

Northfield Township Planning Services

Bylaws Review

At its September 16 meeting, staff was asked to prepare a review of the Northfield Township bylaws. Specifically, items related to meeting minutes and to the procedure for amending bylaws were requested for review. During the course of executing that assignment, it was noted that the section on conflict of interest may not meet the requirements of the MPEA, so that topic is also included.

Documents reviewed include:

- Northfield Township Bylaws
- Michigan Planning Enabling Act (MPEA)
- Open Meetings Act
- Michigan Association of Planning Michigan Chapter Sample Bylaws and Rules of Procedure (MAP)
- Michigan State University Extension Pamphlet #1E: Sample Bylaws for a Planning Commission (MSUE)
- Michigan Municipal League Planning Commissioners' Handbook (MML)
- Pittsfield Township Planning Commission Bylaws
- Dexter Township Planning Commission Bylaws
- City of Ypsilanti Planning Commission Bylaws

MEETING MINUTES

Current language

A recording secretary may be employed to record and prepare proposed meeting minutes. Compensation for the recording secretary shall be recommended by the Planning Commission and approved by the Township Board.

MPEA

"A planning commission ... shall keep a public record of its resolutions, transactions, findings, and determinations."

MAP

Section 6.6 Minutes. Commission minutes shall be prepared by the secretary of the commission. The minutes shall contain a brief synopsis of the meeting, complete statement of the conditions or recommendations made on may action; and recording of attendance. All communications, actions, and resolutions shall be attached to the minutes. The official records shall be annually deposited with the township; municipal, or county Clerk.

MSUE

Record.

- A. Minutes and Record. The Commission Secretary shall keep, or cause to be kept, a record of Commission meetings, which, shall at a minimum include an indication of the following:
1. Copy of the meeting posting pursuant to P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act, M.C.L. 15.261 *et seq.*)
 2. Copy of the minutes, and all its attachments which shall include a summary of the meeting, in chronological sequence of occurrence:
 - a. Time and place the meeting was called to order.
 - b. Attendance.
 - c. Indication of others present (listing names if others choose to sign in and/or a count of those present).
 - d. Summary or text of points of all reports (including reports of what was seen and discussed at a site inspection) given at the meeting, and who gave the report and in what capacity. An alternative is to attach a copy of the report if offered in writing.
 - e. Summary of all points made in public participation or at a hearing by the applicant, officials, and guests and an indication of who made the comments. An alternative is to attach a copy of the public's statement, petition, or letter if it is provided in written form.
 - f. Full text of all motions introduced, whether seconded or not, who made the motion and who seconded the motion. For each motion, the following should be included:
 - (1) Who testified and a summary of what was said..
 - (2) A statement of what is being approved (e.g. special use permit, variance, conditional use permit, subdivision, land division, etc.)
 - (3) The location of the property involved (tax parcel number and description, legal description is best).
 - (4) What exhibits were submitted (list each one, describe each, number or letter each and refer to the letter or number in the minutes).
 - (5) What evidence was considered (summary of discussion by members at the meeting).
 - (6) The administrative body's findings of fact.
 - (7) Reasons for the decision made. (If the action is to deny, then each reason should refer to a section of an ordinance which would be violated or with which not complied.)
 - (8) The decision (e.g. approve, deny, approve with modification).
 - (9) A list of all required improvements (and if they are to be built up-front or name the type of performance security to be used), if any.
 - (10) List of all changes to the map/drawing/site plan that was submitted. (Sometimes it is easier to use a black flair felt pen and draw the changes on the map of what was applied for, rather than listing the changes. Do not use different colors. The map will most likely be photo copied. Then colors on the copy will not show at all or will just be black.)
 - (11) Make the map/drawing/site plan part of the motion (e.g. "...attached to the original copy of these minutes as appendix `A', and made a part of these minutes...").

- g. Who called the question.
 - h. The type of vote and its outcome. If a roll call vote, indicate who voted yes, no, abstained or a statement the vote was unanimous. If not a roll call vote, then simply a statement: "the motion passed/failed after a voice vote."
 - i. That a person making a motion withdrew it from consideration.
 - j. All the Chair's rulings.
 - k. All challenges, discussion and vote/outcome on a Chair's ruling.
 - l. All parliamentary inquiries or point of order.
 - m. When a voting member enters or leaves the meeting.
 - n. When a voting member or staff member has a conflict of interest and when the voting member ceases and resumes participation in discussion, voting and deliberations at a meeting.
 - o. All calls for an attendance count, the attendance, and ruling if a quorum exists or not.
 - p. The start and end of each recess.
 - q. All Chair's rulings of discussion being out of order.
 - r. Full text of any resolutions offered.
 - s. Summary of announcements.
 - t. Summary of informal actions, or agreement on consensus.
 - u. Time of adjournment.
3. Records of any action, support documents, maps, site plans, photographs, correspondence received, attached as an appendix to the minutes.
- B. Retention. Commission records shall be preserved and kept on file according to the following schedule:
- 1. Minutes, bonds, oaths of officials, zoning ordinances, master or compressive plans, other records of decisions, Commission or department publications: Permanent.
 - 2. General ledger: 20 years.
 - 3. Account journals: 10 years.
 - 4. Bills and/or invoices, receipts, purchase orders, vouchers: 7 years.
 - 5. Correspondence: Permanent.

MML

Meeting Minutes

§46 In smaller communities, keeping minutes may be one of the least glamorous parts of building a written record. As a new commissioner, the task may be dumped on you, much to the relief of the previous victim. Regardless of who has the job, it should be taken seriously. There are no firm rules or formats for minutes, but there is a basic principle.

Minutes should contain enough detail so that a person not present can understand:

- o What matters were discussed (nature of the request, applicant, location);
- o Who spoke at the meeting and the general content of their comments (including name and address);

- What action was taken by the commission (including the vote and any conditions attached);
- Why that action was taken and on what standards of the ordinance it was based.

Pittsfield Township

No specific mention of the contents of minutes.

Dexter Township

Article 7: Record

- A. *Minutes and Record.* The Secretary or designee shall keep a record of Planning Commission meetings which shall, at a minimum, include an indication of the following:
1. Copy of the meeting posting pursuant to Public Act 267 of 1976, being the Michigan Open Meetings Act, MCL 15.261 *et seq.*
 2. Copy of the minutes and all its attachments, or references thereto, which shall include a summary of the meeting, in chronological sequence of occurrence:
 - a. Time and place the meeting was called to order.
 - b. Attendance.
 - c. Indication of others present, listing names if others choose to sign in and/or a count of those present).
 - d. List, including subject, date, and author, all applicable correspondence and reports received and considered.
 - e. Summary of points made in public participation or at a hearing by the applicant, officials, and guests and an indication of who made the comments. An alternative is to attach a copy of the public's statement, petition, or letter (or reference thereto, including the subject, date, and author) if it is provided in written form.
 - f. Full text of all motions introduced, whether seconded or not, who made the motion and who seconded the motion. All decisions shall be stated as a resolution, which shall include the following, as applicable:
 - (1) A statement of what is being approved or denied (e.g. site plan, special use permit, subdivision, land division, shared driveway, recommendation for zoning amendment, master plan,, etc.)
 - (2) The location of the property involved (tax parcel number and description, legal description is best).
 - (3) What exhibits were submitted.
 - (4) What evidence was considered (summary of, or reference to, discussion by Planning Commission members, the applicant(s), and members of the public at the meeting(s)).
 - (5) The findings of fact, pursuant to § 6(E)(2) of these Bylaws.
 - (6) Reasons for the decision made.
 - (7) The decision (e.g., approve, deny, approve with modification).
 - (8) A list of all conditions of approval, if any.
 - (9) The most recent map/drawing/site plan.
 - (10) The type of vote (i.e., a roll call vote or a voice vote) and its outcome. If a roll call

vote, indicate who voted yes, no, abstained, or a statement the vote was unanimous. If not a roll call vote, then simply a statement, such as: "the motion passed/failed after a voice vote."

(11) If applicable, that a person making a motion withdrew it from consideration.

- g. All the Chair's rulings.
 - h. All challenges, discussion, and vote/outcome on a Chair's ruling.
 - i. All parliamentary inquiries or points of order.
 - j. When a Planning Commission member enters or leaves the meeting.
 - k. When a Planning Commission member or Planning Staff has a conflict of interest and when that individual ceases and resumes participation in discussion, voting, and deliberations at a meeting.
 - l. All calls for an attendance count, the attendance, and ruling if a quorum exists or not.
 - m. The start and end of each recess.
 - n. Summary of announcements.
 - o. Summary of informal actions or agreement on consensus.
 - p. Time of adjournment.
- B. *Retention.* Planning Commission records shall be preserved and kept on file according to the following schedule:
- 1. Minutes, bonds, oaths of officials, zoning ordinances, master plans, other records of decisions, Planning Commission or department publications, and correspondence shall be retained permanently.
 - 2. The general ledger, account journals, bills and/or invoices, receipts, purchase orders, and vouchers shall be retained in accordance with the Township's record retention policy.

City of Ypsilanti

The Commission shall keep, or cause to be kept, a permanent record of Commission meetings and decisions, which shall, at a minimum, include:

- a. A copy of the meeting posting pursuant to P.A. 267 of 1976, as amended, (being the Michigan Open Meetings Act, M.C.L. 15.261 et seq.)
- b. A copy of the minutes, and all its attachments which shall include a summary of the meeting, in chronological sequence of occurrence
- c. Records of any action, support documents, maps, site plans, photographs, and correspondence received, attached as an appendix to the minutes

BYLAWS

Current language

The rules of procedure, in whole or in part, may be altered, amended, added to, or repealed by an affirmative vote of two-thirds of the Commission at any regular or special meeting provided that notice of proposed alterations, amendment, or repeal shall be submitted by mail to all members of the Commission at least fifteen (15) days before the regular or special meeting of the Commission at which they are to be

considered. Public notice of any proposed alteration, amendment, or repeal shall be published in a newspaper of general circulation in the Township at least 15 days prior to the meeting at which they are to be considered. The notice shall either publish the text of the proposed change or advise the public of when and where the text may be inspected.

MPEA

125.3819 Bylaws; adoption; public record requirements; annual report by planning commission.

Sec. 19. (1) A planning commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

MAP

“These rules may be amended by the commission by a concurring vote provided that all members have received an advanced copy of the proposed amendments at least 3 days prior to the meeting at which such amendments are to be considered.”

Note on the document: “There are no laws that govern how by-laws are adopted or amended. Many communities opt to reference the previous sections that address voting rules, while others require a two-thirds vote of the membership.”

MSUE

Adoption, Repeal, Amendments

- A. Upon adoption of these Bylaws of [date], they shall become effective and all previous Bylaws, shall be repealed.
- B. The Commission may suspend any one of these Bylaws, for a duration of not more than one agenda item or meeting.
- C. These Bylaws may be amended at any regular or special meeting by a two-thirds (b) vote of the members present.

MML

No mention of the content of bylaws.

Pittsfield Township

“[Bylaws] may be altered, amended, added to, or repealed, in whole or in part, by an affirmative vote of five (5) members of the commission at any regular or special meeting, provided that notice of proposed alterations, amendment, or repeal shall be submitted to all members of the Commission at least 15 days before the regular or special meeting.”

Dexter Township

- A. Upon adoption of these Bylaws of June 24, 2014, they shall become effective on June 24, 2014, and all previous Bylaws, shall be repealed.
- B. These Bylaws may be amended at any regular or special meeting by a two-thirds ($\frac{2}{3}$) vote of the Planning Commission members present, provided a notice of the proposed amendment is provided to

Planning Commission members at a preceding regular meeting.

- C. The provisions of these Bylaws shall be reviewed by the Planning Commission annually at the first regular meeting of the year.

City of Ypsilanti

Section 1. These Rules and Regulations may be amended or altered during a regular meeting by the affirmative vote of at least six (6) members, or a majority of those on the current roster of the Commission, provided notice of the proposed change is given to the Commission at a preceding regular meeting.

Section 2. The provisions of these Rules and Regulations shall be discussed and/or adopted or readopted by the Commission annually at their regular June meeting.

CONFLICT OF INTEREST

Current language

Voting on minutes, opening and closing of public hearings, election of officers, adoption of agenda, recess and adjournment shall be by voice and shall be recorded by yeas and nays, unless a roll call vote is requested by any member of the Commission. Roll call votes will be recorded on all other matters before the Commission. A member of the Planning Commission can only abstain from voting on a motion if he/she finds a conflict of interest on a motion. This can occur only if a matter involves:

- A. Property the Commissioner owns, leases, or rents.
- B. Property owned by a Commissioner's relative or employer.
- C. A party with whom a Commissioner shares financial interests (such as partner, employer, lender, renter, or investor); or
- D. A matter that would give rise to the appearance of impropriety.

Failure of a member to disclose a potential conflict of interest as noted above constitutes malfeasance in office.

MPEA

- (9) The legislative body may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the planning commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office. Unless the legislative body, by ordinance, defines conflict of interest for the purposes of this subsection, the planning commission shall do so in its bylaws.

Northfield Township Code of Ordinances

Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission. ... Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.

For the purposes of this section, the planning commission shall define conflict of interest in its bylaws.

MAP

Removal. Members of the commission may be removed by the (*governing body*) for nonperformance of duty, misconduct in office, or upon failure to declare a conflict of interest upon vote by the majority, after written charges have been prepared and a hearing conducted.

ARTICLE 7: CONFLICT OF INTEREST

Section 7.1 Declaration of Conflict. Commission members shall declare a conflict of interest when any one (1) or more of the following occur:

- (1) A relative or other family member is involved in any request for which the commission is asked to make a decision.
- (2) The commission member has a business or financial interest in the property involved in the request, or has a business or financial interest in the applicant's company, agency, or association.
- (3) The commission member owns or has a financial interest in neighboring property. For purposes of this Section, a neighboring property shall include any property falling within the notification radius for the proposed development, as required by the Zoning Ordinance, or other applicable Ordinance. The commission shall make a determination regarding the presence of a conflict of interest.
- (4) There is a reasonable appearance of a conflict of interest, as determined by the commission member declaring such conflict.

Section 7.2 Requirements. When declaring a conflict, the commission member shall do all of the following:

- (1) Announce a conflict of interest and state its general nature.
- (2) Abstain from any discussion or votes relative to the matter which is the subject of the conflict.
- (3) Absent himself/herself from the room in which the discussion takes place.

MSUE

1. Each member of the Commission shall avoid conflicts of interest and/or incompatibility of office. As used here, a conflict of interest shall at a minimum include, but not necessarily be limited to, the following:
 - a. Issuing, deliberating on, voting on, or reviewing a case concerning him or her.
 - b. Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or her or which is adjacent to land owned by him or her.
 - c. Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company,

- partnership, or any other entity in which he or she is a part owner, or any other relationship where he or she may stand to have a financial gain or loss.
- d. Issuing, deliberating on, voting on, or reviewing a case which is an action which results in a pecuniary benefit to him or her.
 - e. Issuing, deliberating on, voting on, or reviewing a case concerning his or her spouse, children, stepchildren, grandchildren, parents, brothers, sisters, grandparents, parents in-law, grandparents in-law, or members of his or her household.
 - f. Issuing, deliberating on, voting on, or reviewing a case where his or her employee or employer is:
 - (1) an applicant or agent for an applicant, or
 - (2) has a direct interest in the outcome.
2. If there is a question whether a conflict of interest exists or not, the question shall be put before the Commission. Whether a conflict of interest exists or not shall be determined by a majority vote of the remaining members of the Commission.
 3. When a conflict of interest exists, the member of the Commission, or committee, shall do all of the following immediately, upon first knowledge of the case and determining that a conflict exists:
 - a. declare a conflict exists at the next meeting of the Commission or committee:
 - b. cease to participate at the Commission or committee meetings, or in any other manner, or represent one's self before the Commission, its staff, or others, and
 - c. during deliberation of the agenda item before the Commission or committee, leave the meeting or remove one's self from the front table where members of the Commission sit, until that agenda item is concluded.
 4. If a member of the Commission is appointed to another office, which is an incompatible office with his or her membership on the Commission, then on the effective date of the appointment to the other office, that shall result in an automatic resignation from the Commission. If a member of another office is appointed to the Commission, which is an incompatible office with his or her membership in the other office, then on the effective date of the appointment to the Commission, that shall result in an automatic resignation from the other office.

MML

No specific mention of conflict of interest procedure.

Pittsfield Township

SECTION 9.3 – Conflict of Interest:

A conflict of interest is a situation in which financial or other personal considerations have the potential to compromise or bias professional judgment and objectivity. An apparent conflict of interest is one in which a reasonable person would think that the commissioner's judgment is likely to be compromised. A potential conflict of interest involves a situation that may develop into an actual conflict of interest. It is important to note that a conflict of interest exists whether or not decisions are affected by a personal interest; a conflict of interest implies only the potential for bias, not a likelihood.

On all matters in which a Commission member has a direct financial interest and/or on matters involving property owned either in part or in total by a member, that member shall abstain from discussion and

voting on the matter. Members abstaining shall disclose, except where it violates a confidence, the general nature of the conflict, and the minutes shall so record the conflict and abstention.

On other matters which could involve a conflict of interest, members shall disclose all pertinent facts relating to the potential conflict, except where it violates a confidence, which facts shall be included in the minutes of the proceedings. The member may then abstain from discussion and voting on the matter.

If a question is raised under this section at any Commission meeting concerning the eligibility of a member of the Commission to vote on any matter, such questions shall be finally determined by the concurring vote of at least four members of the Commission, not including the member with the potential conflict.

Dexter Township

Article 3: Conflicts of Interest

- A. Each Planning Commission member shall avoid conflicts of interest and/or incompatibility of office. As used here, a conflict of interest shall, at a minimum include, but not necessarily be limited to, the following:
1. Deliberating on, voting on, or reviewing a matter directly concerning the member.
 2. Deliberating on, voting on, or reviewing a matter concerning land owned by the member.
 3. Deliberating on, voting on, or reviewing a matter directly involving a corporation, company, partnership, or any other entity in which the member is a part owner, or any other relationship where the member may stand to have a financial gain or loss that is more than incidental.
 4. Deliberating on, voting on, or reviewing on a matter in which the member may receive a financial benefit that is more than incidental.
 5. Deliberating on, voting on, or reviewing a matter involving land adjacent to land owned by the member ~~or land within three hundred (300) feet of land owned by the member if the particular improvement or issue, with respect to that land also is within three hundred (300 feet), or otherwise may impact the land within 300 feet, of that land owned the member.~~ *(Note: Stricken text to be reinserted and become effective upon the Zoning Board of Appeals Rules of Procedure being amended to include similar language.)*
 6. Deliberating on, voting on, or reviewing a matter concerning the member's family, such as, but not limited to: spouse, children, step-children, grandchildren, parents, brothers, sisters, grandparents, parents in-laws, grandparents in-laws, or other members of the member's household.
 7. Deliberating on, voting on, or reviewing a matter where the member's employee or employer is:
 - a. An applicant or agent for an applicant, or
 - b. Has a direct interest in the outcome.
- For the purpose of these bylaws only, an appointee on the Planning Commission or a member of Township Planning and Zoning Staff is not to be considered an employee of the Township.
- B. If there is a question whether a conflict of interest exists or not, the question shall be put before the Planning Commission at the request of any individual. Whether conflict of interest exists or not shall be determined by a majority vote of the remaining Planning Commission members.
- C. When a conflict of interest exists or may exist, the Planning Commission member or committee member in question shall do all of the following immediately, upon first knowledge of the matter:

1. Contact Planning Staff and inform them of the conflict of interest or potential conflict of interest;
 2. Declare a conflict of interest exists at the next Planning Commission or committee meeting or ask the Planning Commission or committee to determine if a conflict of interest exists;
 3. Cease to participate as a Planning Commission member or committee member regarding that matter if the Planning Commission or committee determines that a conflict of interest exists; and
 4. During deliberation of the matter before the Planning Commission or committee, leave the table where the Planning Commission or committee is seated until that agenda item is concluded. The member shall be considered a member of the public and may offer public comments that are facts but not opinions.
- D. If a Planning Commission member is appointed or elected to another office that is an incompatible office with Planning Commission membership, then, on the effective date of the appointment to the other office, that appointment shall result in an automatic resignation from the Planning Commission.

City of Ypsilanti

Each member of the Commission shall avoid conflicts of interest, including, but not limited to, deliberating on, voting on, or reviewing a case concerning the member; the immediate family or household of the member; property owned by or adjacent to property owned by the member; or a corporation or partnership in which the member has an ownership, employment, or other financial interest.

Potential conflicts of interest should be identified by the member prior to deliberation of the case; if the Commission determines that a conflict exists, the member shall remove himself from the meeting room during deliberation of the case.