



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		March 18, 2014		
Department:		Building Inspections		
Department Head		Selso Mata		
Agenda Coordinator (include phone #): Diana Casady 5993				
CAPTION				
<p>An Ordinance of the City Council of the City of Plano, Texas, amending a section of Ordinance No. 2013-8-7, codified as Section 16-82 of Article V, Chapter 16, of the Code of Ordinances, of the City of Plano, Texas, and adding a new section to reinstate alternate members to the Board of Adjustment; and providing a repealer clause, a severability clause; a savings clause, and an effective date.</p>				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR: 2013-14	Prior Year (CIP Only)	Current Year	Future Years	TOTALS
Budget	0	0	0	0
Encumbered/Expended Amount	0	0	0	0
This Item	0	0	0	0
BALANCE	0	0	0	0
FUND(S): N/A				
<p>COMMENTS: This item has no fiscal impact.</p> <p>STRATEGIC PLAN GOAL: Amending a section of Ordinance No. 2013-8-7 codified as Section 16-82 of Article V, Chapter 16, of the Code of Ordinances, for the City of Plano, Texas and adding a new section to reinstate alternate members to the Board of Adjustment relates to the City's Goal of a Financially Strong City with Service Excellence.</p>				
SUMMARY OF ITEM				
<p>Staff recommends this ordinance amendment which will retain the eight (8) standing members but adds two (2) alternate members to the Board of Adjustment to allow the Board a more efficient and effective manner to hear applications for variance requests.</p>				
List of Supporting Documents:			Other Departments, Boards, Commissions or Agencies	
Memo - Selso Mata				



Memorandum

TO: Bruce Glasscock, City Manager
Frank Turner, Deputy City Manager

FROM: Selso Mata, Chief Building Official

DATE: March 6, 2014

SUBJECT: **Board of Adjustment – Alternates**

In prior years the Board of Adjustment had been made up of five (5) board members and four (4) alternates. Upon review the Board was changed to include all appointed alternates as standing members to the Board. This was approved at the August 12, 2013 Council Meeting. The Board in open discussion agreed to wait and see the impact of an eight (8) member board without alternates.

On separate instances, recent variance requests have been tabled by the Board at the applicants request due to absent Board members faced with prior obligations, medical reasons, and one member stepping down for ethical conflict on a variance request.

Board of Adjustment approval must be a concurring vote of 75% of the members before a variance can be passed as required by state law. With 8 regular members, at least 6 concurring votes must be in favor for a request to pass. While a quorum can be met with 6 members, applicants understand they are at a disadvantage whereby all 6 votes would be needed for approval. Odds are impacted for applicants and the board must concur upon the applicants request to table a variance request until a full board of eight seated members can be present.

In light of these events, the Board agreed to have the Chair ask City Council to reinstate the addition of alternates to the Board. Two are requested. If approved, the Board of Adjustment will consist of eight (8) regular Board members and two (2) alternates.

Staff recommends adoption of this Ordinance.

An Ordinance of the City Council of the City of Plano, Texas, amending a section of Ordinance No. 2013-8-7, codified as Section 16-82 of Article V, Chapter 16, of the Code of Ordinances, of the City of Plano, Texas, and adding a new section to reinstate alternate members to the Board of Adjustment; and providing a repealer clause, a severability clause; a savings clause, and an effective date.

WHEREAS, on August 12, 2013, the City Council of the City of Plano enacted Ordinance No. 2013-8-7 to change the membership standards for certain boards, including the Board of Adjustment, by increasing the regular membership to eight (8) members and eliminating alternate members entirely; and

WHEREAS, after considering the impact to the Board's review process in light of state law's requirement for a supermajority vote for approving a variance, staff recommends that two (2) alternate members be reinstated to the Board of Adjustment to allow the Board to hear applications for variance more efficiently and effectively; and

WHEREAS, the City Council, after all things considered, deems it is in the best interest of the citizens of the City of Plano, to amend a section of Ordinance No. 2013-8-7, codified as Section 16-82 of Article V, Chapter 16, of the Code of Ordinances, of the City of Plano, Texas, and adding a new section to reinstate two (2) alternate members to the Board of Adjustment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. Section 16-82, Meetings, of Article V, Chapter 16, of the Code of Ordinances of the City of Plano, is hereby renumbered to Section 16-83 to read in its entirety as follows:

“Sec. 16-83. Meetings.

The Board of Adjustment will have the authority to adopt rules consistent with state law. Meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Adjustment as a public record.”

Section II. A new Section 16-82 is hereby adopted to read in its entirety as follows:

“Sec. 16-82. Alternate members.

City Council may appoint two (2) alternate members of the Board of Adjustment who shall serve in the absence of one (1) or more of the regular members. The alternate members, when appointed, shall serve for the same period as the regular members, which is for a term of two (2) years expiring on October 31st of the appropriate year, and any vacancy shall be filled in the same manner as for regular members, and alternate members shall be subject to removal under the same provisions as regular members.”

Section III. All provisions of the Code of Ordinances of the City of Plano, codified or uncodified, in conflict with the provision of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncodified, not in conflict with this Ordinance shall remain in full force and effect.

Section IV. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

Section V. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

Section VI. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this the 18th day of March, 2014.

Harry LaRosilliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY