



# STAFF REPORT

**Report To:** Board of Supervisors

**Meeting Date:** February 15, 2018

**Staff Contact:** Lee Plemel, Community Development Director

**Agenda Title:** For Possible Action: To introduce, on first reading, Bill No. \_\_\_\_, an ordinance relating to Zoning; amending Title 18 (Zoning) of the Carson City Municipal Code, Chapter 18.02 (Administrative Provisions), Section 18.02.010 (Planning Commission) to amend the process of appointing members to the Carson City Planning Commission; and making various technical and structural changes to the existing provisions of Section 18.02.010. (Lee Plemel, lplemel@carson.org)

**Staff Summary:** The Board of Supervisors approved new policies related to Planning Commissioner duties and responsibilities on October 19, 2017, and directed staff on December 7, 2017, to develop a process whereby newly elected Supervisors would recommend individuals for appointment to the Commission. The proposed ordinance and associated Policies and Procedures and Planning Commission Bylaws amendments would implement this process.

**Agenda Action:** Ordinance - First Reading

**Time Requested:** 20 minutes

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## **Proposed Motion**

I move to introduce, on first reading, Bill No. \_\_\_\_, an ordinance relating to Zoning; amending Title 18 (Zoning) of the Carson City Municipal Code, Chapter 18.02 (Administrative Provisions), Section 18.02.010 (Planning Commission) to amend the process of appointing members to the Carson City Planning Commission; and making various technical and structural changes to the existing provisions of Section 18.02.010.

## **Board's Strategic Goal**

Efficient Government

## **Previous Action**

The Board of Supervisors approved new policies related to Planning Commissioner duties and responsibilities on October 19, 2017, and directed staff on December 7, 2017, to develop a process whereby newly elected Board members would recommend individuals for appointment.

## **Background/Issues & Analysis**

The Board of Supervisors gave staff direction to develop an ordinance to allow the Board members to recommend individuals for appointment to the Planning Commission. The stated goal was to have newly elected Board members recommend individuals for appointment to the Commission at the beginning of that Board member's term, with the remaining Commissioner positions to be appointed on an at-large basis.

The Board of Supervisors initially directed staff to develop a process whereby all Planning Commission positions would be reappointed in 2018 and the subsequent schedule of appointments would be implemented over the next four years as new or re-elected Board members take office. The District Attorney's office has determined that this method of implementation would be in violation of NRS, which requires that all Planning Commissioner terms be four years and provides limited circumstances under which Planning Commissioners'

terms may be cut short. (This staff report will not go into detail regarding this analysis. Contact Deputy District Attorney Dan Yu if you would like more detail on the legal analysis.)

Therefore, staff recommends an implementation schedule that phases in the new process of appointments as current Planning Commissioners' terms expire. The current staggered Commissioner terms coincide with the terms of four of the five Board members. However, in 2021 and every four years thereafter, there are three new or re-elected Board members, including the Mayor, and only two Planning Commissioner terms that come up for appointment. Staff recommends two alternatives for the Board to consider to address this issue while complying with NRS and substantively implementing the Board's policy direction:

- 1) The Mayor recommends an individual for the commission in the year after he/she takes office; or
- 2) The Mayor never recommends an individual for the commission.

These specific alternatives will be discussed and addressed in the amendments to the Board of Supervisors' *Boards, Committees, and Commissions Policies and Procedures* amendments on this same agenda following this item. The ordinance that is the subject of this agenda item would not need to be changed for either of the above alternatives since the ordinance only refers to the policies and procedures for the process by which the appointments occur. To implement the Board's policy direction, the proposed ordinance, the policies and procedures, and the Planning Commission Bylaws must all be amended.

Following are tables showing the current terms of Planning Commissioners and how the proposed ordinance and policy changes would be implemented:

Schedule of Elected Supervisors Taking Office and Planning Commissioner Term Expiration:

2018		2019		2020		2021	
BOS	PC	BOS	PC	BOS	PC	BOS	PC
	Salerno (1) Borders (1)	Ward 1 Ward 3	Monroy (1) Esswein (4)		Sattler (3)	Mayor Ward 2 Ward 4	Tingle (2) Stowell (4)

(Ward in which the Planning Commissioner lives in parenthesis)

Board Recommendation Schedule (continuing through subsequent years):

2018 / 2022	2019 / 2023	2020 / 2024	2021 / 2025
At Large #1 Mayor <u>OR</u> At Large #2	Ward 1 Ward 3	At Large #3	Ward 2 Ward 4 (New Mayor, no nominee)

Upon adoption of the ordinance and amendments to the *Boards, Committees, and Commissions Policies and Procedures* and Planning Commission Bylaws, the City Manager's office will open Planning Commission applications to fill the terms expiring in 2018, in accordance with the Board of Supervisors' action on these items.

If you have questions regarding this item, please contact Lee Plemel at 283-7075 or lplemel@carson.org.

**Attachments**

1. Ordinance

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS 278.030 (Planning Commission); CCMC 18.02.010 (Planning Commission)

**Financial Information**

Is there a fiscal impact?  Yes  No

If yes, account name/number:

Is it currently budgeted?  Yes  No

Explanation of Fiscal Impact:

**Alternatives**

Provide other direction to staff regarding the implementation of Planning Commissioner appointments

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

Summary: An ordinance making various changes to the organization of the Carson City Planning Commission.

BILL NO. \_\_\_\_

ORDINANCE No. 2017 - \_\_

AN ORDINANCE RELATING TO ZONING; AMENDING TITLE 18 (ZONING) OF THE CARSON CITY MUNICIPAL CODE, CHAPTER 18.02 (ADMINISTRATIVE PROVISIONS), SECTION 18.02.010 (PLANNING COMMISSION) TO AMEND THE PROCESS OF APPOINTING MEMBERS TO THE CARSON CITY PLANNING COMMISSION; MAKING VARIOUS TECHNICAL AND STRUCTURAL CHANGES TO THE EXISTING PROVISIONS OF SECTION 18.02.010; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 18 (Zoning), Chapter 18.02 (Administrative Provisions) is hereby amended (**bold, underlined** text is added, ~~stricken~~ text is deleted) by adding thereto a new section 18.02.010 as follows:

**18.02.010 – Planning Commission: Creation; duties; appointment, terms and removal of members; compensation.**

**1. There is hereby created in Carson City the Carson City Planning Commission pursuant to NRS 278.030.**

**2. In accordance with NRS 278.010 to 278.630, inclusive, and the provisions of CCMC, the Commission shall perform all duties that are required and may exercise all powers which have been granted.**

**3. The Commission must be composed of seven members, appointed by the Mayor from Carson City at large with the approval of the Board as required by NRS 278.030 and in accordance with the Policies and Procedures of the Carson City, Nevada Boards, Committees, and Commissions adopted by the Board, as may be amended.**

**4. The term of each member is four years, or until his or successor takes office. A vacancy on the Commission that occurs other than through the expiration of a member’s term must be filled for the unexpired term in the same manner provided in subsection 3.**

**5. Each member appointed to the Commission pursuant to this section must continuously reside and be registered to vote in Carson City throughout his or her term in office.**

**6. The members of the Commission shall elect a Chair and Vice Chair by majority vote each year. Pursuant to NRS 278.060 and subject to any additional limitations set forth in the *Policies and Procedures of the Carson City, Nevada Boards, Committees, and Commissions* adopted by the Board, as may be amended, each term of Chair and Vice Chair is one year, with eligibility for reelection.**

**7. A member of the Commission may be removed, after a public hearing, by a majority vote of the Board for just cause, including, without limitation, for any of the following conduct:**

- a. Inefficiency;**
- b. Neglect of duty;**
- c. Malfeasance; or**
- d. Violation of any provision set forth in the *Policies and Procedures of the Carson City, Nevada Boards, Committees, and Commissions* adopted by the Board, as may be amended.**

**8. The members of the Commission shall serve without compensation.**

**SECTION 2:**

That Title 18 (Zoning), Chapter 18.02 (Administrative Provisions) is hereby amended (**bold, underlined** text is added, ~~stricken~~ text is deleted) by adding thereto a new section 18.02.011 as follows:

**18.02.011 – Meetings; records.**

**The Commission shall:**

- 1. Hold at least one regular meeting in each month;**
- 2. Adopt bylaws and rules for the transaction of business; and**
- 3. Keep a complete record of its resolutions, transactions, findings and determinations, all of which constitute a public record and must be maintained at the Department.**

**SECTION 3:**

That Title 18 (Zoning), Chapter 18.02 (Administrative Provisions) is hereby amended (**bold, underlined** text is added, ~~stricken~~ text is deleted) by adding thereto a new section 18.02.012 as follows:

**18.02.012 – Commission actions; appeal to Board; attendance of Director.**

**1. On any matter properly before the Commission and on which the Commission has:**

**a. Taken final action, the action may be appealed to the Board by the proponent of the action, any party aggrieved by the action and any member of the Board pursuant to CCMC 18.02.060.**

**b. Made a recommendation for action to the Board, the approval or denial of the matter by majority vote of the Board shall be deemed to be the final action, unless the matter is remanded to the Commission by the Board for further consideration.**

**2. The Director or his or her designee shall attend each meeting of the Commission.**

**SECTION 4:**

That Title 18 (Zoning), Chapter 18.02 (Administrative Provisions), Section 18.02.010 (Planning Commission) is hereby repealed.

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**TEXT OF REPEALED SECTIONS**

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**~~18.02.010 – Planning commission.~~**

- ~~1. Purpose. The purpose of this ordinance is to specify the establishment and authority of the Carson City Planning Commission (hereinafter in Title 18 referred to as "commission").~~
- ~~2. Authority; powers; duties; review by the board.
  - ~~a. The commission is hereby created, pursuant to NRS 278.030.~~
  - ~~b. The commission shall perform all duties and functions delegated to a County Planning Commission by the terms of NRS 278.010 to 278.630, inclusive, and CCMC Title 2 (Planning Commission).~~
  - ~~c. The commission shall take action to approve, conditionally approve or deny special use permits, variances, and appeals of administrative decisions. The commission shall hear applications and recommend to the board action on changes to the Master Plan, zoning districts, amendments to Title 18 ordinances, amendments to the Development Standards, and all other appropriate subjects.~~~~

- d. ~~On matters where the commission takes final action, the proponent, any aggrieved party, or member of the board may appeal the decision to the board.~~
  - e. ~~On matters where the commission makes a recommendation to the board, the board by majority vote may affirm, deny, or return to the recommendation to the commission for further consideration of any proposed recommendations.~~
3. ~~Membership; terms of office; vacancies; removal; attendance by director.~~
- a. ~~There shall be seven (7) members of the commission.~~
  - b. ~~The terms of the members shall be four (4) years or until a successor takes office and all terms shall expire on June 30th of their respective years.~~
  - c. ~~Vacancies occurring before the expiration of a commissioner's term shall be filled for the remaining unexpired portion of the term.~~
  - d. ~~Members may be removed, after a public hearing, by a majority vote of the board for inefficiency, neglect of duty, or malfeasance of office.~~
  - e. ~~The Planning and Community Development Director (hereinafter in Title 18 referred to as director) or his designee shall be in attendance at all commission meetings.~~
4. ~~Qualifications.~~
- a. ~~The mayor shall appoint, with the approval of the board, the members of the commission.~~
  - b. ~~The members shall be residents of Carson City and registered voters therein at the time of their appointment and continuously throughout their term.~~
5. ~~Compensation. All members of the commission shall serve without compensation.~~
6. ~~Meetings and Records.~~
- a. ~~The commission shall hold at least one (1) regular meeting in each month.~~
  - b. ~~The commission shall adopt by laws and rules for the transaction of their business and shall keep a record of its decisions and findings. This record shall be a public record.~~
  - c. ~~Complete records of official actions of the commission shall be kept on file in the office of the planning and community development department.~~
7. ~~Chairman and Other Officers.~~

- a. ~~The commission shall elect yearly its chairman from among the appointed members.~~
- b. ~~The commission shall elect yearly other offices as it may determine necessary.~~

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**END OF TEXT OF REPEALED SECTIONS**

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SECTION IV:

That no other provisions of Title 18 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on \_\_\_\_\_, 2018.

PROPOSED by \_\_\_\_\_.

PASSED \_\_\_\_\_, 2018.

VOTE: AYES: SUPERVISORS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

NAYS: SUPERVISORS: \_\_\_\_\_  
 \_\_\_\_\_

ABSENT: SUPERVISORS: \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Robert Crowell, Mayor

ATTEST:

\_\_\_\_\_  
 SUE MERRIWETHER  
 CLERK/RECORDER

This ordinance shall be in force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2018.