

DEVELOPMENT SERVICES COMMITTEE



STAFF REPORT

SUBJECT: Proposed Revision to Chapter 154.20.2.K of the Zoning Ordinance
MEETING: Council Committee Meeting – SEPT 2022
DEPARTMENT: Development Services
STAFF CONTACT: Steve Killen

RECOMMENDATION:

To revise Section 154.20.2.K of the Subdivision Ordinance, striking Paragraph 3 as reflected in the following excerpt and creating a new paragraph (3) and (4) as follows:

Sec. 154.20.2. Planning and zoning commission—Rules of procedure.

Roberts Rules of Order, the latest revision, shall be the Commission's final authority on all questions of procedures and parliamentary law not covered by these Rules of Procedures.

20.2.K Motions.

- (1) A motion may be made by any member other than the presiding officer.
- (2) A motion to approve any matter before the Commission or to recommend approval of any request requiring Council action shall require two-thirds favorable votes of the members present.
- (3) A motion to deny any matter before the Commission or to recommend denial of any request requiring Council action shall require a majority vote of those present. ~~(a) When fewer than all the members are present for the voting and when all motions to recommend on a given application fail to carry by two-thirds votes, consideration of the application shall be continued to the next regular meeting upon motion carried by a majority of those present.~~
~~(b) — Provided further that no request or application shall be continued under this rule beyond the next regular meeting; failure of the Commission to secure two-thirds concurring votes to approve or recommend approval at the next regular meeting shall be recorded in the minutes as a denial of the proposal under this rule.~~
- (4) If the Commission fails to obtain the minimum votes required, the item before the Commission requiring Council action shall be forwarded with no recommendation.

BACKGROUND:

Recent practices to enforce the 2/3 vote requirement for a favorable recommendation to be forwarded to City Council has resulted in some confusion; complicated by the verbiage found in paragraph 3. Further, as written, delays related to the continuation of the application to the next regular meeting could jeopardize projects and, in some case, result in the automatic approval due to shot clock legislation.

Chapter 211 of the Local Government Code defines the formation and authority of the Commission. The language in 20.2.K is not provided by Chapter 211 and therefore, believed to be established by local ordinance.

The applicable Section of Chapter 211 of the Local Government Code is provided below:

Chapter 211 of the Local Government Code discusses the authority of the Commission. There is a reference to a 2/3 vote requirement, however, it is for purposes other than specified in our Code of Ordinances. See below

Sec. 211.007. ZONING COMMISSION. (a) To exercise the powers authorized by this subchapter, the governing body of a home-rule municipality shall, and the governing body of a general-law municipality may, appoint a zoning commission. The commission shall recommend boundaries for the original zoning districts and appropriate zoning regulations for each district. If the municipality has a municipal planning commission at the time of implementation of this subchapter, the governing body may appoint that commission to serve as the zoning commission.

(b) The zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the governing body. The governing body may not hold a public hearing until it receives the final report of the zoning commission unless the governing body by ordinance provides that a public hearing is to be held, after the notice required by Section [211.006](#)(a), jointly with a public hearing required to be held by the zoning commission. In either case, the governing body may not take action on the matter until it receives the final report of the zoning commission.

(c) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given in the manner provided by Section [211.006](#)(a).

(c-1) Before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification affecting residential or multifamily zoning shall be sent to each school district in which the property for which the change in

classification is proposed is located. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.

(c-2) Subsection (c-1) does not apply to a municipality the majority of which is located in a county with a population of 100,000 or less, except that such a municipality must give notice under Subsection (c-1) to a school district that has territory in the municipality and requests the notice. For purposes of this subsection, if a school district makes a request for notice under Subsection (c-1), the municipality must give notice of each public hearing held following the request unless the school district requests that no further notices under Subsection (c-1) be given to the school district.

(d) The governing body of a home-rule municipality may, by a two-thirds vote, prescribe the type of notice to be given of the time and place of a public hearing held jointly by the governing body and the zoning commission. If notice requirements are prescribed under this subsection, the notice requirements prescribed by Subsections (b) and (c) and by Section [211.006](#)(a) do not apply.

(e) If a general-law municipality exercises zoning authority without the appointment of a zoning commission, any reference in a law to a municipal zoning commission or planning commission means the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

ALTERNATIVES:

1. Take no action.
2. Assign to the Commission for Public Hearing and recommendation to City Council.