



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Consent
October 13, 2009

Honorable Mayor and
Members of the City Council

Title: Ordinance: Repeal and Re-Enact City Code Chapter 2.60 Relating to the Planning Commission (M09-033)

Location/Council District: Citywide

Recommendation: Adopt an **Ordinance** repealing and re-enacting City Code Chapter 2.60 and amending section 2.40.030 relating to the Planning Commission.

Contact: Stephanie Mizuno, Assistant City Clerk, 808-7200

Presenters: N/A

Department: City Clerk's Office

Division: N/A

Organization No: 04001011

Description/Analysis

Issue: This ordinance will increase the membership of the City Planning Commission to eleven (11) and change the nomination procedure so that one member is nominated by each of the eight Councilmembers, one by the Mayor and two by the Personnel and Public Employees Committee. This change shifts the nominating authority for nine (9) seats from the Personnel and Public Employees Committee to the members of the City Council. A time line for implementation of the new nomination process is provided in Attachment 2 (pg. 4) of this report.

Policy Considerations: The City Council has the discretion to modify the City Code to change the provisions of any board or commission.

Environmental Considerations: None.

California Environmental Quality Act (CEQA): None.

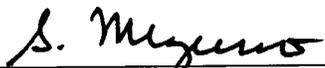
Sustainability Considerations: None.

Commission/Committee Action: On September 29, 2009 the City Council reviewed the proposed ordinance, modified provisions relating to residency and the number of members, requested an implementation time line, and continued the item for final approval.

Rationale for Recommendation: To increase the number of members of the Commission to eleven (11), maintain residency within the City of Sacramento, and change the nomination process so that each Councilmember and the Mayor nominates an applicant, and the Personnel and Public Employees Committee nominates the at-large applicants.

Financial Considerations: None.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully Submitted: 
Stephanie Mizuno
Assistant City Clerk

Approved:


Shirley Concolino
City Clerk

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ATTACHMENT 1**Background:**

The Planning Commission currently consists of nine (9) members, appointed by the Mayor with the approval of a majority of the City Council, with the requirement that each member reside in the City of Sacramento. Under Article I of Chapter 2.40 of the City Code, the Personnel and Public Employees Committee reviews applications and makes recommendations to the Mayor for appointments to the Planning Commission.

This ordinance increases the membership of the Planning Commission from nine (9) to eleven (11), maintains the residency requirement and shifts the nominating authority of nine (9) seats to the City Council. One seat would be nominated by each of the eight Councilmembers, one nominated by the Mayor, and two by the Personnel and Public Employees Committee.

To implement these changes, the proposed Ordinance calls for each Councilmember and the Mayor to recommend an individual residing in the City of Sacramento for appointment to the Planning Commission. The Personnel and Public Employees Committee would recommend individuals for appointment to the two at-large seats. The Mayor would make the appointment subject to the concurrence of a majority of the City Council (see City Charter Article XV). Because the recommendations for appointment will come directly from each Council member, these appointments would **not** be subject to review and recommendation by the Personnel and Public Employees Committee. The remaining two (2) at-large seats will be reviewed by the Personnel and Public Employees Committee using the standard process.

The proposed Ordinance would dissolve the existing Planning Commission and replace it with a newly constituted and appointed Planning Commission upon the effective date of the Ordinance. To facilitate the transition to the new Planning Commission, the Ordinance provides that it will take effect on January 1, 2010. This delay would allow for the various implementation activities (Attachment 2) and to schedule Council confirmation of the appointments on the Council's first meeting in January, 2010. The delay would also allow planning staff to inform applicants of the impending change and to schedule hearings in a manner to minimize disruptions and delays to the applicants.

The terms of the current Planning Commission are for four years and are staggered in groups of three. This results in three terms expiring each year for three years, and none expiring in the fourth year. The proposed Ordinance provides for similar staggered terms. To achieve this, the initial terms are established as follows: the initial appointees in the at-large seats would serve a term of one year each; the initial appointees from the First, Second, and Third council districts would serve a term of two years each; the initial appointees from the Fourth, Fifth, and Sixth council districts would serve a term of three years each; and the initial appointees from the Seventh and Eight council districts and the mayor's initial appointee would serve a term of four years each. Thereafter, all members would be appointed to serve a four year term. This is a typical way to create staggered terms.

The proposed Ordinance also provides that the initial terms, including the one and two-year terms, will count as full terms for purposes of applying the 2-term limitation on consecutive terms under section 2.40.120. As a result, the appointees to the 1 year term can serve a total of 5 consecutive years if re-appointed to a second term; 2-year term seats can serve a total of 6 consecutive years if re-appointed to a second term; the appointees to the 3-year term seats can serve a total of 7 consecutive years if re-appointed to a second term; and the appointees to the 4-year term seats can serve a total of 8 consecutive years if re-appointed to a second term.

The Ordinance proposes other “housekeeping” type changes to Chapter 2.60. It would add express references to provisions of the City Charter and other provisions of the City Code that govern the Planning Commission, including references to the conflict of interest chapter in the Code and the compensation section of the Charter. It would also establish a quorum requirement (majority of members then in office) and the minimum number of votes to take action six (6) to conform to what now applies to Council.

In order to provide the members of the City Council with flexibility in making their recommendations for appointment to the newly established Planning Commission, the proposed Ordinance provides that any term served on the Planning Commission existing prior to the effective date of the proposed Ordinance shall not be counted for purposes of applying the limitation on the number of consecutive terms a person may serve under Sacramento City Code Section 2.40.120.

ATTACHMENT 2

Implementation Time Line

Date	Action
10/13/09	Ordinance approved by Council at Oct. 13 th meeting
10/13/09	Open application period approved by Council at Oct. 13 th meeting
10/14/09	Application period opens / recruitment begins 1. Application forms on City web page and in Clerk's Office 2. Application forms emailed to Councilmembers
11/06/09	Application period closes
11/10/09	Consent report transmitting applicant names received by Council at Nov. 10 th meeting [to be delivered]
11/10/09	Applications distributed to Councilmembers and Mayor for review and nomination
11/20/09	Councilmembers submit nomination letters to Mayor (copy to Clerk) for the Mayor's appointment at the next Council meeting [Deadline]
11/24/09	Mayor announces appointments for 9 seats at Nov. 24 th meeting
11/30/09	Clerk notifies at-large applicants of upcoming interviews
12/###/09	Special Personnel & Public Employees Committee meeting to interview applicants for 2 at-large seats [week of 12/7]
12/15/09	Personnel & Public Employees Committee meeting to nominate applicants for 2 at-large seats
12/15/09	After P&PE Committee meeting, Clerk immediately provides names of at-large nominees to Mayor
12/15/09	Mayor announces appointments for 2 at-large seats at Dec. 15 th meeting
01/01/10	Effective date of ordinance
01/07/10	Council confirms all appointments at Jan. 7 th meeting

ATTACHMENT 3

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER 2.60 OF TITLE 2 OF THE SACRAMENTO CITY CODE RELATING TO THE PLANNING COMMISSION (M09-033)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Chapter 2.60 of Title 2 of the Sacramento City Code is repealed.

SECTION 2. Chapter 2.60 of Title 2 of the Sacramento City Code is reenacted to read as follows:

Chapter 2.60

Planning Commission

2.60.010 ~~Created.~~ Commission -- Established.

There is ~~created~~ a planning commission for the city ~~is established.~~

2.60.020 ~~Composition—~~Appointment of members and qualifications.

The ~~planning commission shall be composed of nine members.~~ A. Members of the planning commission shall be appointed by the mayor, with the ~~approval~~ concurrence of the city council. ~~The requirements of Article XV of the City Charter, and Chapter 2.40 of this code governing appointment procedures (Article 1), attendance at board and commission meetings (Article II), voting (Article III), and limitation on consecutive terms (Article IV), shall apply to the planning commission as provided in this chapter. A term of one (1), two (2), or three (3) years for initial appointees under section 2.60.030 shall constitute a full term for purposes of calculating the two-consecutive term limit under section 2.40.120. A member is subject to removal for good cause, neglect of duty or misconduct as provided in City Charter Section 232.~~

B. The planning commission shall consist of eleven (11) members. One (1) member shall be recommended for appointment by each of the members of the city council, including the mayor, and two (2) members shall be recommended for appointment by the personnel and public employees committee pursuant to Article I of Chapter 2.40.

C. Each member of the planning commission shall be a resident of the city and may be appointed and shall serve only so long as he or she is a resident of the city. If a member of the planning commission ceases to be a resident of the city, that member's seat shall automatically become vacant.

~~2.60.030 Term of office of members—Filling vacancies.~~

Term of office--Vacancy.

~~—The Except as provided in this section for the length of the terms of the initial appointees, the term of office of members for each member of the planning commission shall be four years and until their successors are his or her successor is appointed. Members of the planning commission serving upon the effective date of this section shall continue in office until the expiration of their current terms of membership and until their successors are appointed. A vacancy in membership upon the planning commission Terms shall be filled by appointment for the unexpired term of the former member, staggered. The initial appointees recommended by the personnel and public employees committee shall serve a term of one year each. The initial appointees recommended by the council members from the First, Second, and Third council districts shall serve a term of two years each. The initial appointees recommended by the council members from the Fourth, Fifth, and Sixth council districts shall serve a term of three years each. The initial appointees recommended by the council members from the Seventh and Eight council districts and by the mayor shall serve a term of four years each. Thereafter, all members shall be appointed to serve four year terms. If a vacancy occurs during the term of any member, the mayor shall appoint, with the concurrence of the council, a successor to serve during the unexpired term. The successor shall be recommended in the same manner as the seat being filled.~~

2.60.040 Conflict of interest and financial disclosure statements.

All appointees to the planning commission shall be subject to Chapter 2.16 of this code relating to conflicts of interest and shall be required to file statements disclosing financial interests pursuant to the city's conflict of interest code.

~~2.60.050 Functions:~~

~~—The functions of the planning commission are as follows:~~

- ~~A. It shall develop and maintain a general plan;~~
- ~~B. It shall develop such specific plans as may be necessary or desirable;~~
- ~~C. It shall perform such other functions as the city council may provide.~~

2.60.050 Compensation.

Each member of the planning commission shall receive compensation as determined by the compensation commission under Section 29 of the City Charter.

2.60.060 Rules Organization and regulations: procedures.

A. Annually, the planning commission shall elect from among its membership a planning commission chairperson and a vice chairperson, who shall each hold those positions at the pleasure of the planning commission. When there is a vacancy in the office of chairperson or vice chairperson, the planning commission shall fill that position from among its members.

B. The planning commission shall establish a time and place for regular meetings to be held not less frequently than monthly. Each meeting shall be noticed and held in accordance with the Ralph M. Brown Act (Government Code section 54950 et seq.). The planning commission chairperson shall have the authority to notice and hold special meetings in the manner specified in the Ralph M. Brown Act.

C. A quorum comprised of planning commission members present and qualified to act shall be required for the planning commission to conduct a meeting and take action. A quorum shall consist of a majority of members of the planning commission then in office.

D. The planning commission shall act only by motion. An affirmative vote of six (6) planning commission members present and qualified to vote shall be necessary to pass any motion.

E. The planning commission shall adopt such rules, and regulations and resolutions as it shall deem necessary, and consistent with the provisions of this chapter, for the conduct of its business.

2.60.070 Powers and duties.

The planning commission shall have the necessary powers and duties to carry out the State Planning and Zoning Law (Government Code section 65000 et seq.), subject to the provisions of this code, including but not limited to the following:

A. Chapter 2.112 relating to City planning;

B. Title 16 relating to subdivisions;

C. Title 17 relating to zoning.

2.60.080 Administrative support.

The planning director, or his or her designee, shall provide administrative support to the planning commission.

SECTION 3. Section 2.40.030 of Title 2 of the Sacramento City Code is amended to read as follows:

2.40.030 Applicability.

The provisions of this article shall apply to persons recommended to the mayor by the personnel and public employees committee as appointees for positions on the city council and the following boards and commissions:

- Administration, investment and fiscal management board of the city retirement system
- Board of plumbing examiners
- Building and fire code advisory and appeals board
- Civil service board
- Design commission
- Electrical code advisory and appeals board
- Housing code advisory and appeals board
- Mechanical and plumbing code advisory and appeals board
- Old Sacramento variance appeals board
- Parks and Recreation Commission (two (2) seats)
- Planning Commission (two (2) seats)
- Preservation commission
- Retirement hearing commission
- Sacramento city public facilities financing corporation
- Utilities rate advisory commission

SECTION 4. Any term served on the Planning Commission created and existing pursuant to Sacramento City Code Chapter 2.60 as formerly written immediately prior to the effective date of this Ordinance shall not be counted for purposes of applying the limitation on the number of consecutive terms a person may serve under Sacramento City Code Section 2.40.120.

SECTION 5. Adoption of this ordinance repealing and reenacting Sacramento City Code Chapter 2.60 is not intended to and does not affect any approvals made, and entitlements issued, with attendant conditions, by the Planning Commission prior to the effective date of this ordinance and prior to dissolution of the Planning Commission by virtue of adoption of this ordinance. All such approvals and entitlements shall continue in effect subject to the terms and conditions established by the Planning Commission and the provisions of Chapter 2.60, Chapter 2.112, Title 16, Title 17, and any other provisions of the Sacramento City Code as they existed prior to the effective date of this ordinance.

SECTION 6. Adoption of this ordinance repealing and reenacting Sacramento City Code Chapter 2.60 is not intended to and does not affect any administrative, civil, or criminal prosecutions or proceedings brought or to be brought pursuant to Title 16, Title 17, or any other provisions of the Sacramento City Code, or pursuant to applicable federal, state, or

local laws, to enforce those provisions as they existed prior to the effective date of this ordinance. The provisions of Title 16, Title 17, and any other provisions of the Sacramento City Code as they exist on the effective date of this ordinance, shall continue to be operative and effective with regard to any acts occurring prior to the effective date of this ordinance.

SECTION 7. This ordinance shall take effect January 1, 2010. Upon the effective date of this ordinance the Planning Commission created and existing pursuant to Sacramento City Code Chapter 2.60 as formerly written shall dissolve and no longer exist or exercise authority. All matters then pending under the jurisdiction of the Planning Commission shall be transferred to the Planning Commission established under this Ordinance.

ATTACHMENT 4

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The planning commission is established.

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B. The planning commission shall consist of eleven (11) members. One (1) member shall be recommended for appointment by each of the members of the city council, including the mayor, and two (2) members shall be recommended for appointment by the personnel and public employees committee pursuant to Article I of Chapter 2.40.

C. Each member of the planning commission shall be a resident of the city and

may be appointed and shall serve only so long as he or she is a resident of the city. If a member of the planning commission ceases to be a resident of the city, that member's seat shall automatically become vacant.

2.60.030 Term of office--Vacancy.

Except as provided in this section for the length of the terms of the initial appointees, the term of office for each member of the planning commission shall be four years and until his or her successor is appointed. Terms shall be staggered. The initial appointees recommended by the personnel and public employees committee shall serve a term of one year each. The initial appointees recommended by the council members from the First, Second, and Third council districts shall serve a term of two years each. The initial appointees recommended by the council members from the Fourth, Fifth, and Sixth council districts shall serve a term of three years each. The initial appointees recommended by the council members from the Seventh and Eight council districts and by the mayor shall serve a term of four years each. Thereafter, all members shall be appointed to serve four year terms. If a vacancy occurs during the term of any member, the mayor shall appoint, with the concurrence of the council, a successor to serve during the unexpired term. The successor shall be recommended in the same manner as the seat being filled.

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B. The planning commission shall establish a time and place for regular meetings to be held not less frequently than monthly. Each meeting shall be noticed and held in accordance with the Ralph M. Brown Act (Government Code section 54950 et seq.). The planning commission chairperson shall have the authority to notice and hold special meetings in the manner specified in the Ralph M. Brown Act.

C. A quorum comprised of planning commission members present and qualified

to act shall be required for the planning commission to conduct a meeting and take action. A quorum shall consist of a majority of members of the planning commission then in office.

D. The planning commission shall act only by motion. An affirmative vote of six (6) planning commission members present and qualified to vote shall be necessary to pass any motion.

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- Board of plumbing examiners
- Building and fire code advisory and appeals board
- Civil service board
- Design commission
- Electrical code advisory and appeals board
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Old Sacramento variance appeals board
Parks and recreation commission (two (2) seats)
Planning commission (two (2) seats)
Preservation commission
Retirement hearing commission
Sacramento city public facilities financing corporation
Utilities rate advisory commission

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SECTION 5. Adoption of this ordinance repealing and reenacting Sacramento City Code Chapter 2.60 is not intended to and does not affect any approvals made, and entitlements issued, with attendant conditions, by the Planning Commission prior to the effective date of this ordinance and prior to dissolution of the Planning Commission by virtue of adoption of this ordinance. All such approvals and entitlements shall continue in effect subject to the terms and conditions established by the Planning Commission and the provisions of Chapter 2.60, Chapter 2.112, Title 16, Title 17, and any other provisions of the Sacramento City Code as they existed prior to the effective date of this ordinance.

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SECTION 7. This ordinance shall take effect January 1, 2010. Upon the effective date of this ordinance the Planning Commission created and existing pursuant to Sacramento City Code Chapter 2.60 as formerly written shall dissolve and no longer exist or exercise authority. All matters then pending under the jurisdiction of the Planning Commission shall be transferred to the Planning Commission established under this Ordinance.