

Agenda
Planning Commission
Committee of the Whole
CITY AND BOROUGH OF JUNEAU
Michael LeVine, Chairman
January 14, 2020

I. ROLL CALL

Michael LeVine, Chairman, called the Committee of the Whole Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 5:35 p.m.

Commissioners present: Michael LeVine, Chairman; Nathaniel Dye, Vice Chairman; Paul Voelckers, Ken Alper, Dan Hickok, Joshua Winchell, Weston Eiler

Commissioners absent: Shannon Crossley, Travis Arndt

Staff present: Jill Maclean, CDD Director; Emily Wright, Law; Robert Palmer, City Attorney

Assembly members: Greg Smith (joined at 6:04)

II. REGULAR AGENDA

A. Planning Commissioner Training

Robert Palmer, City Attorney, presented training focusing on Public Trust and the relationship between the Law Department (LAW) and the Planning Commission and explained LAW defends the decisions made by the PC.

Mr. LeVine asked for clarification of how the Law Department liaison, Ms. Wright, works with and for the Commission and what sort of questions are appropriate for the Commission to ask her and what the Commission can expect from her. Mr. Palmer explained that the primary client is CDD and the Commission as a part of that. Ms. Wright can answer questions regarding how Title 49 applies to an issue or question. Additionally, she is available to discuss possible conflicts of interest.

According to CBJ 11.20.030, the Department of Law is to defend employees/municipal officers engaged in the course of CBJ business. The decisions of the Planning Commission are defended by the Law Department.

Responsibilities of the members include:

- Be fair and transparent
- Provide an opportunity for public input
- Act in the public interest
- Be prepared
- Ask relevant questions
- Base decisions on the facts presented in accordance with Title 49

The Planning Commission is established under CBJ Code 49.10.100 and its authority is granted and limited by CBJ Title 49. The Commission's responsibilities include:

- Review the Comprehensive Plan
- Review the Capital Improvement Program
- Review of land disposals
- Title 49 code amendments
- Decide conditional use permits, variances, and other permit types

Planning Commission Rules of Procedure include:

- Observe Roberts Rules, with some modifications
- Seconds to motions are not required
- No friendly amendments
- Generally, five votes are required to pass a motion
 - Note: If two commissioners have to recuse due to conflict of interest, then the majority requirement will drop from five to four. This exception applies ONLY if they are non-voting due to conflict of interest.
- Motions of *immediate* reconsideration and motions to immediately rescind a decision require six votes
- Members can participate telephonically.
 - Exceptions: Members cannot Chair a meeting or participate in Appeals telephonically.

The Commission is to observe the Open Meetings Act (OMA)

- All meetings are to be public
- Members of the public shall have opportunity to comment at regular and special meetings
- A meeting is defined as prearranged gathering of board members (b) for the purpose of considering a topic that the body is empowered to act upon
 - Example: If two subcommittee members plan to meet over coffee to discuss a topic from their subcommittee - that is considered a meeting.
- The Commission Chairman is an ex-officio member of all subcommittees.

- All Commission communication with LAW is protected and most discussion with CDD is protected. However, commissioner discussions with CDD are to be disclosed either in the packets or orally during the presentation.
- Meetings to discuss topics of governance do not violate the Open Meetings Act.
- Chance meetings, not prearranged, are not violations of OMA but Mr. Palmer cautioned the members to be careful because anything overheard could be misconstrued.
- In an instance of a subcommittee meeting without quorum, the meeting should not be convened. Including in cases when members of the public are there to testify. This is because anything said or done in that meeting would then have to be repeated at the next meeting that did meet quorum.

Public Records Act – The public has a right to inspect public records. Mr. Palmer cautioned the member to conduct Commission business communication on their CBJ email only. Do not use text messaging or personal email accounts or else those accounts may become subject to public information requests.

Conflict of interest – Members are prohibited from using their position to gain a benefit, secure employment or contracts or take actions on items in which they have a financial or personal conflict of interest. If in doubt, contact the attorney (Ms. Wright). If a commissioner acts in accordance with attorney advice, they will be immune from personal liability.

Quasi-Judicial/Appeals – Virtually all of the Commission decisions are quasi-judicial. When sitting as a judge, members cannot have a discussion with one side without the other side present (ex-parte conversations). *NOTE: This includes CDD staff assigned to an Appeal.* Members should always keep in mind the standard of review and clearly articulate the reasons for their decisions.

When making appeal decisions, the decision should be taken under advisement when a written decision is anticipated. Announcement of the decision will be through the release of the draft decision and not verbally at that moment.

The ex-parte contact limitation is usually considered expired when the appeal timeline expires. However, if the case moves to a higher court, then the limit remains in place as there is a chance it could be remanded by the court back to the Commission.

Ms. Maclean presented 2020 Annual Training by describing the structure and purpose of the Community Development Department (CDD) and how it works with the Commission. Alex Pierce is the CDD Planning manager. CDD consists of 3 divisions and has 23 employees on staff.

The types of cases that will come before the Commission primarily include:

- Minor/Major Subdivisions

- Conditional Use Permits
- Planned Unit Development (PUDs)
- Alternative Residential Subdivision (ARS)
- City and State Projects (CSP)
- Non-administrative Variances
- Alternative Development Overlay District (ADOD)
- Parking Waiver(s)
- Accessory Apartment

Another item to be aware of is phased permitting. Phased permitting occurs when a permit is requested for a minor subdivision on a lot where it is reasonable that major development will occur. The cumulative impact of a project needs to be taken into consideration rather than just the small portion being permitted at the time.

When making its decisions, the Commission should keep in mind the Comprehensive Plan, the common good for the public, zoning and other regulations, and other potential impacts of the project.

According to Title 49, when a decision is made by CDD or the Commission, that decision can be appealed by *any aggrieved person*. This includes the applicant, abutters, nearby neighbors, and others who may feel they have standing.

General information:

- Commission meetings are the second and fourth Tuesday of the month
- Commissioners will be notified via their CBJ email account when the agenda is posted online
- Agenda packets are delivered the week prior to a meeting
- If you cannot attend a meeting, please inform the Director, the Chair and CDD admin as soon as possible

III. **OTHER BUSINESS** - none

IV. **REPORT OF REGULAR AND SPECIAL COMMITTEES** - none

V. **ADJOURNMENT** – 7:01