Planning Commissioner’s Guidebook

CITY OF MIDLAND
A GUIDE TO EFFECTIVE PARTICIPATION
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Purpose of the Planning Commission

The City of Midland Planning Commission is a City Council appointed body whose primary goal is to promote the health, safety and general welfare of the City. Through policy adoption, regulatory recommendations and land use review recommendations, the Planning Commission plans and recommends for the orderly and efficient development of the City. The Commission serves primarily in an advisory capacity to the Midland City Council. Typical functions include the preparation of a master plan, making recommendations on rezoning, site plan and conditional use permit applications, preparation of a Capital Improvements Plan and approval of subdivision plats.
The City of Midland Master Plan

The Master Plan is a policy framework for decisions that affect the physical, social and economic environment of the City. The Master Plan represents goals and strategies to guide the City over the next 20 years and beyond. The Plan provides vision, direction and a defined achievable future for the City by establishing specific goals and strategies for land use; transportation; community facilities; and implementation.

The Master Plan is to be used by City staff to evaluate and make recommendations to the Planning Commission and City Council on regulatory and policy changes, zoning decisions and budgeting directives. The Planning Commission and City Council use the Master Plan to make decisions regarding proposals that are presented before them. The Plan is used by citizens and neighborhood groups to understand the City’s long range plans and proposals for different geographical areas and to encourage plan implementation. The Plan provides a basis for the City’s development regulations and the foundation for its capital improvements program.

Master Plan v Zoning Ordinance

A clear understanding of the difference between the City of Midland Master Plan and the City of Midland Zoning Ordinance is crucial to the operations of the Planning Commission and the decisions made by the Commission. Although a Master Plan is the community’s expression of its land use policies and long term land use goals, it is not a regulatory document and does not have the power of law behind it. Instead, the Master Plan is implemented by regulatory tools including the City of Midland Zoning Ordinance, the Subdivision Control Ordinance, and others. Absent these complimentary regulatory actions, the ability of the City to implement its vision, as expressed by the Master Plan, would be greatly compromised. As the Planning Commission reviews matters before it, including policy development in the Master Plan, regulatory
standards in the Zoning Ordinance and other regulatory tools, and proposals for development, the distinction between the Master Plan (visionary policy document that we strive to achieve) and the Zoning Ordinance (regulatory document that must be complied with and can be legally enforced) must be kept in mind.

Why Does Midland Have a Master Plan?

The Michigan Planning Enabling Act (MPEA), being Act 33 of 2008 as amended, gives the authority and responsibility to municipalities to ‘make and approve a master plan as a guide for development within the planning jurisdiction’. The Act further states that ‘a master plan shall address land use and infrastructure issues and may project 20 or more years into the future’. The City of Midland Master Plan is responsive to this State requirement and the various components required in it by the MPEA.

Goals of the Master Plan

As Planning Commissioners, it is important to be knowledgeable of the city’s Master Plan, and the envisioned land use laid out in that document. Included in the Master Plan is a list of goals to keep in mind when reviewing developments—these will help you to dictate land use in the most effective manner for the future.

The Master Plan includes analysis, recommendations and proposals for Midland’s population, economy, housing, transportation, community facilities, natural resources and land use—focusing on the physical layout of various land uses and the compatibility of activities anticipated for the land. As Planning Commissioners the decisions you make should always be in line with the Master Plan.

The Master Plan is the definitive guide to the City’s goals and vision for the future. With this in mind, Commissioners should familiarize themselves with the Master Plan and adhere to its philosophies and goals.

1. Promote efficient and coordinated capital improvements.
2. Encouraging integration or mixture of appropriate uses to create great places, promote a healthy, walkable community, and reduce vehicle trips
3. Protect the long term stability of existing, quality neighborhoods
4. Provide a diversity of housing types and costs to meet the needs of all ages and income groups
5. Strengthen and diversify the major employment opportunities in the City of Midland
6. Expand and enhance the vibrancy of the downtown area by adding density, mixed-use developments, and incorporate the ballpark area
7. Promote housing that is inviting to younger professionals, especially in the downtown area
8. Accommodate small nodes of neighborhood commercial at major intersections where major residential development is taking place
9. Utilize office uses as a transition between higher and lower intensity land uses
10. Protect and promote the long term vitality of existing commercial districts including downtown and Ashman circle
11. Broaden restaurant and retail choices

The City of Midland Capital Improvement Plan

A Capital Improvement Plan (CIP) is a multi-year planning instrument used to identify needs and funding sources for municipal capital project expenditures. Projects are generally described as significant, physical improvements or purchases that have a long, useful life. These projects include municipal facilities; information technology systems; transportation systems; water, sewer, and stormwater utilities; street lighting; vehicles and large equipment; and other large capital purchases or improvements. Upon adoption by the City Council, the CIP becomes a statement of city policy regarding the timing, location, character, and funding of future capital projects.

In Michigan, the formation of a capital improvements program is required by the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3865.
Purpose of the Capital Improvement Plan

The quality of the infrastructure and community facilities in the City directly influences the quality of life that the City can provide. As community infrastructure and facilities age, continual improvements and updates are required to stay current with changing demands and needs. In the midst of shrinking resources and deferred maintenance costs, a CIP is more important than ever. The 2016-2022 Plan will reflect a six year anticipated scheduling and costs for infrastructure, facilities, and equipment based on input from the City’s departments.

The purpose of the CIP is to achieve the following outcomes:

- Ensure the timely repair and replacement of aging infrastructure, facilities, and equipment.
- Provide a level of certainty for residents, businesses, and developers regarding the location and timing of public investments.
- Identify the most economical means of financing capital improvements.
- Provide an opportunity for public input in the budget and financing process.
- Facilitate coordination upgrades to capital infrastructure systems.
- Enhance the community’s credit rating, control of its tax rate, and avoid sudden changes in its debt service requirements.
- Ensure that patterns of growth and development are consistent with the master plan.
- Balance desired public improvements with the community’s financial resources.
When making a decision on any development, Commissioners must follow the rules and regulations of the City of Midland, as adopted by Midland City Council. This ensures uniform, consistent, just and legally defensible rulings by the Commission. Commissioners should keep the following specific intentions in mind when making their recommendations on site plan and conditional land use applications, being the two development applications most frequently brought before the Commission:

For Site Plan Review Applications

- Provide a consistent and uniform method of review of proposed development plans
- Ensure full compliance with the regulations and standards of the Zoning Ordinance and other applicable ordinances and laws, including the building code enforced by the City of Midland, to ascertain that all development complies with current standards
- Create an accurate record of approved development
- Mitigate adverse impact on adjoining or nearby properties - within the rules and regulations of the city
- Grant approval when full compliance with the Zoning Ordinance and any other applicable ordinances is demonstrated

Specific criteria to be followed in the process of reviewing and deciding upon a site plan application are found in Article 27 of the City of Midland Zoning Ordinance.

For Conditional Land Use Applications

- Provide a consistent and uniform method of review of proposed development plans
- Ensure full compliance with the regulations and standards of the Zoning Ordinance and other applicable ordinances and laws, including the building code enforced by the City of Midland, to ascertain that all development complies with current standards
- Create an accurate record of approved development
- Mitigate adverse impact on adjoining or nearby properties - within the rules and regulations of the city
• Provide consistent and uniform review of discretionary standards including:
  o Protection of the public health safety, and general welfare
  o Compatibility with surrounding uses
  o Detrimental effects
  o Impact of traffic
  o Adequacy of public services
  o Protection of site characteristics
  o Compatibility with natural environment
  o Compatibility with the Master Plan and intent of the Zoning Ordinance
• Grant approval when all non-discretionary standards of the Zoning Ordinance are complied with and when satisfied that all discretionary standards of the Zoning Ordinance are also complied with.

Specific criteria to be followed in the process of reviewing and deciding upon a conditional land use application are found in Article 28 of the City of Midland Zoning Ordinance.
PROCEEDINGS

Regular Meeting Schedule

Meetings of the Planning Commission are typically held the second and fourth Tuesday of each month at 7:00 p.m. Said meetings will be held in the City Council Chambers of the City Hall unless otherwise provided and publicized in advance. When the regular meeting day falls on a legal holiday, the meeting may either be scheduled for another day or may be canceled, whichever the Commission chooses.

The meeting schedule for the following calendar year shall be adopted by the first regular meeting in September, and the City shall cause the publication and posting of the dates, times, and places of said meetings within ten days of the first meeting of the calendar year.

If there is a change in the schedule of regular meetings of the Planning Commission, there shall be posted within three days after the meeting at which the change is made, a public notice stating the new dates, times, and places of its regular meetings.

Special Meetings

Special meetings of the Planning Commission shall be held at a time and place designated by the officer calling the same and shall be called by the Chair or Vice Chair. Written notice thereof shall be given to all members by the Planning Department not less than twenty-four hours in advance thereof and shall state the purpose and time of the meeting.

For a rescheduled regular or special meeting of the Planning Commission, a public notice stating the date, time, and place of the meeting shall be posted at least eighteen hours before the meeting. The requirement of eighteen-hour notice shall not apply to special meetings of subcommittees.
Recessed Meeting

A meeting which is recessed for more than thirty-six hours shall be reconvened only after public notice posted at least eighteen hours before the meeting.

Quorum

At all meetings of the Planning Commission, a quorum shall consist of five (5) members of the Commission. At meetings relating to the adoption of the Master Plan or any part of the Master Plan or a revision of the Master Plan, an affirmative vote of six (6) members of the Planning Commission will be necessary.

Meeting Structure

At any regular meeting of the Planning Commission, the following shall be the regular order of business:

A. Call to Order
B. Pledge of Allegiance to the Flag
C. Roll call.
D. Approval of the Minutes
E. Public Hearings.
F. Old Business
G. Public Comments (unrelated to items on the agenda).
H. New Business.
I. Communications.
J. Report of the Chairman.
K. Report of the Planning Director.
L. Items for Next Agenda
M. Adjournment.
Motions and Voting

**Motions:** motions shall be summarized or restated by the Chair before a vote is taken. The name of the maker of the motion and its second shall be recorded in the minutes of the meeting.

**Voting:** At all meetings of the Planning Commission, each member attending shall vote on all questions decided by the Commission unless excused by a declared conflict of interest or by consent of the other members present. An affirmative vote of the majority of the members present shall be necessary for the person to abstain from voting on the matter. The minutes shall reflect that such member abstained from voting on the matter. Voting shall be by voice vote, except for matters for which a public hearing has been held before the Planning Commission, a roll call vote shall be required. In the event that any members shall have a conflict of interest in a matter then before the Commission, that person shall disclose such interest. The affirmative vote of a majority of the members present shall be necessary for the adoption of any resolution or other voting matter, except that an affirmative vote of not less than six (6) members of the Planning Commission is necessary to adopt or amend the Master Plan.

Parliamentary Procedure


Public Input

All regular and special meetings, hearings, records and accounts shall be open to the public. The following procedures shall apply for public comment during all regular and special meetings.

A. During all public hearings, appropriate public input shall be sought, with no restrictions on number of presentations.
B. Public comment shall generally be permitted with no restriction on the length of the presentation. When determined necessary to advance discussion and resolution of issues before the Commission, and/or to permit all members of the public in attendance an opportunity to speak, the Chair may impose a time restriction on such presentations.
C. During the Public Comments section, public comments may be made on non-agenda items. There is a limitation of five minutes per person for such comments.
D. Comments on agenda items which have had a previous public hearing may be made at the appropriate time during the meeting. Such comments are for the purpose of presenting new information, and are limited to no longer than three minutes per person. By consensus of the Commission, additional speaking time may be allotted to a member of the public to present additional information.
E. Public comments may be received on other agenda items and new business at the appropriate time during the meeting.

Where determinations of appropriateness of comments are necessary, the decision will be made by the Chair.

Public Hearings

Public hearings shall be held by the Planning Commission on the following items:

A. The Master Plan or any amendment thereto.
B. The Zoning Ordinance or any amendment thereto.
C. Special Use Permits or any major amendment thereto.
D. Site Plan applications or any major amendment thereto.
E. The Subdivision Regulations or any amendment thereto.
F. Preliminary plats prior to action by the Commission.
G. Other matters which it deems necessary in performing its functions.

Upon the completion of a public hearing, the Commission shall take appropriate action. Such actions would include developing a recommendation to City Council, postponing the matter to a date and time specific, or such other action as the Planning Commission determines to be appropriate. A written notice containing the decision of the Planning Commission will be sent by the Planning Department to petitioners and originators of a request.

Appointing Officers

At the first meeting of the municipal fiscal year, the Commission shall elect from its membership a Chair and a Vice Chair. The Director of Planning shall also assist the Commission, but is not a voting member of the Commission.
Tenure of Officers

The Chair and Vice Chair shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office. Officers shall be eligible for re-election, except that no officer shall serve in any one office for more than two (2) consecutive terms.

Responsibilities of Officers

Chair

1. To preside at all meetings of the Planning Commission.
2. To call special meetings of the Commission in accordance with these rules.
3. To see that all actions of the Commission are properly taken.
4. To appoint committees necessary to enable the Commission to act efficiently.
5. To perform such other duties as may be ordered by the Commission.

Vice Chair

1. During the absence, disability, or disqualification of the Chair, the Vice Chair shall exercise or perform all the duties and be subject to all the responsibilities of the Chair.
2. In the event that the office of Chair becomes vacant, the Vice Chair shall succeed to this office for the unexpired term, and the Commission shall select a successor to the office of Vice Chair for the unexpired term.

Additionally, the Director of Planning shall have the following duties, though not a member of the Commission:

1. To keep all minutes of all meetings of the Commission.
2. To give or serve all notice required by laws or these rules.
3. To prepare the agenda for all meetings of the Commission.
4. To be custodian of the Commission’s records.
5. To inform the Commission of correspondence relating to business of the Commission and to attend to such correspondence.
6. To execute documents in the name of the Commission.
7. To handle funds allocated to the Commission in accordance with its directives, the law, and City regulations.
Filling Officer Vacancies

In the event that the office of both the Chair and the Vice Chair becomes vacant, the Commission shall elect an alternative Chair to serve until the next regularly scheduled election of officers.

In the event that both the Chair and Vice Chair are absent from a meeting of the Planning Commission, the Director of Planning shall open the meeting and the members present shall, as their first order of business following roll call and declaration of a quorum being present, designate a member of the Commission as acting Chair for said meeting.
Michigan Open Meetings Act

All actions of the Planning Commission must follow the guidelines of the Michigan Open Meetings Act. The Open Meetings Act (OMA) was written in 1976, as was the Freedom of Information Act. These two laws, known as Michigan’s “sunshine laws,” are designed to make government processes and information more open to the public. Both laws were written in the post-Watergate, post-Vietnam war era.

It is important to keep in mind that the OMA applies to governmental bodies, those “empowered by state constitution, statute, charter, ordinance, resolution or rule to exercise...governmental authority.” It does not apply to corporations, non-profits, churches or the like.

The law guarantees several rights of citizens. The public has a right to record meetings, within the bounds of reasonable rules which the public body may write to minimize disruption of the meetings. The public, likewise, has a right to address the public body, also within the bounds of rules written to facilitate orderly meetings and protecting everyone’s right to address the board. An individual can only be removed from a meeting for a breach of the peace committed at that meeting.

Social or chance gatherings, or conferences which are not intended to avoid the OMA, are exempt. These types of gatherings often are treated with suspicion by the press and the public. It is important for public bodies to be careful not to discuss government business during these gatherings. This can be accomplished by paying careful attention to what the OMA says about deliberations and decisions.
The Freedom of Information Act

As Commissioners, your actions during meetings is subject to the Freedom of Information Act. Understanding the Act and what pieces of information it applies to is crucial to a transparent development process. Information created or presented under the following circumstances are included under the Freedom of Information Act.

**ANY** gathering, including work sessions, of the commission, sitting (or through telephonic or video equipment) as the commission or an informal assemblage of:

(i) as many as three members, or  
(ii) a quorum, if less than three, of the constituent membership,

WHEREVER the gathering is held;  
WITH or WITHOUT minutes being taken; **AND**  
WHETHER OR NOT votes are cast.

**NOTE:** This also applies to ANY meeting, including work sessions, of any subgroup of the commission.

**WHAT IS NOT A MEETING?**

The gathering of employees; or  
The gathering or attendance of two or more commission members at:

Any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business; OR

**WHAT IS NOT A MEETING (cont’d)**

A public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to discuss or transact public business.

**OTHER FOIA PROVISIONS**

**MINUTES:** ARE REQUIRED for any meeting of the commission.  
Minutes are also required for any subcommittee thereof **ONLY** if a majority of the commission members are on the subcommittee.

**VOTING:** NO secret or written ballots are ever allowed.

**CLOSED MEETINGS:** Allowed **ONLY** as specifically authorized by FOIA and require motion stating purpose.

**NOTES and RECORDS:** If referred to or passed between members, your notes and records are subject to FOIA.

**EMAILS:** Any email to a majority of the commission or directed towards a decision of the commission is subject to FOIA. **REPLY ALL** responses are subject to FOIA and are to be avoided.
Ethics

All Commissioners shall follow Midland code of ethics, as written in section 32-3 of the City Ordinance:


a) **Gift, compensation or economic interest.** No official or employee of the city shall solicit, accept or receive, directly or indirectly, any gift, compensation or anything of an economic interest, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under any circumstance in which it can reasonably be inferred that any of the foregoing is intended to influence him or her in the performance of his or her official duties or is intended as a reward for any official action on his or her part.

b) **Preferential treatment.** No official or employee of the city shall use, or attempt to use, his or her position to unreasonably secure, request or grant, any privileges, exemptions, advantages, contracts, or preferential treatment for himself or herself, a relative or any other person.

c) **Use of information.** No official or employee of the city who acquires information in the course of his or her official duties, which information by law or policy is not available at the time to the general public, shall use such information to further the private economic interests of himself or herself, a relative or any other person.

d) **Full disclosure.** No official or employee of the city shall participate, as an agent or representative of the city, in approving, disapproving, voting, abstaining from voting, recommending or otherwise acting upon any matter in which he or she or a relative has a direct or indirect economic interest without disclosing the full nature and extent of the interest. Such a disclosure must be made before the time to perform his or her duty or concurrently with the performance of the duty. If the official or employee is a member of a decision-making or advising body, he or she must make disclosure to other members of the body on the official record. Otherwise, a disclosure will be appropriately addressed by an appointed official or employee to the city manager or by an elected official to the general public. In the case of the city manager and the city attorney, he or she shall make such a disclosure to the mayor.

No official or employee or relative shall engage in any business transaction whereby the official or employee or relative may benefit financially from confidential information which the official or employee has obtained or may obtain by reason of that position or authority.

e) **Doing business with the city.** No official, employee or relative shall engage in any business with the city, directly or indirectly, without filing a complete written disclosure statement for each business activity having an economic interest to any of the foregoing. Such a
disclosure shall be made on an annual basis or prior to any decision-making not previously disclosed by an annual disclosure.

f) **Use of city property.** No official or employee of the city shall, directly or indirectly, use or permit a relative or other persons to use city property of any kind for his or her private economic interest or that of a relative or other person. City officials or employees shall strive to protect and conserve all city property including equipment and supplies entrusted or issued to them.

**City Attorney Training Session**

Within one month of the start of your appointment, a mandatory training session will be scheduled with you by the City of Midland Attorney’s office. At that training, specific information and direction on complying with the Open Meetings Act will be provided. This training will also cover Freedom of Information Act requirements, as well as the ethical standards and expectations of the City as they apply to your appointment to the Planning Commission. Should you have any questions or concerns in these areas following that training, they may be directed to the Director of Planning for direct answer or referral to the City Attorney for response and, as necessary, direction.

**Attendance Standards**

The position of a member of the City Planning Commission shall be considered vacant if such member shall miss four consecutive regular meetings of the City Planning Commission or twenty-five percent of such meetings in the fiscal year of the City, unless such absences shall be excused by the Commission and the reason therefore entered in the proceedings of the Commission.

If a member cannot attend a meeting, he should contact the Director of Planning in advance of that meeting in order that attendance may be anticipated. A person shall be considered excused when, with prior notification, any one of the following reasons is provided: (1) illness; (2) business; (3) prearranged vacation.
Being an Effective Participant

Before the Meeting:
- Come to the meeting with questions in mind. Make note of problems or questions and offer them for discussion. Study the agenda in advance.

During the Meeting:
- Listen thoughtfully and critically to others. Try hard to get the other person’s point of view. Don’t accept ideas that seem unsound, but remember: on almost every question there are several points of view.
- Don’t fight over the ownership of ideas. Once you have given your ideas to the group, it becomes group property. Don’t argue just because it was yours.
- Speak your mind freely. The meeting is yours – a chance for you to say what you think. SAY IT! Speak so everyone can hear.
- Don’t monopolize the discussion. Don’t speak for more than a minute or so at a time. Make your point in a few words, then give someone else a chance. Don’t make a speech.
- Don’t let the discussion get away from you. If you don’t understand, say so. Ask questions or for examples and cases.
- Don’t engage in side conversations with your neighbor. It is rude and distracting.
- Take part in friendly disagreement. When you are on the other side of the fence, say so and tell why, but in a friendly way. Avoid win-lose confrontations.
- Strike while the idea is hot! If you wait until “later”, you may forget your point or it may no longer be relevant to the discussion.
- Be action-minded! Try to relate discussion to action. Wise action is the true purpose of group discussion.
- Above all, develop in yourself that rarest of communicative art – the art of listening.

After the Meeting:
- Ask yourself – WHAT DID I CONTRIBUTE
Helpful Links and Resources

(Some links shortened for ease of access)

Midland Master Plan
http://cityofmidlandmi.gov/468/Master-Plan

Midland Zoning Ordinance
http://mi-midland.civicplus.com/492/Zoning-Ordinance

Midland Capital Improvement Plan
http://cityofmidlandmi.gov/Document Center/View/14087/Master-Plan

Midland Center City Authority (CCA)
http://mi-midland.civicplus.com/284/Center-City-Authority-Board

Midland Downtown Development Authority (DDA)
http://mi-midland.civicplus.com/287/Downtown-Development-Authority

Freedom of Information Act
https://www.justice.gov/oip/freedom-information-act-5-usc-552

Open Meetings Act

Michigan Planning Enabling Act

Michigan Zoning Enabling Act

Roberts Rules of Order
http://www.rulesonline.com/