

CITY OF WELLS, COUNTY OF FARIBAULT, STATE OF MINNESOTA

PLANNING COMMISSION BY-LAWS

POLICY ON COMMISSION STRUCTURE, MEETING ORDER  
AND GENERAL PROCEDURE

CITY COUNCIL RESOLUTION # 2011-9

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**SECTION 1. PURPOSE**

The purpose of this Planning Commission policy is to provide a set of operating procedures for the Planning Commission, and to establish a code of ethics and conduct.

**SECTION 2. MEMBERSHIP**

The Planning Commission shall consist of five members. The commissioners are appointed by the Mayor and confirmed by the City Council. The commissioners consist of four at-large members and one City Council Representative.

**SECTION 3. ADOPTION OF PLAN OF WORK**

Upon the appointment and organization of the Planning Commission, the Commission, subject to council approval, shall proceed with the preparation and adoption of a plan of work, outlining the activities proposed to be undertaken within the exercise of its powers and the performance of its duties. Subject to council approval, the plan may be revised from time to time. On or before January 1 of each year, the Commission shall submit to the City Council a report of its work during the preceding year.

**SECTION 4. ANNUAL REVIEW**

This policy shall be reviewed annually by the Planning Commission, and any changes or amendments agreed to by a majority vote of the Commission shall be recommended to the City Council for adoption. In addition, the City Council may review this policy and adopt amendments as needed.

**SECTION 5. ANNUAL MEETINGS**

The annual meeting of the Planning Commission shall be the first regular meeting in the month of January of each year. Such meeting shall be devoted to the election of officers for the ensuing year and such other business as shall be scheduled by the Planning Commission.

## **SECTION 6. REGULAR MEETINGS**

Regular meetings of the Planning Commission shall be held in the City Hall Public Meeting Room or other Officially Noticed location on the first Monday of every other month beginning in January. If pressing business, compliance with statutory timelines for review items, or a directive from the City Council is delivered the Commission may call a regular meeting during the "off" month. At such meetings, the Commission may consider all matters properly brought before the Commission. A regular meeting may be cancelled or rescheduled by the Commission at a prior meeting, by the Chairperson, or by the City Council via their staff representative. Any regular meeting falling upon a holiday shall be held on the following business day at the same time and place.

## **SECTION 7. SPECIAL MEETINGS**

Special meetings of the Planning Commission may be called by two of the members, but one of which must be the Chairperson or Vice-Chairperson when acting as the Chairperson, or the City Council who shall designate the time, place and purpose of the meeting. Notice of special meetings must conform to the State Open Meeting Law. Written notice thereof shall be given to all members not less than 24 hours in advance of the special meeting except in the case of an emergency.

## **SECTION 8. QUORUM**

In order for any meeting to be called to order, a quorum of three members must be present. During the course of a meeting, at least three members must be present to take action on any matter before the Commission unless otherwise stipulated by Minnesota State Statute.

## **SECTION 9. MEETINGS AND THE OPEN MEETING LAW**

In accordance with the Minnesota Open Meeting Law (Minnesota Statute Chapter 13D), all official meetings of the Planning Commission shall be open to the general public. An "official" Planning Commission meeting is any gathering, or simultaneous communication (via email, telephone or otherwise), between a quorum of Commission members for the purpose of considering the public business of the Planning Commission. Informal gatherings and communications such as site visits and conference telephone calls, therefore, may constitute an official meeting. The Planning Commission may exclude the public from its meeting only in certain very limited cases identified in the Open Meeting Law.

## **SECTION 10. VOTING AND RECOMMENDATIONS**

- A. Each member attending any meeting of the Planning Commission shall be entitled to cast one vote on matters before the body. In the event that any member shall have a conflict of interest concerning a matter then before the Commission, as determined by the City Attorney, then he/she shall disclose his/her interest and be disqualified from voting upon the matter, and the

secretary shall so record in the minutes that no vote was cast by such member.

- B. The affirmative vote of a majority of members in attendance shall be necessary for the adoption of any resolution or other voting matter. The results of any vote shall be recorded, listing those voting Aye and those voting Nay.
- C. All recommendations shall be sent to the City Council by means of written minutes, a report of the City Council Representative, or a report of the City Council staff liaison, and shall include the record of the division of votes on each recommendation.

### **SECTION 11. REGULAR PROCEEDINGS**

- A. At any regular meeting of the Planning Commission, the following shall be the regular order of business:
  - 1) Roll Call
  - 2) Approval of Agenda
  - 3) Approval of Minutes
  - 4) Public Hearings – Continued Hearings
  - 5) Public Hearings – New Applications
  - 6) Old Business
  - 7) New Business
  - 8) Communications and Reports
  - 9) Public Forum
  - 10) Adjournment
- B. The order of business may be varied by the presiding officer, but no public hearings shall be held at an earlier time than specified in the notice of hearing.
- C. The following procedures will normally be observed for matters before the Planning Commission, except for public hearings which follow the procedures detailed in Section 14; however, they may be rearranged by the Chairperson for individual items if necessary for the expeditious conduct of business:
  - 1) Staff presents report and makes recommendation (if any).
  - 2) The Planning Commission may ask questions regarding the staff presentation and report (if any).
  - 3) Proponents of the agenda item make a presentation (if any).
  - 4) Any opponents make presentations (if any).
  - 5) Applicant makes rebuttal of any points not previously covered (if any).
  - 6) Planning Commission asks any questions it may have of the proponents, opponents or staff (if any), and then takes a vote.
- D. Each formal action of the Planning Commission required by law, rules, regulations or policy shall be embodied in a formal vote duly entered in full upon

the Minute Book after an affirmative vote as provided in Section 5 hereof and shall be accompanied by written findings of fact when required or appropriate.

- E. Unless agreed to by a 2/3 vote of the Planning Commission, no new agenda items shall be taken up after 10:00 p.m.

## **SECTION 12. AGENDA AND DEADLINE FOR AGENDA**

- A. The agenda of a Planning Commission meeting serves two important functions: it focuses Planning Commission deliberations by determining what matters will be considered at the meeting, when each matter will be considered, and the context in which each matter will be considered; and, it serves as the public's only guide to what will be considered at the meeting, how the matter be dealt with, who will participate in the discussion, and when public comment may be made. The agenda should be prepared so as to best achieve these functions.
- B. The agenda shall be prepared by the City Staff Liaison and shall be closed at noon the Monday prior to the meeting for preparation purposes.
- C. Any Planning Commission member can place an item on the agenda by contacting the City Staff responsible for agenda preparation. No item shall be placed on the agenda unless the item is expressed in such a way as to clearly show the subject matter involved.
- D. Additional items may be added to the agenda at a Planning Commission meeting subject to approval by a majority vote of the members present. The additional agenda items may be discussed, but no action may be taken if any member objects.
  - 1) If a new item of business proposed to be added to the agenda requires staff review (such as rezonings, ordinance amendments, preliminary subdivision plans, and subdivision review procedures and guidelines), involves quasi-judicial procedures (such as a request for a hardship variance from Subdivision or Zoning Ordinance standards), or involves substantive matters of potential public interest (such as the Comprehensive Plan, or other major policies), the Commission may add the item to the agenda only for purposes of referring it to the staff or a Commission committee, or scheduling it for consideration at a later meeting (as appropriate).
  - 2) The Commission may not discuss the substance of the matter or take any final action on the item except at a meeting where the item is included on the distributed agenda.
  - 3) The Agenda shall be approved by a majority vote of the members at each meeting of the Planning Commission.

- E. At least three calendar days before the meeting, the City Staff Liaison shall provide each Commission member a meeting agenda and all materials related to items on the agenda (e.g., petition, application, plans, staff report, written comments received).
- F. The agenda organization shall generally conform to Section 10 above. In addition, the agenda shall generally organize matters to be addressed at the meeting so as to best promote opportunities for effective public input and the timely and efficient performance of Planning Commission responsibilities. Items of business likely to attract the attendance of many interested persons (such as those involving notice to adjoining property owners and those involving other public notice) should generally be placed early on the agenda, thereby, minimizing the time citizens must wait for consideration of the item that brought them to the meeting. The agenda should identify (by name and/or role) the leading participants at each step of the Commission's review and indicate the step at which interested persons will have the opportunity to comment on the item.

### **SECTION 13. MINUTES**

- A. The minutes of the Planning Commission's meetings represent the official record of the Commission's deliberations and actions. As such, they record the Planning Commission's vote on actions and the reasons for the vote. The minutes also communicate background on the Planning Commission's recommendations to the City Council, provide perspective on issues, and provide a historical record of Commission proceedings. Furthermore, state law requires the Commission to keep full and accurate minutes of all official meetings, and requires that those minutes be retained and be available for public inspection by any person subject to the state public records law and the city records retention schedule.
- B. The City Staff Liaison shall prepare minutes of all Planning Commission meetings. The minutes shall state:
  - 1) Which members were present and absent.
  - 2) A summary of staff and committee reports and recommendations, applicants' presentations, public comments, and the Planning Commission's discussion on each item.
  - 3) The content of each principal motion before the Planning Commission, the identity of the person who made and seconded the motion, and the record of the vote on the motion (identifying the vote count and, unless the vote was unanimous, the names of those voting for or against the motion). If the motion called for or recommended adoption of an ordinance or resolution, or the acceptance of a report, the minutes shall also include a copy of the ordinance, resolution or report.

#### **SECTION 14. RULES OF PROCEDURE FOR PLANNING COMMISSION MEETINGS**

All meetings of the Planning Commission shall be conducted in accordance with the Minnesota Mayors Association Rules of Order or the most recent edition of Robert's Rules of Order. The City Staff Liaison shall serve as the parliamentarian at the request of the Chairperson.

#### **SECTION 15. PUBLIC HEARINGS**

- A. A public hearing is a noticed, official hearing, the express and limited purpose of which is to provide an equitable opportunity for the public to speak on matters before the Planning Commission.
- B. For certain matters considered by the Planning Commission, a requirement that the Planning Commission conduct a public hearing is prescribed by State Statute, the City's Municipal Code of Ordinances or by City Policy. The Planning Commission, however, may elect to conduct a public hearing, although not specifically required, if the Planning Commission determines that due to the nature of the matter, it is advisable.
- C. The Planning Commission may neither deliberate nor take a substantive vote during a public hearing, but may ask questions for the sake of clarification of speakers.
- D. The Planning Commission, upon resuming their regular meeting after the close of the public hearing, may take action upon the matter discussed at the public hearing.
- E. Conduct of Persons Before the Planning Commission:
  - 1) During all public hearings required by State law or ordinance, members of the public shall be given reasonable opportunity to speak. In order to promote meeting efficiency, the Chair may discourage duplicative testimony and may place uniform reasonable time limits on the amount of time that individuals have to speak. Comments should be addressed to the item before the Planning Commission. Where a comment is irrelevant, inflammatory, disruptive or prejudicial, the Chair may instruct the Planning Commission to "disregard" the comment, which nevertheless remains in the public record.
  - 2) During all regular and special meetings of the Planning Commission, the public may be present but shall remain silent unless specifically invited by the Chair to comment.
  - 3) During all proceedings, members of the public have the obligation to remain in civil order. Any conduct which interferes with reasonable rights

of another to provide comment or which interferes with the proper execution of Commission affairs may be ruled by the Chair as "out-of-order" and the offending person directed to remain silent. Once, having been so directed, if a person persists in disruptive conduct, the Chair may order the person to leave the Planning Commission meeting or hearing. If the person fails to comply with an order to leave, the Chair may then call upon civil authority to physically remove the individual from the chamber for the duration of the hearing or deliberation on that item.

- 4) The Chairperson of the Planning Commission may impose additional limits or rules upon members of the public provided that all said provisions are applied in a uniform manner.

F. Additional Rules of Procedure for Public Hearings:

- 1) Public Hearing Format. Public hearings shall be conducted in the following manner:
  - a. The presiding officer requests a motion and second to open the public hearing. Upon affirmative vote the Chair declares the public hearing and the time.
  - b. It is the intent of the Planning Commission to open all public hearings at the predetermined and published time. From a practical standpoint, not all hearings can be opened at their designated time. The presiding officer may delay the start of a hearing until the business at hand is acted upon, in any manner, by the Planning Commission. However, in no circumstances can a hearing be opened prior to the predetermined and published time.
  - c. The presiding officer shall read, from the hearing notice, the details on the hearing sufficient to provide the public a general understanding of the purpose and procedures for the hearing, and the fact that the hearing is their exclusive or primary opportunity to provide input to the city on the subject.
  - d. Staff and/or a consultant make a presentation or report on the factual subject matter for the hearing.
  - e. The applicant (if any) may make a presentation or report on the subject matter for the hearing.
  - f. The presiding officer asks Planning Commission members if they have questions of the staff or consultant, or applicant, if any.
  - g. The presiding officer announces that input will be received from the

citizens, requesting that each speaker provide a name and address, noting any applicable time limits for comment from individual members of the public, any other applicable rules and explaining the procedure for enforcement of such rules.

- h. If any member of the public submits exhibits or other physical material the Chair may declare a recess of the Planning Commission for purposes of studying the material. Upon reconvening the Planning Commission to order the members must vote to accept or reject the material into the public record.
- i. After members of the public have spoken, the presiding officer requests a motion to:
  - i. Close the public hearing, and the Planning Commission votes on the motion. Once the vote is taken, the hearing is closed for the record.
  - ii. Continue a public hearing. If the Planning Commission votes to continue the hearing, the presiding officer shall, in consultation with City Staff, select and announce a time and date certain for the continued public hearing. No additional publication or notice requirements are needed if a hearing is continued to a later date. However, no public hearing may be continued more than once without additional formal notice and publishing the time, date and location of the hearing.
- j. The Planning Commission addresses the subject matter through deliberation, questions to citizens, reactions and statements of position on the subject, staff recommendations, and evidence.
- k. Once the public hearing is closed, the Planning Commission may take action on the application before them. The Council Staff Liaison shall deliver a motion which outlines the parameters under which an approval would be granted or denied. The Planning Commission shall adopt reasons and conditions, and when required a formal findings of fact, that shall be stated in the motion or resolution for approval or denial. Continuation of an action may occur in the event insufficient information is present to make a decision. The Planning Commission shall delineate the missing information before continuing the item.
- l. Any votes of abstention from the membership must be delivered in writing to the Council Staff Liaison for submission into the record.

**SECTION 16. OFFICERS**

The officers of the Planning Commission shall consist of a Chairperson, a Vice-Chairperson, and Secretary elected by the Planning Commission at the annual meeting for a term of one year. In the absence of the Chair and Vice-Chair, the remaining members shall elect a Temporary Chair for that respective meeting.

**SECTION 17. DUTIES OF OFFICERS**

The duties and powers of the officers of the Planning Commission shall be as follows:

A. Chairperson

- 1) To preside at all meetings of the Commission.
- 2) To call special meetings of the Planning Commission in accordance with these bylaws.
- 3) To sign documents of the Commission.
- 4) To see that all actions of the Commission are properly taken.
- 5) To cancel or postpone any regularly scheduled meetings.
- 6) To invoke a reasonable time limit for speakers during any public hearing in the interest of maintaining focus and the effective use of time.
- 7) To provide for the selection of one or two spokespersons to represent groups of persons with common interests during public meetings and hearings.
- 8) To order an end to disorderly conduct and direct law enforcement to remove disorderly persons from Planning Commission meetings or hearings.
- 9) To schedule a second official public hearing meeting or other continued meeting in the event that a meeting or public hearing cannot be concluded by a reasonable hour in the judgment of the Chairperson.
- 10) The presiding officer has the responsibility to facilitate discussion by the Planning Commission. This may occur in a variety of ways, including:
  - Interpret and apply rules of procedure.
  - Decide whether motions are properly made.
  - Decide whether motions are in order.
  - Decide whether questions of special privilege ought to be granted.
  - Decide when to recognize speakers.

- Call for motions or recommend motions.
- Expel disorderly persons from the meeting.
- Enforce speaking procedures.

11) The Chair is a voting member of the Planning Commission and thus must submit a vote for all items of business before the Planning Commission. The Chair may make motions, although it is customary for the chair to refrain from doing so unless necessary as the task of facilitating discussion of the other members of the commission and the public should take precedence.

**B. Vice-Chairperson**

1) During the absence, disability or disqualification of the Chairperson, the Vice-Chairperson shall exercise or perform all the duties and be subject to all the responsibilities of the Chairperson.

**C. Secretary**

- 1) To sign official documents of the Commission and other duties as required.
- 2) Secretarial duties to be delegated to the City Staff Liaison:
  - a. To give or serve all notices required by law or by these Bylaws.
  - b. To prepare the agenda for all meetings of the Commission.
  - c. To be custodian of all Planning Commission records.
  - d. To inform the Commission of correspondence relating to business of the Commission and to attend to such correspondence.
  - e. To handle funds allocated to the Commission in accordance with its directives, the law and city regulations.
  - f. To take the minutes of all meetings of the Commission for typing and filing into the appropriate minute book by City Staff.

**SECTION 18. VACANCIES**

If a vacancy occurs among the members of this Planning Commission by reason of death, resignation, disability or otherwise, notice shall be given to the City Administrator and Chairperson by the Secretary. The City Administrator shall then see that a new appointment is made by the Mayor and confirmed by the City Council. Resignations should be made in writing to the Planning Commission Secretary stating the effective date of the resignation.

**SECTION 19. AMENDMENTS**

This policy on rules of procedure may be amended at any meeting of the Planning

Commission provided that written notice of said proposed amendment is given to each member at least three days prior to the meeting. All proposed amendments not undertaken at the annual meeting shall require two readings at two separate meetings of the Planning Commission. All amendments are subject to City Council review and approval before they take effect.

## **SECTION 20. COMMITTEES**

- A. The Chair may appoint ad hoc committees unless the Commission or City Council shall otherwise direct. The Secretary shall be an additional voting member of all committees. The Chair may appoint a Planning Commission member to chair each ad hoc committee.
- B. All committees shall consist of at least three members, except as otherwise ordered by the Commission. The Secretary shall record the minutes of all ad hoc committee meetings and submit them to the full Planning Commission for approval.
- C. The majority of the members of any committee shall constitute a quorum of such committee. If a quorum is not present at a meeting, the members present may prepare reports and submit them to the Planning Commission on behalf of the committee, in which case the report shall name the committee members who prepared it.
- D. Nothing in the foregoing shall be construed as waiving the ability of the Commission at any time to increase or curtail the duties of any committee and/or to direct or control its actions.

**SIGNATURE PAGE OF AFFIRMATION**

ADOPTED by the Planning Commission of Wells this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Planning Commission Chair

ATTEST:

\_\_\_\_\_  
Planning Commission Secretary

ADOPTED by the City Council of Wells this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Administrator