the record made at the hearing.
- B. The following persons are parties and shall be entitled, either themselves or through their representatives or Counsel, to make an appearance of record before the Planning Commission:
  - 1. The applicant;
  - 2. All persons entitled to individual mailed notice under the applicable Ordinance; and
  - 3. Other persons who demonstrate to the Planning Commission that the action affects a substantial right of those persons.
- C. The Planning Commission may call as a witness a person with technical or specialized knowledge regarding an issue in an action.
- D. No person shall testify without:
  - 1. Receiving recognition from the Planning Commission Chairperson;
  - 2. Stating his or her full name and residence address; and
  - 3. If requested, stating the basis on which he or she is entitled to status as a party, pursuant to these Rules or as a witness on behalf of a party pursuant to these Rules.
    - (a) A challenge to the party or witness status of a person, and a ruling thereon by the Chairperson shall be made at the time the person requests recognition to testify.
    - (b) A challenge to the party or witness status of a person may be made only by a party.
- E. There shall be no audience demonstration, such as applause, cheering, display of signs, or other conduct disruptive of the hearing. Disruptive conduct may be cause for expulsion of a person from the hearing, termination of continuance of the hearing, or other appropriate action determined by the Planning Commission.

- F. The term person includes an individual, partnership, corporation, association, governmental unit or public or private organization.

## **SECTION 2. CONFLICT OF INTEREST: BIAS, EX PARTE CONTACT**

- A. A Planning Commission member shall not participate in any proceeding in which any of the following has a direct or substantial financial interest: This member, the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner in any business which he or she is the name member or has been a member within the previous two years or in any business with which he or she is negotiating or has an arrangement or understanding concerning prospective partnership or employment.
- B. Any Actual or potential financial or other interest which would lead to bias or partiality shall be disclosed according to MCC 11.15.8126 (B) at the hearing where the action is considered.
- C. Any party to an action may, in relation to an action, challenge the impartiality of any member before or during the hearing on that action. That challenge must include the facts relied on by the challenging party, relating to the member's alleged bias, prejudgment, or personal interest, or other facts from which the party has concluded that the member cannot participate in a decision in an impartial manner.
1. In the event of a challenge for bias, the member shall respond in a statement of capacity to hearing, which shall be part of the record. The statement shall refer to the challenge and include the reasons why the member has elected to participate or be disqualified.
    - (a) The statement of capacity to hear shall not be subject to cross examination but shall be subject to rebuttal by the challenging party.
    - (b) In the event the challenging party offers rebuttal to a statement of capacity to hear, the member shall be given opportunity to respond and shall state the reasons why the member elects to participate, making specific reference to the facts alleged in rebuttal, or shall disqualify himself or herself and state the reasons therefore.
  2. In the event any member has pre-hearing ex parte contact with a party, the member shall disclose the occurrence and the substance of such contact and the persons involved in a statement of capacity to hear. The statement shall also indicate any interest or independent knowledge of the member. The term independent knowledge refers to facts which are not capable of judicial or official notice, are not in the record of the action and are not a matter of general knowledge received by other than public means. The statement shall be made at the beginning of the hearing on the action or at such time during the course of the hearing that the member becomes aware of the existence of an ex parte contact or independent knowledge.
    - (a) The statement regarding ex parte contact shall be subject to the same Rules as for a Statement of Bias.
  3. In the event a member is disqualified, the remaining members may hear the application. In the event of no quorum, the application will be rescheduled to a future meeting.

### **SECTION 3. PLANNING COMMISSION ROLE**

- A. In addition to the responsibilities described above and in County Ordinances, the Planning Commission shall:
1. Regulate the course and decorum of a hearing;
  2. Rule on procedural matters;
  3. Rule on jurisdictional challenges; pursuant to Section 4 of these Rules;
  4. Rule on the relevance of evidence and testimony;
  5. Rule on a challenge to the party or witness status of a person seeking recognition to testify or present evidence;
  6. Rule on the capacity to participate in a hearing, pursuant to Section 2 of these Rules;
  7. Where appropriate, question a party, witness or representative of the Land Use Planning Program;
  8. Seek the opinion of Counsel on legal questions pertaining to any matter before the Planning Commission;
  9. Take other action necessary to lawfully conduct a hearing.

### **SECTION 4. JURISDICTION**

The Planning Commission may take an action only when jurisdiction for such action is granted to the Commission by County Ordinance or Resolution. If at any time prior to the close of a public hearing on an application objection is made to the jurisdiction of the approval authority, than the approval authority shall conduct an inquiry and resolve the question of jurisdiction or continue the action to a date certain in order to obtain additional information.

- A. The Planning Commission shall order termination of a hearing if it is found that they lack jurisdiction to hear the action.
- B. An order terminating a hearing pursuant to this Subsection, and the Findings on which the order is based, shall be entered in the record.

### **SECTION 5. RULES OF EVIDENCE**

- A. Evidence received at a hearing shall be of the quality that reasonable persons rely on in the conduct of everyday affairs.
- B. Irrelevant, immaterial or repetitious evidence shall not be admitted.
- C. If a record is reopened for new evidence or testimony, any party to that record may raise new evidence, testimony or criteria which apply to the matter at issue.



## SECTION 6. ORDER OF PROCEDURE

The Planning Commission shall conduct a hearing in the following order of procedure:

- A. Call the session to order.
- B. Call for the Staff Report relating to actions previously decided, if appropriate.
- C. Summarize the nature and conduct of the hearing as described in these Rules and explain where the public can obtain copies of the Rules of Procedures and the Agenda.
- D. Explain the sequence of events to be observed at the hearings as described in Subsection (F) through (O) of this Section,
- E. Instruct the audience that only testimony or evidence directed to the approval criteria will be accepted and that failure to raise an issue with sufficient specificity to afford the Commission and the parties an opportunity to respond to the issue precludes appeal to LUBA on that issue.
- F. Call the first Agenda item and describe the application as follows:
  1. The case number of the application (s) to be heard
  - 2 The names of the property owner and applicant
  3. The address of the property in question, or, if there is no address, the specific location of the property
  4. List the applicable substantive criteria
- G. Present a statement of capacity to hear the action, pursuant to Section 2 of these Rules, as appropriate.
- H. Request a representative of the Land Use Planning Program to describe the nature of the proposal, explain any graphic or pictorial displays which are to be part of the record and summarize the Staff Report and Recommendation.
- I. Call for the presentation of testimony and evidence by the applicant or applicant's representative.
  1. Those testifying in support of an application have ten minutes for all such testimony by the group of proponents/applicants, exclusive of time used by the Planning Commission for questions. A request for additional time shall be made in writing and shall include a description of the evidence/testimony to be introduced that warrants the additional time. Additional time shall only be granted if the evidence/testimony is not repetitious, irrelevant, or immaterial.
  - 2 Before or at the hearing on an action, the applicant or the applicant's representative or counsel may waive the right to present testimony and evidence, in which case the written application shall be deemed to be the record of the applicant's case, together with material presented pursuant to Subsection (B) of this Section.

3. If there has been no waiver pursuant to this Subsection, and if the applicant fails to appear personally or by representative or counsel, on testimony by the Planning Director or staff that the applicant was duly notified of the hearing, the applicant cant shall be deemed to have waived his or her privilege of testifying.
- J. Allow parties opposing the application to cross-examine to parties or witnesses who presented testimony or evidence favor of the application. A question in cross examination of a party shall be directed in writing to the Chairperson, who shall rule on the relevance of the question and, if appropriate, provide an opportunity for the questioned party to respond.
- K. Call for the presentation of testimony and evidence by any party in opposition to the application.
1. Those testifying in opposition to an application have ten minutes for all such testimony by the group of proponents/applicants, exclusive of time used by the Planning Commission for questions. A request for additional time shall be made in writing and shall include a description of the evidence /testimony to be introduced that warrants the additional time. Additional time shall only be granted if the evidence/testimony is not repetitious, irrelevant, or immaterial.
- 2 Opponents shall be heard in the following order:
- (a) Persons entitled lo receive notice of the hearing pursuant to MCC 11.15.8220(c)
  - (b) Neighborhood association, organizations formed for the purpose of opposition or other groups represented by counsel or other persons
  - (c) Persons not entitled to receive notice of the hearing but who demonstrate to the approval authority that the action may affect a substantial right of those persons.
- L. Allow parties favoring the application to cross-examine parties or witnesses who presented testimony or evidence in opposition to the application as provided in Subsection (J) of Section 5, above.
- M. Provide opportunity for a representative of the Land Use Planning Program to add to or clarify the factual information presented, subject cross-examination, as provided in subsection (J) of Section 5, above.
- N. Allow any party favoring the application to rebut testimony and evidence offered by the opposition and provide opportunity for the opposition to respond.
1. The scope and extent of rebuttal shall be determined by the approval authority.
- O. Close the public portion of the hearing and announce either the decision, a continuance, or that the matter will be taken under advisement. The Planning Commission may ask questions of the staff after the public portion of the hearing has been closed.
- P. Conduct a hearing on each additional application on the Agenda pursuant to the procedures described in Subsection (E) through (O) of this Section.

## **SECTION 7. DECISIONS**

- A. Except as otherwise provided in this Section, the approval authority shall deliberate and render a decision on an application at the conclusion of the presentation of evidence and testimony on each application.
1. A decision on an application may be made within ten days of the date of the hearing on that application in the event the matter is taken under advisement, provided a decision is filed with the Clerk of the Board of County Commissioners by the close of business not more than ten days after the hearing, as provided in MCC 11.15.8240 (C), in which case the approval authority shall so state at the conclusion of the hearing on each application so decided.
- B. Any hearing before the Planning Commission may be continued to a date certain, whereupon a decision on that application shall be rendered or the hearing further continued to a date certain.

If the hearing is quasi-judicial:

1. Any party shall be entitled to a continuance if evidence or documents supporting the application, in addition to that contained in the application or Staff Report is provided at the hearing.
  2. Unless there is a continuance, a participant at the initial evidentiary hearing on an item may request, and the Planning Commission shall allow, that the record remain open for at least seven days after that initial hearing.
- C. A decision shall include Findings of Facts and Conclusions, based on the record, and procedural or jurisdictional rulings, as necessary. The Planning Commission may adopt, or modify and adopt, Findings and Conclusions proposed by the Land Use Planning Program or the prevailing party in an action or may direct the staff of the Land Use Planning Program or the prevailing party to prepare other Findings based on the record.
- D. Except as otherwise provided in this Section, deliberations and decisions shall be in accordance with Roberts Rules of Order Revised (1971).

## **SECTION 8. RECORD OF PROCEEDINGS**

- A. The proceedings of the Planning Commission shall be electronically or stenographically recorded.
- B. The approval authority shall cause to be received all physical and documentary evidence presented. The evidence shall be marked to show the identity of the offering party and whether presented on behalf of a proponent or opponent of the application.
- C. Evidence shall be retained by the Land Use Planning Program on behalf of the approval authority until the action and any appeals are terminated, at which time notice shall be mailed to the person identified thereon that the evidence may be claimed.

1. In the manner provided by ORS 192.105-192.170, the Land Use Planning Program may dispose of physical and documentary evidence not claimed by the person identified thereon sixty days after notice that the evidence may be claimed has been mailed to such person.

## **SECTION 9. PUBLICATION OF RULES**

These Rules shall be placed on record with the Land Use Planning Program and the Clerk of the Board of County Commissioners and copies shall be available to the public at all hearings of the Planning Commission.

## **SECTION 10. AMENDMENT AND SUSPENSION OF RULES**

- A. Any Rule of Procedure not required by law, Ordinance or the Charter of Multnomah County, may be amended, suspended repealed at any hearing by the Planning Commission as appropriate.
- B. A procedural rule may be adopted to regulate a situation not provided for in these Rules or in County Ordinance.

## **SECTION 11. RELATIONSHIP WITH COUNTY ORDINANCES**

- A. These Rules are intended to conform to the provisions of the County Code. Terms which are used herein shall have the same meaning as they have in those Ordnances.
- B. Where these Rules are silent on any matter of procedure, the applicable provisions shall be given effect as if fully set forth herein.
- C. In the event of conflict between a rule as herein set forth and a provision of the applicable Ordinance, the latter provisions shall control.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 07-014**

Adopting Rules for Board Meetings and Repealing Resolution 05-101

**The Multnomah County Board of Commissioners Finds:**

- a. Multnomah County Home Rule Charter section 3.50 contains requirements for Board meetings, and subsection (1) requires the Board to adopt and publish rules for the conduct of its meetings.
- b. All Board meetings must comply with the Oregon Public Meetings Law.
- c. Resolution 05-101 adopted the current Board rules that now need revision.

**The Multnomah County Board of Commissioners Resolves:**

**SECTION 1. ORGANIZATION**

- A. The Chair presides at Board meetings and has a vote on each matter before the Board. The presiding officer may not make or second motions unless the position is first relinquished for that purpose.
- B. The Vice-Chair presides when the Chair is absent.
- C. In the absence of both the Chair and Vice-Chair, the Commissioner with the most seniority in office will act as presiding officer.
- D. The presiding officer will sign all documents approved at the Board meeting.

**SECTION 2. APPOINTMENT OF VICE-CHAIR**

- A. At the first regular meeting of each calendar year, the Board will appoint a Vice-Chair. Appointments will be made in rotation by Commission District number. A Commissioner may refuse the position, and then the Commissioner in the next numbered district will be appointed.
- B. If there is a vacancy in the Vice-Chair position, the Board will appoint a Vice-Chair from the next numerical Commissioner District at the first regular meeting following the vacancy.

**SECTION 3. MINUTES**

- A. The Board Clerk will make a record of all Board meetings.

- B. The written record will comply with the Oregon Public Meetings Law. The records will be accessible to the public during regular office hours.

#### **SECTION 4. MEETINGS**

##### **A. REGULAR MEETINGS**

- (1) All meetings are open to the public, except executive sessions.
- (2) All Board meetings are held in the Commissioners' Boardroom and other locations accessible to the public as noted on the agenda.
- (3) The Board meets each Thursday to deliberate on County business and make decisions.
- (4) The Board meets on Tuesdays and *other days* as necessary for briefings, executive sessions, work sessions and joint meetings. The Chair may cancel Board work sessions or briefings or combine them with regular or special meetings.
- (5) When it is in the public interest, the Board by majority vote at any meeting may adjourn to another time or to another location accessible to the public.

##### **B. SPECIAL MEETINGS**

- (1) The Chair or three other Board members may call special meetings. The special meeting notice must include an agenda of items for consideration. The notice must be delivered personally to each Commissioner or the Commissioner's office or residence at least 24 hours before the meeting.
- (2) Board action at a special meeting, except adoption of an emergency ordinance, does not take effect unless ratified at the next regular meeting.

##### **C. EXECUTIVE SESSIONS**

- (1) The Board may meet in executive session in accordance with state law. At the beginning of each executive session, the statutory authority for the meeting must be stated.
- (2) The Board will require that representatives of the news media and all other attendees are specifically directed not to disclose specified information that is the subject of the executive session.

## **SECTION 5. NOTICE AND AGENDA**

- A. The Board Clerk will maintain an interested person Board meeting notice list. The list will include the names and addresses of interested persons including news media that have requested notice of Board meetings. The Board Clerk will give notice stating the time and place of Board meetings and the agenda to persons on the list, and post the notice to the Board's internet web site. Agenda packet materials will also be posted to the web site.
  - (1) Notice will be given at least 72 hours before each regular meeting.
  - (2) Notice will be given 24 hours before each special meeting.
- B. The Chair, each Commissioner, the Sheriff, the District Attorney, the Auditor and Department Directors may place matters on a Board meeting agenda. The official who places a matter on a Board agenda may withdraw or postpone the matter at any time before the start of the meeting. If the agenda has been distributed, the Board must decide to continue the matter to another date or postpone it indefinitely.
- C. The Chair will supervise agenda preparation. The Chair may adopt Executive Rules for placement of matters on the Board agenda, and the format for ordinances, resolutions, orders, proclamations and other Board documents.
- D. The Board, Sheriff, District Attorney and Auditor are not bound by the Administrative Procedure for Board agenda submissions and process established by the Chair for County Department Directors. The agenda submission deadline for elected officials is noon, Wednesday, one week prior to the Thursday Board meeting.

## **SECTION 6. UNANIMOUS CONSENT**

- A. The Board may act on an item not on the agenda notice if at least three Commissioners vote in favor of a motion to immediately consider the matter.
- B. For the matter to be adopted, all Commissioners present must vote in favor of the matter.

## **SECTION 7. ATTENDANCE, QUORUM**

- A. Commissioners will provide written or electronic mail notification of all anticipated absences from Board meetings to each other and the Board Clerk.
- B. A quorum consists of three Commissioners.
- C. If there is an emergency, two Commissioners may meet and compel the attendance of absent members with assistance from the Sheriff.

## **SECTION 8. VOTING**

- A. A Commissioner who cannot be physically present at a meeting may attend and participate by telephone. Except for executive sessions, the public will be provided a place to listen to the communication.
- B. If a potential conflict of interest exists for any Commissioner relating to any matter on the Board agenda, the Commissioner will publicly announce the nature of the potential conflict before participating in the Board discussion of that matter. If a Commissioner has an actual conflict of interest relating to any matter, the Commissioner may not participate or vote on that matter.
- C. After a motion and second, the presiding officer will request an explanation of the agenda matter and accept public testimony. At the conclusion of Board discussion, the presiding officer will state the motion before the Board and call for the vote.
- D. After the call for the vote, no further discussion is permitted, but the presiding officer will permit the maker to withdraw the motion to allow further discussion.
- E. No voting abstention is allowed. Commissioners must vote 'yes' or 'no' unless they have been excused for a conflict of interest.
- F. Commissioners will vote orally. A roll call vote will be conducted if requested by any Commissioner. The presiding officer will announce the results of the vote, and the vote of each Commissioner will be recorded.
- G. Motions and amendments to motions fail if there is a tie vote.
- H. As required under Charter Section 6.20(4), the affirmative concurrence of four or more Commissioners is required to:
  - (1) Establish additional administrative departments,
  - (2) Abolish any department,
  - (3) Combine two or more departments into one, and
  - (4) Separate departments so combined.
- I. Regular meeting agendas include a consent calendar for approval of items determined routine by the Chair. The consent calendar may be approved by a single motion, second and vote of the Board. At the request of any Commissioner, a consent calendar item will be considered on the regular agenda.
- J. Agenda items may be taken out of order at the discretion of the presiding officer.



## **SECTION 9. PUBLIC TESTIMONY**

- A. The presiding officer may regulate the length of public participation and limit appearances to presentations of relevant points.
- B. To assist persons wishing to testify at Board meetings, the Board Clerk will make public sign-up sheets available. Persons will be called to testify in the order they are submitted to the Board Clerk, unless otherwise recognized by the presiding officer.
- C. The presiding officer has authority to keep order and impose reasonable restrictions necessary for the efficient and orderly conduct of a meeting. Any person who fails to comply with reasonable rules of conduct or who creates a disturbance may be asked or required to leave and upon failure to do so becomes a trespasser.

## **SECTION 10. ORDINANCES**

- A. Proposed ordinances will be prepared or reviewed and approved by the County Attorney.
- B. Except for ordinances containing emergency clauses, proposed ordinances will be read at regular Board meetings on two different days at least six days apart.
- C. A proposed ordinance may be read by title only if copies of the ordinance are available to the public at the meeting.
- D. A motion to move a proposed ordinance to its second reading requires the affirmative concurrence of at least three members of the Board. Unless a later date is provided by the Board, upon passage of the motion, the presiding officer will announce the second reading is scheduled for the next regular meeting, which must be at least six days from passage of the motion.
- E. No change or amendment to a proposed ordinance that has been placed on the agenda may be made except by approval of a majority of the Board during the public hearing of the ordinance. If the Board approves a change that materially affects a proposed ordinance, an additional reading of the proposed ordinance may be held.
- F. A non-emergency ordinance takes effect thirty days after adoption by the Board unless it prescribes a later effective date or it is referred to County voters.
- G. A proposed ordinance to meet an emergency may be introduced, read once and enacted at a single meeting with unanimous consent of all Board members present. If the Board votes in favor of passage at the first reading but the vote is not unanimous, the proposed ordinance must be scheduled for a second reading.

At the second reading, the proposed ordinance may be approved as either an emergency or a non-emergency ordinance by majority vote.

- H. Following Board adoption, an emergency ordinance takes effect immediately upon signature of the presiding officer or the date provided in the ordinance.

**SECTION 11. APPLICATION OF RULES**

The Board is the governing body for Dunthorpe-Riverdale Sanitary Service District No. 1 and the Mid-County Street Lighting Service District No. 14. The Board also sits as the Multnomah County Budget Committee, the Public Contract Review Board and in other capacities. These Rules apply to the meetings in all capacities.

**SECTION 12. MISCELLANEOUS**

- A. Any procedure or situation not covered by law or these Rules is governed by the most recent edition of Robert's Rules of Order Newly Revised.
- B. Copies of these Board Rules will be available at all Board meetings.

**SECTION 13. ADOPTION**

This resolution repeals Resolution 05-101 and all previously adopted Board Rules. These Rules take effect immediately upon Board adoption.

ADOPTED this 4th day of January, 2007.

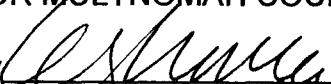


BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY  
FOR MULTNOMAH COUNTY, OREGON

By   
\_\_\_\_\_  
Agnes Sowle, County Attorney

SUBMITTED BY:  
Agnes Sowle, County Attorney