

# CITY OF BANDON

**CITY COUNCIL AGENDA DOCUMENTATION**

**DATE: June 1, 2020**

**SUBJECT:** Ordinance No. 1635 – Second Reading.

**ITEM NO. 5.4.1**

**BACKGROUND:**

The City of Bandon has a number of standing committees, boards and commissions, including the Library Board, Parks and Recreation Board, Planning Commission and Utilities Commission. The Bandon Municipal Code specifies processes and duties for most Advisory Boards and Commissions (ABCs). In some cases, those provisions are unclear, relate to functions that are no longer performed by that commission or may conflict with other duties and responsibilities.

Ordinance 1635 clarifies roles and responsibilities of several Advisory Board and Commissions, renames several boards and commissions, and clarifies the process for removal of a board or commission member.

Ordinance 1635 was approved on first reading on May 11, 2020

**FISCAL IMPACT:**

Undetermined

**RECOMMENDATION:**

**Pass Ordinance 1635**

**SUBMITTED BY:**



Dan Chandler City Manager

## ORDINANCE NO. 1635

### AN ORDINANCE AMENDING CHAPTERS 2.12, 2.16, 2.20 AND 2.24 OF THE BANDON MUNICIPAL CODE ADDRESSING STANDING COMMITTEES, ADVISORY BOARDS AND COMMISSIONS

WHEREAS, The City of Bandon has determined that certain amendments are necessary regarding Title 2 of the Bandon Municipal Code to address the role of standing committees:

NOW, THEREFORE, THE CITY OF BANDON ORDAINS AS FOLLOWS:

Bandon Municipal Code, Chapter 2.12, is modified as follows:

#### Chapter 2.12

#### ~~STANDING COMMITTEE~~ MEMBERSHIP ON ADVISORY BOARDS AND COMMISSIONS

##### Sections:

- 2.12.010 Scope.
- 2.12.020 Rules.
- 2.12.030 Standard rotation of terms.
- 2.12.040 Meetings/Quorum
- 2.12.050 Voting
- 2.12.040 Forfeiture of office.
- 2.12.050 Incumbents.

Ordinance History: #1358, 1453, 1458, 1484, 1540, 1599, 1617

##### 2.12.010 Scope.

This chapter addresses procedures for the appointment, retention, removal and compensation of members of ~~standing committees~~ **advisory boards and commissions**, recognizing that special committees may not necessarily comply with these standards. For the purpose of this chapter, **an advisory board or commission** ~~standing committee~~ is a board, commission or committee which is expected to exist more than four years. ~~The city has five standing committees: the budget committee, the library board, the parks and recreation commission, the planning commission (Ord. 1358 §1, 1996), and the utilities commission.~~ **These rules do not apply to ad-hoc or special committees with a limited term**

No ~~standing committee~~ **advisory board or commission** is authorized to make binding policy decisions for the City Council, **or to direct staff in day-to-day operations.**

##### 2.12.20 Rules.

All ~~standing committees~~ **advisory boards and commissions** will conform to the following rules unless specifically exempted:

- A. All appointive members of ~~standing committees~~ **advisory boards and commissions** are appointed by the mayor with concurrence of the council.

- B. All appointive committee members serve at the pleasure of the mayor and city council and may be removed from office ~~after hearing for misconduct or nonperformance of duty, or as provided in 2.12.040~~ **by majority vote of the city council.**
- C. All committees have seven members, unless otherwise provided.
- D. Membership is open to residents and nonresidents, however, the majority of members must be residents of the city at all times. Membership on the budget committee is limited to electors of the city.
- E. No person is eligible to serve on a standing committee if that person's spouse is a member of that committee, nor shall spouses be appointed to the same standing committee.
- F. If a person is a City Councilor, his or her spouse is not eligible for appointment to any standing committee of which the councilor is a member.
- G. If a member of a standing committee's spouse is elected or appointed to the City Council and, as a result, the spouses would be serving on the same standing committee, the non-Councilor's position shall automatically be deemed vacant upon the date the councilor-spouse assumes office.
- H. The above prohibitions do not apply to spouses who are serving as city councilors at the same time.
- I. In the event two ~~standing committees~~ **advisory boards or commissions** are combined or reduced into a new committee or single committee so that two spouses serve on the new or remaining committee, then the position with the lesser number of years of service shall be deemed vacant immediately.
- J. Nominations are solicited from existing committee members and from the general public, and are submitted to the mayor.
- K. An appointee may serve on more than one city advisory board or commission at one time when the mayor and council determine it is in the best interest of the city to make such an appointment.
- L. There are no limits on the number of terms a member can serve
- M. Vacancies are filled in the same manner as original appointments.
- N. An individual is considered to have served one full term when at least two-thirds of the unexpired term remains on the appointment and the individual completes the unexpired term.
- O. Terms expire on June 30<sup>th</sup>. Members whose terms have expired may continue to serve until their replacement is appointed.
- P. An extension of a term due to unusual circumstances may be requested by the committee and granted by the council.
- Q. Committees elect their own chairperson and vice chairperson to a two-year term at the first meeting in July of even numbered years.
- R. All meetings are held in conformance with Oregon open meetings law, and conform to the council's direction as to proper notice, meeting place and minutes. All regular meetings are held on scheduled dates and times, at places which are nondiscriminatory and accessible to the disabled.
- S. Advisory board and commission members receive no compensation but are reimbursed for duly authorized expenses.

2.12.030 Standard rotation of terms.

Each current member of an advisory board or commission is assigned to a numbered position that corresponds to the term the member was appointed to fill.

2.12.40 Meetings/Quorum

- A. ~~Committees and board meet at least once a month as directed by the City Council, with the exception of the Committee for Citizen Involvement and the Budget Committee,~~ unless there is no business to be considered.
- B. No business can be conducted in the absence of a quorum. Roll is taken of the members present, and absent members are noted. For the record it is announced that a quorum is not present and the meeting is adjourned.
- C. A member who is present but abstains may be counted toward a quorum.
- D. An abstention cannot be used to make up the minimum number of votes required to pass or reject a motion.
- E. The notice of cancellation of a meeting and the date of the next scheduled meeting are posted in a public place.

2.12.50 Voting

- A. The concurrence of a majority of those voting is necessary to decide any question or take any action before the committee, i.e.,
  - Committee of 5 - quorum is 3
  - Committee of 7 - quorum is 4
  - Committee of 9 - quorum is 5
  - Committee of 14 - quorum is 8
- B. A tie vote is not a decision. The matter requiring a decision shall be considered tabled to the next regular meeting, without any further action, unless a concurrence of the majority selects a different date, or a new motion is passed to replace the motion which created the tie.

2.12.060 Forfeiture of office.

As the efficiency and productivity of ~~standing committees advisory boards and commissions~~ is contingent upon the regular attendance and participation of all its members, any member may be ~~removed for misconduct or nonperformance of duty or for a change of residency which renders the member ineligible~~ **deemed to have resigned for non attendance.**

The chairperson, or in the chairperson's absence the vice chairperson, will notify the mayor or city recorder if an appointee misses two consecutive meetings. The mayor will contact the appointee to determine the cause of the absence, and whether the appointee wishes to continue serving. The appointee will be considered to have resigned upon missing two additional consecutive regular meetings or 50% of meetings in any six month period. Should the appointee not be able to attend future meetings, he or she will be encouraged to resign. This resignation will not be a bar to future applications for appointment to the same committee or a different one. If an illness or other valid reason renders an appointee temporarily unable to attend, the mayor may confer with the chairperson and extend an excused absence up to three months.

2.12.070 Incumbents.

At the time the ordinance codified in this chapter becomes effective, a roster of all

incumbent committee and commission members shall be adopted by council resolution, indicating their modified terms. Subsequent appointments shall be made according to this chapter.

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Chapter 2.16 is hereby modified as follows:

## CHAPTER 2.16 LIBRARY ADVISORY BOARD

### 2.16.010 Appointment.

The library board shall consist of five members. Patrons of the library who are nonresidents of the city may be appointed to the board; however, the majority must be city residents.

### 2.16.020 Term of office.

The term of office shall be four years, expiring on June 30<sup>th</sup>. The terms, conditions and rules for library board membership, in addition to those specified herein, are those set out in Chapter 2.12.

### 2.16.030 Duties.

- A. ~~Formulating~~ **Suggesting** rules and policies for the governance **and use** of the library.
- B. **Assisting in p**Preparing an ~~d~~ submitting an annual budget request through the Library Director.ian
- B.C. Advising on use of library reserve or memorial funds.**
- C. ~~Approving, or delegating to the Librarian the responsibility for approving all expenditures from the library fund or the public library building fund~~
- D. ~~Acceptance, use or expenditure of any real or personal property or funds donated to the library, or purchase, control or disposal of real and personal property necessary for the purposes of the library, except that each donation shall be administered in accordance with its terms, and all property or funds shall be held in the name of the City of Bandon~~
- E. ~~Selection of sites for public library buildings or for location of library facilities.~~
- F. ~~Entering into contracts.~~
- G.D.** Such other activities as the City Council may assign.
- H. ~~Make an annual report to the State Library and City Council on a form supplied by the State Library.~~

### 2.16.040 Organization - Meetings.

- A. The library board shall elect a chairman from among its members.
- B. The librarian shall serve as secretary to the board and keep the records of its actions.
- C. ~~The library board shall meet as needed. monthly unless there is no business to conduct.~~ Notice of cancellation and the date of the next scheduled meeting shall be posted in a public place.

Chapter 2.20 is hereby modified as follows:

## PARKS AND RECREATION **ADVISORY** COMMISSION

Sections:

- 2.20.010 Parks and recreation **advisory** commission created.
- 2.20.020 Duties.
- 2.20.030 Funds.
- 2.20.040 Organization--Meetings.

Ordinance History: 722, 870, 1069, 1132, 1172, 1277, 1358, 1465, 1494.

### 2.20.010 Parks and recreation **advisory** commission created.

The parks and recreation **advisory** commission consists of seven members. Membership is open to residents and nonresidents; however, the majority of the membership shall be residents of the city. The terms, conditions and rules for parks and recreation commission membership, in addition to those specified herein, are those set out in 2.12.

### 2.20.020 Duties.

The primary function of the parks and recreation **advisory** commission shall be to plan for both long-range and immediate improvements and development of city parks and recreation programs. Such plans shall be submitted yearly to the city council for review and consideration for the following fiscal year. Any plans for the development of new parks, playgrounds or park areas, or any plans affecting traffic flow in the city, shall be reviewed and approved by the planning commission before submission to the council.

### 2.20.030 Funds.

The commission may solicit funds and work projects for park improvements and recreational programs. Any such funds shall be administered by the council. Improvement projects to be completed by individuals or organizations without cost to the city may be authorized and supervised by the commission, provided that such improvements have been previously approved by the council, either specifically or as part of a development plan or project.

### 2.20.040 Meetings - Quorum.

The commission shall meet regularly at established times or upon call of the chairperson. A majority of four members shall constitute a quorum to transact business.

Chapter 2.24 is hereby modified as follows:

## Chapter 2.24

### PLANNING COMMISSION

#### Sections:

- 2.24.010 City planning commission created.
- 2.24.020 Membership and rules.
- 2.24.030 Vested interest.
- 2.24.040 Conflict of interest.
- 2.24.050 Officers.
- 2.24.060 Quorum - Meetings - Voting.
- 2.24.070 Conduct of hearings.
- 2.24.080 Hearings officer.

Ordinance History: #635, 838, 949, 1034, 1220, 1259, 1351, 1358, 1458, 1461, 1492, 1511, 1541, 1557, 1562, 1598

2.24.010 City planning commission created.  
There is created a city planning commission.

2.24.20 Membership and rules.

- A. The planning commission consists of seven members appointed by the council according to the selection procedures set forth as follows:
  - 1. Vacancies shall be announced at council meetings, be posted in local newspapers and city information areas. Notice of vacant positions shall occur for a minimum of two weeks, or for sufficient time to ensure that an adequate number of applications are received.
  - 2. When a vacancy occurs within six months of a previous recruitment, the council has the option of selecting an applicant from the previous applicant pool without further recruitment.
  - 3. Not more than two of the appointed members may be nonresidents of the City. The nonresident members must reside within the boundaries of the Bandon School District No. 54.
  - 4. The Councilors and Mayor shall express their preferences for nomination orally or by a written, weighted preference ballot. The mayor will announce the results of a written ballot, or results will be posted in the council chambers.
  - 5. A councilor shall nominate a candidate during a regular council meeting. If that candidate is rejected, another name shall be placed in nomination by a council member. The mayor votes to break a tie. Appointment by the council shall not occur sooner than four weeks from the announcement of the vacancy, unless the council chooses to use Step 2 above and fill the vacancy immediately.
- B. No person is eligible to serve on the Planning Commission if that person's spouse is a member of the City Council or a member of the Planning Commission.

- C. If a Planning Commissioner's spouse is elected or appointed to the City Council, that Planning Commissioner's position shall automatically be deemed vacant upon the date the councilor-spouse assumes office.
- D. The term of office shall be four years, expiring on June 30<sup>th</sup>. Members whose terms have expired may continue to serve until their replacement is appointed.
- E. There is no limit on the number of terms a member can serve.
- F. A Planning Commissioner's seat is forfeited if he/she moves outside the city if there are already two members who reside outside the city.
- G. Planning Commissioners serve at the pleasure of the mayor and city council and may be removed from office after a hearing for misconduct or nonperformance of duty.
- H. The efficiency and productivity of the Planning Commission is contingent upon the regular attendance and participation of all its members. The chairperson, or in the chairperson's absence, the vice chairperson, will notify the mayor or city recorder if a commissioner misses two consecutive meetings. The mayor will contact the commissioner to determine the cause of the absence, and whether the commissioner wishes to continue serving. The commissioner will be considered to have resigned upon missing two additional consecutive regular meetings or 50% of meetings in any six month period. Should the commissioner not be able to regularly attend future meetings, he or she will be encouraged to resign. This resignation will not be a bar to future applications for appointment to the Planning Commission or a different committee. If an illness or other valid reason renders a commissioner temporarily unable to attend, the mayor may confer with the chairperson and extend an excused absence up to three months.
- I. Vacancies shall be filled in the same manner as original appointments.

2.24.30 Vested interest.

- A. Not more than one voting member of the planning commission may engage principally in the buying, selling or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, trade or profession.
- B. A planning commissioner who owns or occupies property that is in violation of the regulations and standards of the Bandon Municipal Code shall not be permitted to sit on the planning commission until such time as the violation is corrected. The mayor will notify the planning commissioner of the violation. If the violation is not corrected within a four-month period, the council may ask the planning commissioner to resign and/or appoint a temporary planning commissioner until such time as the violation is corrected.

2.24.40 Conflict of interest.

- A. A member of the planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest: the member or his or her spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be

disclosed at the meeting of the planning commission where the action is being taken.

- B. A planning commission member with an actual conflict of interest in the matter under discussion and debate will normally not only step down from the dais but will also leave the room to avoid influencing the outcome of the discussion. Leaving the room shall not be necessary when the abstention is due to being in the notice area if no other real conflict of interest exists.
- C. Conflict of Interest: If a planning commission's vote is necessary to meet a requirement of a minimum number of votes to take official action, the member is eligible to vote but not to participate in any discussion or debate on the issue out of which the actual conflict arises [ORS 244.120(2)(B)]
- D. No planning commissioner shall engage in the promotion or advocacy of any position or issue pending before the planning commission, or on appeal from the planning commission, outside of planning commission meetings or hearings.
- E. No planning commissioner shall represent himself or herself as an applicant. When a planning commissioner has an application before the planning commission, he/she shall be represented by an outside party, and shall not be present in the chambers during the time the matter is discussed.
- F. If a planning commissioner owns property or resides within the notification area of a particular application, that planning commissioner shall not participate in the proceedings and may not act as an opponent or proponent of the application from the floor during the discussion at the Planning Commission or the Council.
- G. Engaging in conduct in violation of this section shall be considered misconduct for the purpose of this chapter.

2.24.050 Officers.

At its first meeting in July of alternate years, the planning commission shall choose a chairperson and a vice-chairperson who shall hold office for two years. If the chairperson is not present or unable to serve, the vice-chair shall assume the responsibilities of the chairperson. In the case where the chair is unable to fulfill the term, the vice-chair shall serve as the chair for the remainder of the term and a new vice-chair will be selected at the next regular meeting of the commission.

2.24.060 Quorum - Meetings - Voting.

- A. ~~Quorum and voting requirements shall be as specified in Chapter 2.12. Four commissioners shall constitute a quorum.~~
- B. ~~No business shall be conducted in the absence of a quorum. Roll is taken of the members present, and absent members are noted. For the record it is announced that a quorum is not present and the meeting is adjourned.~~
- C. ~~The concurrence of a majority of the quorum is necessary to decide any question or take any action before the planning commission.~~
- D. ~~A member who is present but abstains may be counted towards a quorum.~~
- E. ~~An abstention cannot be used to make up the minimum number of votes required to pass or reject a motion.~~
- F. ~~A tie vote is not a decision. The matter requiring a decision shall be considered tabled to the next regular meeting, without any further action, unless a concurrence of the majority selects a different date, or a new motion is passed to replace the motion which created the tie.~~

The commission shall meet ~~at least once each month~~ as directed by the City Council unless

**there is no business to conduct.** Special meetings of the commission may be called at any time by the chairperson or by three voting members of the commission by written notice served upon each member of the commission at least twenty-four (24) hours before the time specified for the proposed meeting. Notice of such meeting shall be posted no less than twenty-four (24) hours prior to the meeting.

2.24.070 Conduct of hearings.

In the conduct of any hearings required or authorized to be held by the commission by statute or ordinances of the city, the definitions as adopted by ORS 227.160 or other applicable statute, and as the same may be amended or added to, are adopted.

2.24.80 Hearings officer.

At any time, the planning commission may appoint a person to serve as hearings officer to conduct reviews and render decisions on limited land use decisions and to carry out other duties and responsibilities as specifically delegated by the planning commission, provided;

- A. The hearings officer is a member of the planning commission who has been selected by majority vote of the commission, and who has been a member of the planning commission for not less than six months; and
- B. Appointment of the hearings officer can be terminated at any regular meeting by a majority of the members present, at which point the planning commission shall assume all duties of the hearings officer, including final action on all applications pending before the hearings officer prior to termination; and
- C. The hearings officer may refer any matter to the planning commission for consideration and action; and
- D. If the hearings officer is not available to review an application in a timely manner due to absence or illness, the application shall be reviewed by the chair of the planning commission or the full planning commission acting in the hearings officer's stead.

Chapter 2.30 is hereby modified as follows:

**UTILITIES ADVISORY COMMISSION**

Sections:

- 2.30.010 Utilities **Advisory** Commission created.
- 2.30.020 Duties.
- 2.30.030 Terms.

Ordinance History: #1453, 1613, 1617

**2.30.010 Utilities Advisory Ceommission created.**

There is created a Utilities **Advisory** Commission which shall consist of seven members, four members of which shall constitute a quorum. The mayor may also appoint two members of the City Council to serve as liaisons to the Utilities **Advisory** Commission, who shall not be voting members or count towards a quorum. The terms, qualifications, conditions, and rules for Utilities **Advisory** Commission membership are those set out in Chapter 2.12.

**2.30.020 Duties.**

The primary function of the Utilities **Advisory** Commission shall be to plan for, and advise the mayor and city council, **and the city manager and the public on long range and near term plans for the water, wastewater and electric utilities. The Utilities Advisory Commission may also engage in outreach and communication to the public on issues related to City utilities.**

**2.30.030 Terms.**

Members shall be appointed to four-year staggered terms, with the exception of the initial appointments which shall be as follows: two members shall be appointed for two years, and three members shall be appointed for three years.

PASSED to a second reading this 11th day of May, 2020 on a roll call vote, 5:0:1.

ADOPTED by the City Council this 1st day of June, 2020 on a roll call vote, \_\_\_\_\_.

\_\_\_\_\_  
Mary Schamehorn, Mayor

Attest:

\_\_\_\_\_  
Denise Russell, City Recorder