

**MINUTES OF THE PLANNING COMMISSION WORK SESSION**  
**Wednesday, March 18, 2009**  
**City Council Conference Room, 10th Floor**  
**2400 Washington Avenue**  
**Newport News, Virginia**

**PRESENT:** J. Doug Coenen, Jr., Chairman; Sharyn Fox, Vice-Chairman; V. Albea; R. George Hubbard; Cleon Long; Lucille Lowery; Wesley Maxwell; H. Eugene Roberts; Clara Swanson; (Staff: Al Riutort, Director of Planning; Sheila W. McAllister, Assistant Director of Planning; Kathy James-Webb, Manager of Environmental Planning; Johnnie Davis, Planner-Planning Services; Lynn Sugg, Senior Assistant City Attorney; Christine Mignogna, Zoning Administrator)

The Chairman called the work session to order at 2:00 P.M.

**MINUTES**

Ms. Lowery made a motion to approval the minutes of March 4, 2009, as distributed. Ms. Fox seconded the motion. The City Planning Commission voted to approve the minutes as distributed by acclamation.

**WORK SESSION**

The Chairman handed the meeting over to the Director and Assistant Director of the Planning Department.

Mr. Riutort stated that about 10 years ago there was an attempt to revise the By-laws and there were amendments. Ms. McAllister stated that changes were proposed in 1999 but because rewriting the document was required it was never finalized. Today's work session is an opportunity to revisit the entire document. There was an amendment in 1988 to the original document. The entire document has been reviewed and there has changes have been suggested. Mr. Riutort suggested that the Planning Commission start from the beginning of the document. It is in legislative format and proposed changes are highlighted in yellow with strike outs. Ms. McAllister stated that the changes proposed are recommended by Staff, but not changes the Planning Commission has to agree with, because they can make suggestions also and the changes are up for discussion.

Ms. McAllister stated that the Table of Contents will change as the document changes. Let's begin with page one. The word, "recommend" was added and added were the two documents that the Planning Commission is responsible for, which are the Site Regulations and Sign Ordinance. Ms. Swanson stated that 15.1 does not exist any longer. It is now 15.2 and chapter 11 is now chapter 22. It was amended last summer. Ms. McAllister stated that the Title 15.1 Chapter 11, of the Code of Virginia, 1950, as amended." Ms. Sugg recommended leaving the language as is and just incorporate

Title 15.2, and Chapter 22. Mr. Riutort asked if it would be ideal to add a footnote. Ms. McAllister stated that the only thing that Article II does is tell the creation of the Planning Commission and in what chapter. Mr. Riutort asked if someone wanted to go to State Code for reviewing State rules then there is no cross reference. Ms. McAllister stated that then whatever the chapter is should be reference. Mr. Riutort recommended a footnote. Ms. Swanson stated that it states 15.1 was repealed. All of the things it states the Planning Commission shall do, so many of those things are parading the language out of 15.2. Ms. McAllister recommended which has since repealed and referenced the new. Ms. Sugg stated that can be done, but it will have to change each time there is a change. Mr. Long asked if a footnote is added is there a process of amending the document to reflect the change. Ms. McAllister stated that there is a process. Ms. Swanson stated that the document will serve as a reference. Ms. McAllister stated that the Planning Commission By-laws are for the Planning Commission, so the Commissioners are the only ones that will possess the document. Ms. Sugg suggested the statement, "The Newport News Planning Commission was created in accordance to the City of Newport News pursuant to the Code of Virginia. Ms. Fox suggested that be incorporated, because it is says it was created in 1950. Ms. Sugg suggested that it should state, "Pursuant to the Code of Virginia as created in 1950, as amended."

The Planning Commissioners proceeded to page 2. Mr. Long stated that, "The City," manager should have been removed, which is at the end of line three under Article V. Membership 5-1-1 and 5-2-1 line three the sentence is incomplete. He asked if "City Manager and designee." should remain. Ms. McAllister stated that beginning with, "with the exception as to the term of the," should be removed and once that has been removed a period (.) should end the sentence, which will state, "Appointments shall be made for one full term or to fill an unexpired portion of a term." Mr. Albea stated that in reviewing the old set of Qualifications 5-1-2 it states, the Commission shall consist of nine voting members and a City Manager designee. He stated that nowhere in the document states that the Committee consists of nine voting members. Ms. McAllister stated that was amended in 1988 and is stated in the amendment. Mr. Albea stated that the total number of members is not in the document. Ms. McAllister stated that it has not been in the document since 1988. Mr. Riutort asked if it is stated anywhere in the By-laws that the Planning Commission is appointed by the City Council. Ms. McAllister stated it does not. Mr. Riutort stated that should be included somewhere in the document, maybe under Membership. Ms. Swanson asked if the City Council decided that there would be nine members of the Planning Commission. Ms. McAllister stated that they did. She suggested a new section be added to include, "The Members of the Planning Commission are appointed by the City Council." Ms. Fox stated that it appears that, "members of City Council and the nine members," were removed. Ms. McAllister stated that they were removed in 1988. Mr. Roberts stated that before 1988, 5-1-2 it states, "The Commission shall consist of nine voting members and the City Manager designee," but that can be placed back. Ms. McAllister stated that prior to 1988 the Planning Commission consisted of 11 members, nine were Planning Commissioners and one was the Assistant City Manager and a City Council representative and in 1988 the regulations were amended because it changed. Mr.

Riutort suggested that the first sentence of 5-1-1 state, "The City Planning Commission shall consist of nine voting members who are appointed by City Council and all voting members shall be residents of the City." He stated that there is a note of highlighted changes because the City Code still requires a City Manager designee, which should be changed.

Mr. Coenen noted the strikes and highlights indicated on page 2. He stated that in Section 4-1-810 should read, "May develop. . ." Mr. Riutort suggested, "Recommend," instead of "May." Ms. McAllister stated that it is their responsibility, we are their staff and we actually do it, but it actually comes from the Planning Commission. It requires the Commission to do all these things. Ms. Sugg stated that the Planning Commission do develop it, but you don't necessary have to. Ms. McAllister stated that staff recommends it on to City Council, but it starts with the Planning Commission. Ms. Fox asked for an explanation on how the Planning Commission develops it. Ms. McAllister stated that the Framework for the Future document has plans and goals that address land use in the City, which is an example. Mr. Coenen stated that a lot of that has to with the Economic Development Authority. Ms. McAllister stated that the Planning Commission does all of the neighborhood plans for the City as far as land use is concerned. That is the Planning Commission's responsibility and also responsible for Site and Subdivision Ordinances, which are policies and implementation tools for the City. Mr. Coenen stated that he is concerned about the language as it reads because his interpretation is that it is mandated. Ms. McAllister stated that the State mandates that the Planning Commission do this. She stated that staff does all of the work, but the Planning Commission comes makes the decision. Mr. Coenen asked if in that same section where it reads "or" does that mean either or. Ms. Swanson stated that it should read, "and / or. . ." Mr. Coenen asked if the word or give them the latitude not to be responsible for making it a social, economic, cultural, and physical environment." Ms. Swanson stated that she questions whether or not there are inconsistencies. She stated that she has concerns with whether or not the Planning Commission is stating in the document that they do things they are not allowed to do. Mr. Riutort stated that the Planning Commission By-laws just states what the Planning Commission does and it is pretty consistent with State Codes. Ms. Swanson stated that if it were up to her she would go to the Virginia Code and she would state that, "The duties of the Planning Commission are and she would have them and then place which includes the following activities and micro-input. She would not paraphrase what the State stature says. What the Planning Commission has is just a style of drafting. Ms. Sugg stated that she feels it is fine the way it is written. Ms. Swanson stated that you really want them to do what is behind or than they should not be given an option. Ms. McAllister stated that they really do not have an option; it is just saying that there focus may be just on doing the plans or it may be on maintenance of the plan. It depends on the focus of the Planning Commission at the time. Mr. Coenen suggested leaving the word, "or."

Mr. Coenen asked what part of Section 4-1-40 12 comes from EDA or because of the comprehensive plan should that statement remain. Mr. Riutort stated that the comprehensive plan is very broad. He stated that transportation plans and the oyster

point transportation study was done and these are things that are when housing was an important thing that was granted to the State Code since the rewrite was done, so this is pretty much your \_\_\_\_\_. Ms. McAllister stated that EDA is responsible for EDA owned property and development. There are not responsible for spending cost. Mr. Riutort state that the Planning Department does the preparation and EDA follows through. Mr. Coenen asked if they are binding themselves to do the studies or is it understood that the technical aspect of this would be done by various departments and the Commission would be doing an oversight by virtue of the comprehensive plan. Ms. Sugg stated that the Commission shall make careful and comprehensive surveys of the study as required. Mr. Riutort stated that it all comes to the Planning Commission eventually and it is not expected that the Planning Commission will go out and do the study. Mr. Riutort stated that there are places in Virginia that has a Planning Commission but does not have a staff. Ms. Swanson stated that under their duties the Code says that they should exercise general supervision of and make regulations for the Administration of its affairs, which is consistent with what Ms. McAllister stated. The Planning Commission administers and are responsible for it but others are the ones doing the day to day leg work. Mr. Coenen suggested leaving the edited language.

Mr. Coenen stated that he has a problem with the word, "Attempt," in Section 4-1-44 13. Ms. Fox stated that she has a problem with the entire statement. Ms. James-Webb stated that the interpretation is that this is to prevent an environmental problem such as gasoline stations. Mr. Coenen asked what if there is an industrial development by right the Planning Commission would never see it. Mr. Riutort stated that there is an entire chapter in the *Framework for the Future* on Environmental. Ms. McAllister stated that all of it is an attempt, even the way the Ordinance is written there is the assumption there will be certain issues associated with the use being grooved together, especially industrial uses. The Planning Commission knows up front there may be environmental concerns, so there are certain places where the uses are placed. Mr. Riutort gave the example of Harbor Homes and Dickerson Court Apartments. He stated that it is a perfectly valid thing that the Planning Commission does. Mr. Roberts stated that the word, "Attempt," really does not lock the Planning Commission in and he does not see a problem with leaving it in the statement. Mr. Coenen stated that he was just questioning the wording. Ms. Fox stated if Interstate 664 was eliminated there would not be a problem with the noise. Mr. Coenen stated that "propose ways," means it is an oversight for the Planning Commission. Mr. Roberts stated there can be noise pollution where there are drive-ins near residential. Mr. Riutort stated that the speakers can be relocated on the site. Ms. Fox stated that the speakers can be turned down. Ms. McAllister stated that more conditional use permits have been created.

Ms. Swanson asked if the word "freeholders" referencing "landowners." She stated that to be consistent with Codes, "owners of real property," should be stated instead of "freeholders." She stated that the Ordinance requires 100 percent. You cannot be a resident of Poquoson and be on the Newport News Planning Commission. Ms. Swanson states that you do not have to own land in Newport News, but be a resident. She stated that she can think of a lot of times where she may want to rent her home that

she owns in Newport News. It states they must be landowners. Ms. Sugg stated that the Code reads, "The Commission shall consist of nine voting members. The members are appointed by the City Council all of whom shall be residents of the City shall be freeholders qualified by knowledge and experience to make decisions on questions of the community, growth and development." Mr. Coenen asked if being a resident of the City mean they must own property. Ms. Swanson stated that they do not have to own property in Newport News, but has to be a resident. Ms. Sugg stated she interprets that it does not state you have to own property in Newport News, but that you have to be a resident of Newport News and be a freeholder. Ms. Fox asked if you can own property anywhere and be qualified to serve on the Planning Commission. Mr. Riutort asked what the Code of Virginia state. Ms. Swanson stated that The Code of Virginia states that you must be a resident of the locality qualified by knowledge and experience to make decisions on questions with community, growth and development provided that at least one half of the members so appointed shall be owners of real estate." So it is less restrictive than what the City's Ordinance requires. Mr. Coenen asked what if a person rents an apartment in Newport News would they qualify. Ms. Swanson stated the individual would because they would be considered a resident of the City. Ms. Fox asked if it is stating a person can be a landowner elsewhere as long as they are a resident of the City. Mr. Albea stated that the paragraph should state exactly what's in the City Code, because it addresses everything. Ms. McAllister stated that the last part that was removed is also in the City code. Mr. Riutort stated that up to the point that was deleted, the language should be consistent with the language in the City Code. Mr. Coenen asked if the changes will be made and distributed to the Planning Commission for review. Ms. McAllister stated that the Planning Commission will get a draft copy with the changes discussed today, which will included in the revised document with changes highlighted. Ms. Swanson suggested changing "freeholders" to modern language that reads, "owners of real property."

Ms. Lowery stated that in 5-6-1 there should be a period (.) after month on page 3. Ms. McAllister stated that the change will be made.

Ms. Fox stated that page 4, Section 6-3-1 states, "No officer may serve a term for more than 2 consecutive years." She stated that there is a chairman and a vice chairman and asked if that means the chairman and the vice chairman cannot serve more than a year as Vice Chairman. Ms. McAllister stated that its two consecutive years in that office and it can be flipped for the Vice Chairman can become the Chairman and the Chairman can become the Vice Chairman. Ms. Lowery suggested, "No officer may serve in the same position for more than two consecutive years." She stated that states, the Chairman can serve for two years and then serve as Vice Chairman for two years, as long as that person is not serving in the same office for more than two years and that would also apply to the person serving as Vice Chairman. Ms. Fox concurred.

Mr. Coenen asked if there are any of Committees that are not named. Ms. McAllister stated that the Committees listed are not the Planning Commission committees, the Chairman appoints Planning Commission representatives to the committees. Mr.

Coenen asked if there are any other committees that are not listed in the By-laws that should be listed. Ms. Fox stated that she thought the Planning Commission would receive a copy of the committee list. Mr. Coenen stated that once it has been finalized everyone will receive a copy. Mr. Roberts asked if the Planning Commission could receive something that states when his term on the Planning Commission expires.

Mr. Hubbard suggested striking 7-1-6 on page 5. Mr. Coenen stated that his interpretation of the statement, "Carry out other duties as assigned by the City Council and Commission," is that he can assign duties such as committees to each Commissioner. Mr. Riutort stated that the City Council can ask the Planning Commission to send a representative of the Commission to attend a function, so leaving 7-1-6 is advisable because that can occur. Mr. Coenen asked Mr. Hubbard if he is okay with leaving that statement. Mr. Hubbard stated that he is okay with not removing.

Mr. Albea asked should the following two items be added back to Section 3. Executive Secretary on page 5: "Speak for the Department of Planning" and "Direct the activities of the Department and Department staff so as to facilitate the functioning of the Planning Commission." Mr. Riutort suggested including the two items.

Ms. Swanson asked if the City Code requires that the City have a chaplain. Mr. Coenen stated that there was a chaplain at one time. Ms. McAllister stated that Mr. Michael Taylor was the chaplain before. Mr. Coenen stated that he would prefer to leave it as current. Ms. McAllister stated that it states, ". . .at the discretion," so it is not necessary.

Ms. Fox stated that the Minutes are not online and has referred citizens to the website to review the Minutes. She suggested having the Minutes published online for public review after they have been approved by the Planning Commission.

Mr. Hubbard asked if there are plans for one meeting a month. Ms. Fox stated that if there is one meeting a month there may be some meetings that might be quite lengthy and could go on for hours. Ms. McAllister stated that currently there is one public hearing and the second meeting in the month is a public meeting of special exception cases. She stated that the only time that meeting becomes a public hearing if there is a continuance from a prior public hearing. There have not been too many special exceptions or rezonings. Mr. Riutort stated that technically it is treated as a public hearing, but it really is a waste of staff and the Commission time when meetings are held that may only last up to 15 minutes. He stated that the only other jurisdiction in the State that has two meetings a month is the City of Norfolk. Mr. Riutort stated that the nice thing about two meetings is that deferrals can be heard sooner, the minutes can be approved by the Planning Commission sooner for cases going before City Council and the each Planning Commission gets paid for each of the two meetings a month attended. Mr. Riutort stated that if another public meeting is attended for Planning Commission business then that Commissioner is paid for the second meeting when there is only one Planning Commission meeting within one month.

Mr. Coenen asked if special exceptions have to be advertised. Ms. McAllister stated that she makes sure public hearing items are on the Agenda for the first meeting of the month. If a public hearing item shows up on the second meeting in the month is usually because the first meeting has been cancelled. Ms. Fox asked when does staff know a meeting is being canceled. Mr. Riutort stated that during the Executive Secretary's report, he usually informs the Planning Commission if there is a canceled meeting. Mr. Riutort suggested there be some flexibility with the language for allowing a second meeting each month. Mr. Roberts stated that the second meeting should be optional even if there is no need for a second meeting. Ms. McAllister stated that if the meetings are not scheduled then the procedure for calling a special meeting has to be followed. Mr. Riutort stated that staff normally knows what is on the Agenda. Ms. Swanson stated that the secretary has to mail a letter to the Commission at least five days before the meeting. Mr. Riutort stated that the By-laws intend to state how the Planning Commission intends to conduct their meetings. Ms. McAllister stated that the schedule will reflect one meeting a month. Mr. Roberts asked if the City Council will resist one meeting a month. Mr. Roberts stated that the City Code only requires one meeting every other month. Mr. Riutort stated that the way the schedule is set up is because of the requirements for public notification, advertising, and City Council agenda items. Mr. Riutort stated that there is also an issue of when the minutes are approved because they have to go before the City Council

There being no further business, the work session adjourned at 3:59 P.M.

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Recording Secretary

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Executive Secretary