

CITY COUNCIL AGENDA
15728 Main Street, Mill Creek, WA 98012
(425) 745-1891



- Brian Holtzclaw, Mayor • Stephanie Vignal, Mayor Pro Tem
• Mark Bond • Vince Cavaleri • John Steckler • Benjamin Briles • Adam Morgan

Regular meetings of the Mill Creek City Council shall be held on the first, second and fourth Tuesdays of each month commencing at 6:00 p.m. **Due to the COVID-19 pandemic City Council Meetings will be held virtually until further notice.**

Your participation and interest in these meetings are encouraged and very much appreciated. We are trying to make our public meetings accessible to all members of the public.

The City Council may consider and act on any matter called to its attention at such meetings, whether or not specified on the agenda for said meeting. Participation by members of the audience will be allowed as set forth on the meeting agenda or as determined by the Mayor or the City Council.

To comment on subjects listed on or not on the agenda, ask to be recognized during the Audience Communication portion of the agenda. Please stand at the podium and state your name and residency for the official record. Please limit your comments to the specific item under discussion. Time limitations shall be at the discretion of the Mayor or City Council.

Study sessions of the Mill Creek City Council may be held as part of any regular or special meeting. Study sessions are informal, and are typically used by the City Council to receive reports and presentations, review and evaluate complex matters, and/or engage in preliminary analysis of City issues or City Council business.

Next Ordinance No. 2021 - 870

Next Resolution No. 2021 - 602

February 2, 2021
City Council Meeting
6:00 PM

VIRTUAL MEETING INFO

- A. Join Zoom Meeting
<https://zoom.us/j/91716868089>

Meeting ID: 917 1686 8089

One tap mobile

[+12532158782](tel:+12532158782).,91716868089# US (Tacoma)

+16699006833,,91716868089# US (San Jose)

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

AUDIENCE COMMUNICATION

- B. Public comment on items on or not on the agenda

NEW BUSINESS

- C. Emergency Proclamation Extension until March 2, 2021.

PROPOSED NEW INITIATIVES

- D. Adopt Street, Park, Trail or Service Day in Mill Creek
(Councilmember Briles)

STUDY SESSION

- E. Governance Manual: Session 1 - Council Values, Organization and Operations

CONSENT AGENDA

- F. City Council Meeting Minutes of January 26, 2021.

REPORTS

- G. Mayor/Council
- H. City Manager
 - Planning Schedule
- I. Staff
 - Jackson High School Crosswalk Update - Director Mike Todd

AUDIENCE COMMUNICATION

- J. Public comment on items on or not on the agenda

ADJOURNMENT



Agenda Item # _____

Meeting Date: February 2, 2021

CITY COUNCIL AGENDA SUMMARY

City of Mill Creek, Washington

AGENDA ITEM: Adoption of the work plan for updating the City Governance Manual

PROPOSED MOTION:

Move to adopt the work plan for updating the City Governance Manual as proposed by staff.

KEY FACTS AND INFORMATION SUMMARY:

Council has given direction to update the City's Governance Manual. The current Governance Manual was adopted in 2011 pursuant to Resolution 2011-473.

At the December 8, 2020 meeting, Council directed staff to return with a proposed work plan for updating the Governance Manual. The current manual contains nine articles, each of which address multiple topics, as well as other resource material. Some of the topics overlap making it possible that the updated manual could consolidate topics and organize them differently.

In order to maximize Council participation in discussing the topics covered in the manual and thoughtfully addressing the numerous policy choices presented, staff proposes that work be presented in a series of four study sessions. Topics to be covered in this session are listed below:

Session 1—Council Values, Organization and Operations

This session will include a review of the material in Articles 1, 2, 4 and 5. Many of the principles listed in Article 1 are implemented in other Articles. This session will provide an opportunity to reaffirm or modify the principles and integrate them into the document. Other major topics to be reviewed include:

- The process for election of the mayor and mayor pro tem.
- Duties of the mayor and mayor pro tem.
- Filling council vacancies.
- The number of regular and special sessions each month.
- Attendance rules.
- Rules governing in-person, video, or telephonic attendance.
- The current boards, commissions and citizen committees including the appointment and removal of members.

City Council Agenda Summary
Page 2

ATTACHMENTS:
Governance Manual

Respectfully Submitted:



Michael G. Ciaravino
City Manager



*Manual of City Governance
Policies, Procedures and Guidelines*

Resolution #2011 - 473

Adopted July 5, 2011

A Comprehensive Collection of
Governance Principles, Policies, Procedures,
Standards of Conduct, Meeting Rules
and References to Applicable Law



Introduction

This manual is intended to serve as a guide for the Council, city management and the community to the City's principles and procedures embodying the Council/Manager form of governance.

The responsibilities of modern government require that we update the procedures which help us function effectively in the current atmosphere of complex laws, rules and regulations. Thus we have an opportunity to refine and expand those initial rules of self-government.

While some other sources of standards and practices do exist, unfortunately those examples are scattered in a number of resources and references. The Mill Creek Manual of City Governance represents standards for Mill Creek government practices in a single document. It is a comprehensive collection of policies, meeting rules, coordination procedures, administrative references, public outreach guidelines and procedures. Included, by reference, are relevant provisions of applicable state and local law. Also included are principles to guide the Council/Manager form of government.

This manual can be a valuable resource for Mill Creek, the City's citizens, the City Council and City management as we continue to work together for effective and efficient local government.

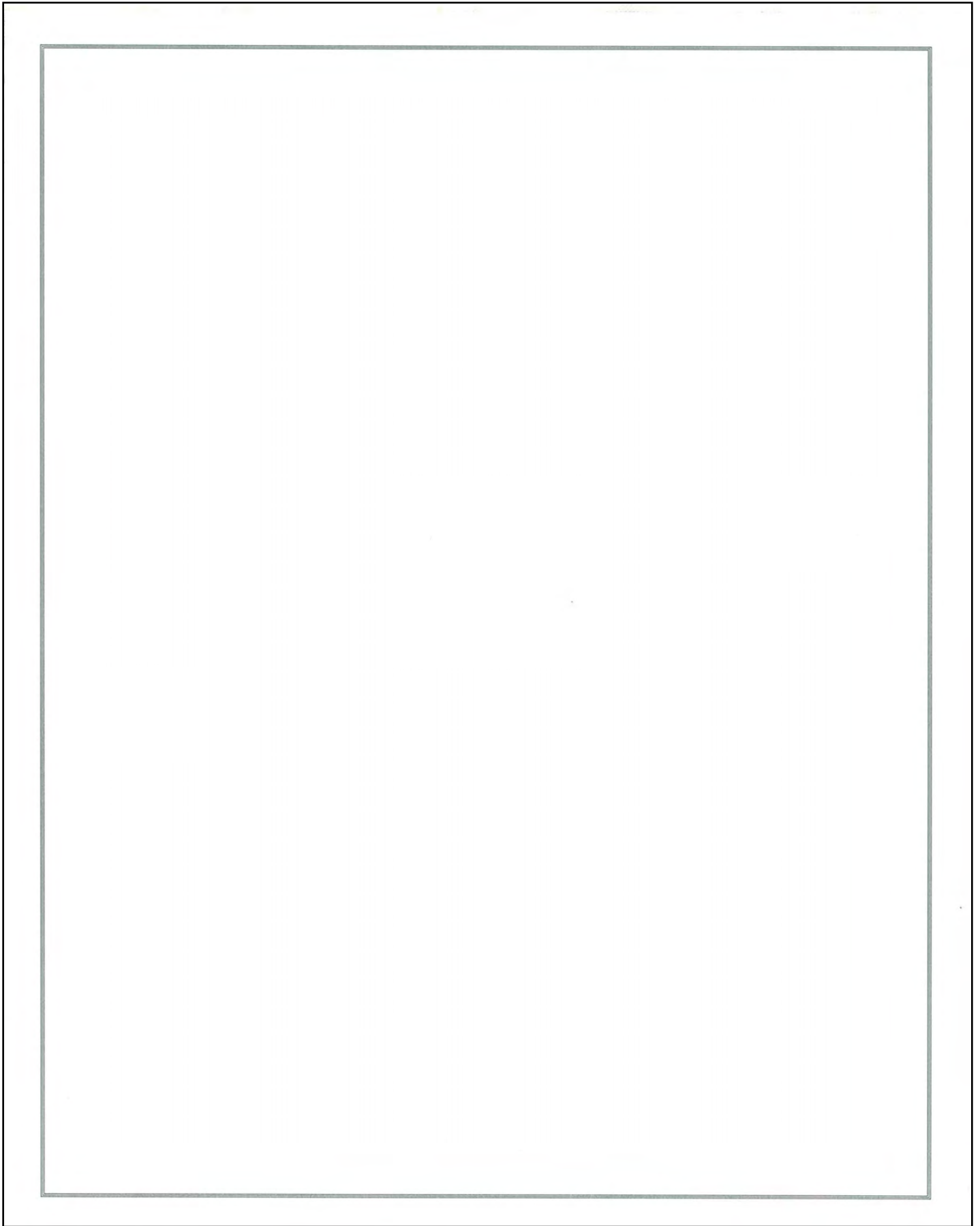
These rules should not be construed to invalidate any action of the City Council or City Manager that is otherwise in compliance with applicable law.

It is recommended that the members of the City Council and City management be familiar with the contents of this manual and keep it close at hand.

This manual (as adopted by Resolution) is a legislative act and is intended to remain in force and effect except to the extent that any portion may be subsequently be amended or rescinded by act of Council. See, however, Article 9, which explains certain limitations on the intended use of this Manual.

Respectfully submitted,

Mayor Mike Todd, Mayor Pro Tem Donna Michelson, and Councilmembers Terry Ryan, Kathy Nielsen, Bart Masterson, Mark Harmsworth, and Mark Bond



RESOLUTION NO. 2011- 473

A RESOLUTION OF THE CITY OF MILL CREEK ADOPTING A MANUAL OF CITY GOVERNANCE POLICIES, PROCEDURES AND GUIDELINES FOR THE COUNCIL-MANAGER FORM OF GOVERNMENT

WHEREAS, the City Council desires that city government be transparent and accountable to the public; and

WHEREAS, the City Council seeks to govern in a manner that is responsive to the community, in collaboration with City management, and in a business-like and professional manner; and


WHEREAS, written principles, policies and procedures best assure an atmosphere conducive to principled, accountable and transparent governance,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILL CREEK DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. There is hereby adopted by reference, "City of Mill Creek Manual Of City Governance Policies, Procedures and Guidelines" dated July 5, 2011, which is attached hereto as Exhibit "A".

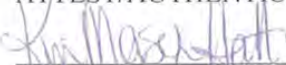
ADOPTED by the City Council of the City of Mill Creek, this 5th day of July, 2011 by a vote of 5 for, 0 against and 0 abstaining. (Councilmembers Ryan and Harmsworth absent)

APPROVED:



MIKE TODD, MAYOR

ATTEST/AUTHENTICATED:



KIM MASON-HATT, ACTING CITY CLERK

APPROVED AS TO FORM:



OFFICE OF THE CITY ATTORNEY
SHORT CRESSMAN & BURGESS PLLC

Exhibit:

A - Manual of City Governance Policies, Procedures and Guidelines

FILED WITH THE CITY CLERK: July 5, 2011
PASSED BY THE CITY COUNCIL: July 5, 2011
RESOLUTION NO.: 2011-473



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Article 1: Principles

It is hereby the policy of the City to establish the principles stated in this Article 1 as core values of City governance:

1.1 Values

1.1.1 City Leaders Listen to the Community

City leaders listen to the community in a way that fully represents the community's interests and goals.

1.1.2 Collaboration is Valued

Council and staff should make the maximum effort to collaborate in every endeavor, seeking consensus as far as possible.

1.1.3 City Leaders Lead and Reason Together

Councilmembers should individually, and collectively, demonstrate the ability to lead and reason together.

1.1.4 The City Exemplifies Professionalism in City Management

City leaders exhibit respect for the professionalism and ethical conduct of the City Manager and staff.

1.1.5 Sustainability

Leaders strive to achieve sustainable outcomes in City policies and administration, with sustainable bottom lines for the community, environment, and for city finances and the local economy.

1.2 Relationship between Council, City Manager, Staff and Public

1.2.1 Council Oversees City Organization But Does Not Interfere With Management

Council establishes budgetary authority for departments and positions, and may determine the duties and compensation of each, but does not interfere with the City Manager's management of City employees.

1.2.2 Council and City Manager Roles and Responsibilities Differentiated

Leaders adhere to the separate and distinct policy and management roles of Council and City Manager. Administrative policy and complaints are handled by the City Manager and Department Heads; legislative policy is established by Council.

1.2.3 Performance-Driven Management

Council reviews the City Manager's performance annually. The City Manager is responsible for performance reviews of subordinates.

- 1.2.4 City Attorney Is Legal Counsel to the City and Its Officials Collectively**
The City Attorney is hired by the City Manager and represents the City and in that capacity provides legal advice to the Council, City Manager and staff to the extent their interests coincide with the City's.
- 1.2.5 Staff Provides Information for Council Policy-Setting**
Information will be provided for effective decisions.
- 1.2.6 Council Will Not Request Unnecessary Information**
In recognition of the limitations of staff time and resources, the Council will not request unnecessary information. An exceptionally time-consuming request of Council requires a majority vote, and information will be disseminated to the Council.
- 1.2.7 Public Documents Ensure Open And Transparent Government**
The Council and Administration will adhere to laws on public access to documents.
- 1.2.8 Communications to the Public are Essential**
The City Manager shall be responsible for the City communications function, but potentially controversial communications shall be promptly copied to Council.

1.3 Functioning of City Council

- 1.3.1 Importance of Open Public Meetings**
The City shall comply with the Open Public Meetings Act under Washington law.
- 1.3.2 There is a Council-Selected Mayor**
The Council-selected Mayor presides at meetings of the Council.
- 1.3.3 The Mayor Also Embodies Other Leadership Roles**
The Mayor serves as the City's ceremonial head. The Mayor is the main liaison for the Council with the City Manager.
- 1.3.4 Citizen Volunteers Play an Important Role**
For citizen advisory committees, boards and commissions, an interview committee of Councilmembers interviews applicants and recommends appointments to the Council for confirmation.
- 1.3.5 Service on Regional Bodies is Shared Among Councilmembers**
Council selects individual Council liaison roles based on the desire, qualifications and skills of interested Councilmembers.
- 1.3.6 Representatives of City Act in Accordance with City Policies**
It is a duty of staff and Council who represent City to advocate positions that are consistent with City policies, projects and plans.
- 1.3.7 Councilmembers Serve in Liaison Roles to Community Organizations**
Council approves liaison duties to community organizations for arts, human services, business community, tourism organizations, etc., based on desire and qualifications.

1.3.8 Council is Mindful of Limited Resources

Council expense reimbursement is limited to budget; requires receipts; there are other limits on type and amount

1.3.9 Council Authorizes Certain Grant Applications Before Submittal

If a grant would require material matching dollars or impact policy, the Administration will seek Council approval prior to applying. The administration will bring grant opportunities it becomes aware of to the full Council. The Council may also initiate the process of pursuing a grant.

1.3.10 Standing Committees

Because staff time and resources are limited, it is prudent to use Study Sessions of the whole Council rather than numerous Standing Committees. Consider utilizing a Standing Committee only if needed – e.g. Finance Committee. The standing committee will be appointed by the Council.

1.4 Efficiency and Effectiveness of Council Decision-Making

1.4.1 Council Makes Effective Use of Time

Council differentiates among four types of public meetings: (1) retreats; (2) study sessions; (3) business meetings; (4) public communications meetings and forums.

1.4.2 Council's Business Meetings Will Be Efficient and Businesslike

The information exchange, review, deliberation and vetting of issues during prior Study Session enables Council business sessions to be efficient.

1.4.3 Effective Decision Making Requires Finality

Rules shall limit the prerogative to reconsider a Council decision; effective decision making results in finality and "moving on".

1.4.4 Council Dialog Calls For "Sticking to the Point"

The Chair's role, especially at the business meeting is to keep Council business focused and expeditious.

1.4.5 Council Meeting Agendas Are Set by a Team

Agendas for Council Business Meetings are generally developed and refined by the Council and Administration at Study Sessions, and are then arranged by the City Manager and City Clerk in consultation with the Mayor. Items for Study Session agendas are submitted to the City Clerk or City Manager and after team review are finalized by the City Manager for public notice and distribution.

1.5 Functioning of City Manager and Staff

1.5.1 ICMA Standards are Respected

City leaders respect the International City Manager Association (ICMA) standards and model documents (e.g. ICMA Code of Ethics and the City Manager's employment terms/conditions).

1.5.2 Council-Manager Governance Depends on a Strong City Manager Role

The City Manager prepares the proposed budget; administers code and policy; appoints and removes city employees; serves as the City's chief executive officer.

1.5.3 Regular and Understandable Financial Reporting

The City's regular financial reports enable the Council and community to understand the City's financial condition, and are in harmony with accounting standards for governmental organizations, applicable law and municipal best practices, taking into account brevity, cogency, salience and clarity.

1.5.4 Council and Administration are Mindful of Risk Management

There is a periodic review of risk management with WCIA (Washington Cities Insurance Authority). The Council empowers the City Manager with a dollar authority level to settle minor disputes.

1.5.5 Public Information is Enhanced by Audio, Website & Notes

There is a full audio recording on the city website for each Council meeting. Minutes of meetings are concise and are approved and posted online in as timely a manner as possible.

Article 2: Defined Terms and Basic Rules

2.1 Types of Governing Bodies, and Advisory or Supporting Groups

2.1.1 City Council (or "Council")

The Council consists of 7 officials, each elected to four-year terms. The terms are staggered with 3 or 4 terms expiring at the end of odd-numbered years. Individual Councilmembers do not have governing power as individuals, but only when meeting as a Council, when a quorum (4 or more) are present. A special-purpose meeting of the Council when a quorum is present is sometimes referred to as a meeting of the Committee of the Whole.

Unless otherwise noted, the use of the term "Council" in this manual will imply that the Council is acting as a legislative body based upon a majority vote of the Councilmembers.

2.1.2 Council Ad Hoc Committee

An Ad Hoc Committee is a temporary committee established by Council to investigate and advise Council on a specific policy or issue for future Council action, or to develop a legislative or policy proposal for Council on a particular topic. The Council determines the purpose of an Ad Hoc Committee at the time of establishing it. The Council may appoint up to three Councilmembers to an Ad Hoc Committee, and, if applicable, one or more citizens or subject matter experts who are not city employees. Furthermore, each Ad Hoc Committee shall include the City Manager (or his/her designee) and any City staff that the City Manager chooses to assign to the Committee. An Ad Hoc Committee shall sunset upon completion of the Council-assigned task.

2.1.3 Citizen Board, Citizen Committee or Citizen Commission

As defined by ordinance or resolution, a citizen board, committee or commission is generally a standing (rather than temporary) body with prescribed authority to perform a recurring advisory or decision-making role on behalf of the City as a municipal corporation. The list of such bodies, as that list may be amended from time to time, is found in Exhibit B. Procedures and rules that apply to such bodies are described in Exhibit B.

2.1.4 Citizen Advisory Committee

A Citizen Advisory Committee consists of a group of citizens, established and appointed by the Council, which is tasked with the responsibility of advising the appointing body or Manager regarding some activity or pending decision of City government. Such a committee is normally formed on an ad hoc temporary basis to advise either the Council or City Manager (or a Council standing or ad hoc committee) on a particular topic relating to city legislation, policy or practices, or the means to carry out a proposed project or city activity.

2.1.5 Steering Group

The City Manager may recommend or the Council may establish a Steering Group to perform a temporary ad hoc task or project prescribed by the Council, such as organizing one or more forms of citizen engagement on a public issue, or providing direction and oversight for the implementation of a City project or program.

2.1.6 Small Task Group

The Council may, from time to time, create, and appoint members to, a small task group for the purpose of examining issues and making recommendations important to the City but not requiring the more formalized process of a larger task force, which may require a steering committee. The small task group may consist of one or more Councilmembers (but no more than three), one or more citizens or experts familiar with the issue or project, and the City Manager (or designee). In all cases, the instrument appointing a task force shall set forth a clear task assignment and a method of “sunsetting” the group upon completion of the task.

2.1.7 Multi-Agency or Regional Task Group

When a major regional effort involves key agencies outside of City government but vital to a project’s coordination, the Council may create by motion, legislative directive or intergovernmental agreement, an appropriately named multi-agency or regional task group (and may create a Steering Group to guide the task force effort). Membership shall consist of one to three Councilmembers (no more than three) and/or the City Manager (or designee), typically one representative from each partner agency, and, if applicable, representation from any private, consultant or non-profit agency with a key interest or resource vital to the issue or project.

2.2 City Officials and Adjudicators**2.2.1 Mayor**

See the definition and duties stated in Section 4.3.

2.2.2 Mayor Pro Tem

See the definition and duties stated in Section 4.3.

2.2.3 Chair

The term Chair means the Councilmember who is to chair, or is in fact chairing, a Council meeting. Unless otherwise stated in the meeting agenda, the Chair shall be the Mayor unless the Mayor is absent, in which case the Chair shall be the Mayor Pro Tem (or, in the absence of both, the Councilmember who is elected by the quorum to preside at the meeting).

2.2.4 City Manager

See the definition and duties stated in Article 6 – City Administration.

2.2.5 Appointive Officers

The City’s Appointive Officers consist of the City Manager and those persons (who may or may not be City employees) who occupy any of the appointive offices stated in MCMC Section 2.08.

2.2.6 Council Liaison

With Council approval, a Councilmember serves a two-year term as the Council’s Liaison (i.e. representative), to an organization. A Liaison is responsible for facilitating communication, collaboration and coordination with the designated organization, and with regular reporting and accountability to the Council. There are typically Councilmember Liaisons to three types of organizations:

- A county-wide or regional policy or governing body or intergovernmental organization (such as the Snohomish County Tomorrow Steering Committee)
- A community organization (such as the Mill Creek Business Association); and
- A governing or inter-agency board functioning in the city (such as the Parks and Recreation Board).

2.2.7 Hearing Examiner

The City regulates and adjudicates land use matters using a Hearing Examiner system set forth in MCMC Chapter 4.34. The Hearing Examiner is appointed by the City Manager. Under MCMC Chapter 4.34, the examiner shall serve as the city’s quasi-judicial hearings officer and shall have jurisdiction over the matters set forth in this chapter and MCMC 14.03.080. In the exercise of such jurisdiction, the examiner shall interpret, review and implement the city’s land use regulations and the pertinent and appropriate provisions of MCMC Titles 14 through 18, shall hold hearings and hear appeals, and shall take such actions as provided by this chapter. In addition, the examiner shall take such action as may be specifically assigned by other sections of the municipal code or by ordinance or resolution, and as may be delegated or assigned from time to time by action of the City Council.

2.3 Types of Meetings of Council

2.3.1 Regular Meeting

A Regular Meeting of the Council is a meeting convened on a regular series of dates (and at a time) stated in City code. At a Regular Meeting, the Council may conduct any

business stated on the agenda that is publicly posted prior to the meeting, or the Council may approve additions or deletions to the agenda at the meeting.

2.3.2 Special Meeting

A special meeting is a Council meeting called at a date or time other than the time prescribed by code for a Regular Meeting. At a special meeting, the Council may conduct any business stated on the agenda that is publicly posted prior to the meeting, or the Council may approve deletions (but not additional action items) to the agenda at the meeting.

2.3.3 Business Meeting

A business meeting is a regular or special meeting of the Council that is primarily for the purpose of voting on the City's business, generally in the form of motions, resolutions or ordinances. A business meeting typically includes a public comment period for a limited period of time stated in advance on the agenda, during which a member of the public may address the Council on any matter of public concern (whether or not on the agenda).

2.3.4 Study Session

A study session is a regular or special meeting of the Council that is generally held in a more informal manner or setting than a business meeting, and where the purposes may be, for example, (i) to study, deliberate or review one or more topics or emerging issues for potential action at a future date, (ii) to vet the status of matters that are intended to be presented on the agenda of an ensuing business meeting unless exceptional circumstances apply, or (iii) to participate in presentations with City staff or other subject matter experts. In general, final votes are not taken at a study session, but there are commonly procedural votes on the disposition of various matters. Any regular or special Council meeting may include a "Study Session".

2.3.5 Workshop

A study session on a single topic or subject is sometimes referred to as a workshop.

2.3.6 Public Hearing on Ordinance

A formal public hearing may be required by statute or City ordinance as a portion of the prescribed public process for the Council's adoption of the City budget, the City's Capital Facilities Plan, and certain other legislative actions. In such a case, a public hearing is conducted according to certain formal public hearing rules prescribed by law. The public hearing typically occurs during a publicly noticed portion of a regular or special meeting of Council, where the time of the hearing has been stated in the prior public notice.

2.3.7 Public Hearing on Quasi-Judicial matter

Certain Council reviews and actions that are akin to a judicial decision affecting a particular party or a particular set of one or more properties require that the Council conduct a formal public hearing of a "quasi-judicial" kind. Such a hearing is typically conducted by Council during a prescribed portion of a regular or special meeting, and is performed in such a manner as to establish a clear record of proceedings, facts presented and the decision process according to judicial standards. A detailed discussion of quasi-judicial hearings can be found in Section 8.12.

2.3.8 Retreat

A retreat is generally a Special Meeting called for the purpose of very informal discussion dealing with goals, objectives and guidelines for future activity of the organization. At a retreat, the Council may, for example, develop goals and objectives for its own organization for the year, consider priorities for the Council work plan, or set goals for the City Manager which may be elements of an annual performance evaluation in accordance with the employment agreement. Although a detailed listing of the City's activity plan for a coming year may result from informal consensus, formal adoption should be made in a regular Council meeting by motion or resolution.

2.4 Types of Public Participation in Government**2.4.1 Public Comment Period at Business Meetings**

At Council Business Meetings, the agenda shall generally include a period of time known as the Audience Communication period. Within that time period, any member of the public may be recognized by the Chair and may address the full Council on any public issue – whether or not on the agenda. Unless Council determines otherwise, the Audience Communication period at a Business Meeting is reserved for comments by the public rather than responses from Council or Administration.

2.4.2 Interactive Dialog with the Public at Study Sessions

At Council Study Sessions, the Chair shall determine the manner in which public comments and dialog are to be invited, depending on the nature of the Study Session and the amount of time available. In general, the Council may allow more flexibility in accommodating comments and dialog on agenda matters under discussion than is generally allowed at a Business Meeting, and the Council may allow responses and interactive dialog with Councilmembers, the Administration and/or other presenters.

2.4.3 Other Meetings with the Public Outside of City Hall

The Council may organize other meetings with the public in various forums outside of City Hall – in various settings such as public forums, neighborhood meetings, presentations to community organizations, town halls, and so on.

2.4.4 Public Forum

When major public policy development warrants, and after adequate preparation of issues and alternatives, a steering group may conduct larger citizen forums to help develop a public consensus on the issues. The general procedure would be to provide basic information, to explore alternatives and options and to receive verbal and written public comments. The Steering Group shall summarize the conclusions and/or recommendations of such forums for presentation to the City Council prior to the customary City Council deliberations (i.e., agenda actions, public hearings, etc.) which could normally result in final action.

2.4.5 Neighborhood Meetings

Neighborhood meetings may be scheduled as part of a larger public process as designed by an Ad Hoc Committee, Steering Group or Task Force, however, any member of the Council may convene a citizens' neighborhood meeting or series of meetings for the purpose of providing a general forum on City matters. Such meetings shall, when convened, provide information pertaining to specific issues as well as an opportunity for

citizens to ask questions or express views on any subject. The Council may request that the City Manager or his/her designee attend these meetings to answer questions on administrative matters. Although such meetings typically involve three or fewer Councilmembers and are therefore not official Council meetings, Councilmembers who attend shall report issues or conclusions to the Council. At any such meeting, a Councilmember should avoid discussion or comments which pertain to current or potential lawsuits or other quasi-judicial proceedings which might later come before the Council. Councilmembers should exercise care to avoid claiming to speak for the City or Council on any issue on which the Councilmember is not expressly authorized to speak for the Council.

2.4.6 Additional Avenues for Public Participation

Public process activities may also incorporate a range of tools such as press releases, newspaper columns, fact sheets, Q&A's, etc. as described in the City's documents and guidelines pertaining to public participation in various projects and processes.

2.5 Types of Governing Actions

2.5.1 Motion

An adopted motion is a form of action taken by the Council to direct that a specific course of action be taken or executed on behalf of the municipality. A motion is similar to a resolution, but is generally much shorter and worded in a more informal manner than a resolution. A motion, once approved and entered into the record, is the administrative equivalent of a resolution in those instances where a resolution is not required by law, and where such motion is not in conflict with existing State or Federal statutes, City ordinances or resolutions.

2.5.2 Resolution

An adopted resolution is an administrative act which is less formal than an ordinance and is a statement of legislative policy or direction concerning matters of special or temporary character. Council action shall be taken by resolution when required by law or in those instances where an expression of legislative policy that is more lengthy or more meticulously worded than a motion is desired. While resolutions are often just a statement of policy, a resolution may have the force of law (e.g., a resolution setting permit fees, or a resolution declaring certain City property to be surplus).

2.5.3 Ordinance

An enacted Ordinance is a local law (legislative act) prescribing general rules of conduct. Council action shall be taken by ordinance when required by law, or where prescribed conduct may be enforced by penalty. An ordinance is a legislative act within its sphere as much as an act of the State Legislature. The general guiding principle is that actions relating to subjects of a permanent and general character are usually regarded as legislative and should be addressed through an ordinance, and those providing for subjects of a temporary and special character are regarded as administrative and should be addressed through a resolution. (See *Durocher v. King County*, 80 Wn.2d 139, 153, 492P2d 547(1972)).

2.5.4 Comprehensive Plan Amendment

Such an amendment is a legislative act in which the Council amends all or part of the Comprehensive Plan after the Planning Commission has deliberated, held public hearings and made recommendation(s) to the Council. The Council likewise holds a public hearing before passage.

2.5.5 Budget Adoption or Amendment

Legislative acts adopting or amending the budget document for the City on an annual or biennial basis. Although the budget is a maximum spending plan, it must be managed by the City Manager to operate within actual revenue received for each fund.

2.5.6 Capital Facilities Plan (CFP) Adoption or Amendment

The CFP is a 7-year plan which is a companion to the budgeting process and which establishes priorities for construction or replacement of capital facilities of the City.

2.5.7 Quasi-Judicial Ruling

Such a ruling is similar to a “judicial act” taken by an agency or authority that is not constituted as a “court” of law. A quasi-judicial ruling is an administrative ruling made by the Council, Hearing Examiner, or Planning Commission wherein the process and facts to be heard and judged are prescribed by regulatory laws or ordinances and as such, and are appealable to a higher authority or court of law.

2.5.8 Best Practices

Best Practices, as used in this manual, means methods of conducting certain activities of local government which have become widely accepted standards for a given local government activity. Best practices are often imported as a result of professional networking or from another similar agency which discovered a way to “do it better”.

2.5.9 Doing Things Right

While not defined in law, this phrase, as used in this manual, is an aspiration based on two criteria: (i) seeking out, and conforming to, the correct policy path for an action; and (ii) seeking out and emulating the best practices compatible with the activity, organization and culture.

Article 3: Standards Of Conduct

3.1 Sources and References

In this Article, the following references are frequently cited as sources of law or explanations of applicable law and standards of conduct:

- “KTT”: Association of Washington Cities (AWC) and Municipal Research & Services Center of Washington (MRSC): “**Knowing The Territory**: Basic Legal Guidelines for Washington City, County and Special Purpose District Officials” (Nov. 2009)
- “CMH”: AWC and MRSC: “**Councilmember’s Handbook**” (Dec. 2009)
- “RCW”: **Revised Code of Washington**
- “MCMC”: **Mill Creek Municipal Code**
- “OPMA”: **Open Public Meetings Act**

3.2 Standards of Conduct for Officials under Washington Law

A summary of various Washington state statutes and case law that impose duties and standards of conduct on a city’s elected and non-elected officials is found in the AWC/MRSC handbook KTT.

3.3 Oath of Office

A Councilmember, when sworn into office by the City’s City Clerk, swears that “I (fill in name)...having been duly appointed to the office of Councilmember of the City of Mill Creek, Washington, do solemnly swear [or affirm] that I will faithfully, impartially, and to the best of my ability perform the duties of my office as prescribed by law and that I will support and maintain the laws and ordinances of the City of Mill Creek and the laws and constitution of the State of Washington and the United States of America.”

The City Manager, and certain other City employees in key positions are likewise considered city officials and, when hired or promoted to officer status, are likewise sworn in with a similar oath that calls for compliance with those constitutions and laws.

3.4 Public Trust and Fiduciary Duty

“Courts have held public office to be synonymous with public trust and that a public officer’s relationship with the public is that of a fiduciary.” Public trust is a guiding concept in state statutes relating to avoidance of conflict of interest in contracting (RCW 42.23), and in the OPMA (RCW 42.30).

The people themselves, in a 1972 ballot initiative relating to public campaign law, declared trust to be the public policy of the State of Washington, stating in part: “That the people have the right to expect from their elected representatives at all levels of government the utmost of integrity, honesty and fairness in their dealings” and “That the people shall be assured that the private financial dealings of their public officials, and of candidates for those offices, present no conflict of interest between the public trust and private interests.”

3.5 Stewardship of Public Funds

The state law imposes the highest of duties on public officials who are custodians of public funds, such as treasurers. (KTT, p. 7). By analogy, there are provisions of law that impose other high standards for public funds on City officials generally, such as: (i) the State Constitution’s prohibition against making gifts to an individual or a for-profit or nonprofit corporation or association (KTT p. 22-24); (ii) the state law prohibitions against using public facilities or property for political campaign purposes (RCW 42.17.130); and state law requirements for bidding of public works projects (RCW 35.23.352) (MRSC, “Bidding Book for Washington Counties”) and for the giving of notice when seeking suppliers for other major purchases (e.g. RCW 39.80).

3.6 Conflicts of Interest under State Law

As the state Supreme Court has ruled, a Councilmember may not vote on a matter where he or she would be specially benefited. And, with some exceptions noted below, Washington law forbids a city official from having a financial interest in a City contract, regardless of whether or not they vote on the matter. KTT, p.9.

Furthermore, the public campaign laws require public elected officials (in addition to candidates) to make financial disclosures at least annually (through the Washington Public Disclosure Commission (PDC)) so that the public can be informed about potential conflicts. These annual disclosures are in addition to those outlined in the Statement of Values/Rules of Conduct signed by the Council (Exhibit C).

3.6.1 State Code of Ethics

The RCW 42.23 includes a Code of Ethics for state and local officials that generally prohibits (with some specified exceptions) four types of conduct by a City official:

- (a) using one’s City official position to obtain special privileges for oneself or others;
- (b) giving or receiving a gift in connection with a City matter;
- (c) accepting employment or engaging in a business that would require disclosing confidential information gained as a City official; and
- (d) disclosing confidential information gained as a City official, or using such confidential information for personal gain.

Legal advice should be sought on such questions as:

- (a) Is a very small gift, such as a coffee, small enough as to be “de minimus” and therefore not intended to be prohibited?
- (b) Should a gift from an out of town dignitary be handed over from an official to the city as a whole?
- (c) Under what circumstances can an official accept expense-paid travel to a meeting or a fact-finding visit?

3.6.2 Prohibition Against Private Interest in a Public Contract

- (a) The RCW 42.23 also broadly prohibits the following conflicts of interest regarding a city contract (including, among other things, employment contracts):

“No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through, or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein ...”

- (b) This prohibition applies even if the official doesn’t vote on or otherwise approve the contract that presents a conflict. (KTT, p. 11-13)
- (c) There are exceptions to the prohibition, and there is a qualified set of exceptions for certain “remote interests”. (KTT, p. 11-13)

3.6.3 Limitations on Holding Multiple Offices

There are state law prohibitions against an official appointing himself or herself to a second office or employment with the city (“dual office holding”), and there are certain combinations of public office that are considered to be incompatible and therefore not eligible to be held concurrently. (KTT, p. 16-18)

3.6.4 “Appearance of Fairness” Doctrine under State Law

- (a) The Appearance of Fairness doctrine applies only in those instances when a Councilmember is a decision-maker in a “quasi-judicial” matter (e.g. a spot rezoning, or a long-form plat development approval). It doesn’t apply to a Councilmember’s various legislative and policy decision-making. (KTT, p. 19-21)
- (b) As stated in the RCW 42.36, the “appearance of fairness” requires that the Councilmember not engage in “ex parte” communications with a party interested in the outcome of the quasi-judicial matter.
- (c) See Section 8.12 for a further discussion of the Appearance of Fairness Doctrine as applied to quasi-judicial hearings that are conducted by the Council.

3.7 Open Public Meetings under Washington Law

The Open Public Meetings Act is summarized in the KTT, and is also described in greater detail in the MRSC publication, “The Open Public Meetings Act – How it Applies to Washington Cities, Towns, and Counties, Report No. 60 (May 2008).

3.7.1 All Deliberations and Actions Must Be At Noticed Public Meetings

As stated in OPMA (RCW 42.30), all meetings of city governing bodies (i.e., where a quorum or more Councilmembers, or members of some other “governing body” of the City, assemble to discuss or otherwise act on City business) must be open and public.

3.7.2 Applies to Sub-Agencies of the City

The OPMA applies to a “subagency” of the City, which may mean that a City board, commission, or similar entity created by or pursuant to state or local legislation is subject to elements of the OPMA, such as the Planning Commission. RCW 42.30.020(2) states that a “governing body” to which the OPMA applies includes a committee of the Council or other governing body “when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.” The OPMA does not apply to court proceedings, quasi-judicial proceedings (such as Civil Service Commission hearings), or collective bargaining and related labor relations meetings. It does not apply to purely social meetings where city business is not discussed.

3.7.3 Two Kinds of Meetings: “Regular” and “Special”

A “regular” meeting is one with regular dates, times and locations set by ordinance, resolution or rule. Any business may be conducted at a regular meeting, but RCW 35A.12.160 states that “every city shall establish a procedure for notifying the public of upcoming hearings and the agenda for the forthcoming Council meeting.”

A “special” meeting is a meeting other than a “regular” meeting, which may be called by the Chair (e.g. the Council’s Mayor) or a majority of Councilmembers. The notice of a special meeting must be posted at least 24 hours prior to the meeting, and must state the items of business on the agenda. The Council may not add to the agenda of a special meeting without giving 24 hours notice of the added item.

3.7.4 Open to the “Public”

Under RCW 42.30.050, all persons must be permitted to attend a public meeting except unruly persons. Attendance may not be conditioned upon registration or similar requirements. The OPMA does not prohibit a requirement that persons identify themselves prior to testifying at hearings. In cases of disorderly conduct, disorderly persons may be expelled, and if that is insufficient to restore order, the meeting place may be cleared and/or relocated. However, non-offending members of the news media may not be excluded.

3.7.5 Executive Sessions

An “executive session” is a portion of a public meeting that is conducted on a topic that is permitted by law to be discussed by a governing body or sub-agency in a non-public setting. As further provided by the RCW 42.30.110 in greater detail, an executive session may, in general, be conducted to discuss matters such as the following:

- (a) Real estate acquisition, lease or site selection; or deliberations on the price at which to offer real estate for sale or lease;
- (b) Negotiations on publicly bid contracts;
- (c) Evaluation of complaints or charges brought against a public officer or employee;
- (d) Evaluation of qualifications of an applicant for public employment or to review the performance of a public employee;
- (e) Evaluation of the qualifications of a candidate for appointment to elective office; or
- (f) To discuss with the City’s legal counsel City enforcement actions or litigation or potential litigation.

Councilmembers shall not disclose confidential information learned or confidential documents provided during an executive session unless waived by the full Council.

3.7.6 Unintended Meetings; Electronic Meetings

An unintended meeting may occur in violation of the OPMA if, without the requisite public notice, a quorum or more of a public body or sub-agency meets for an in-person or telephonic discussion, or conducts an interactive email discussion of city business.

3.8 Open Government and Public Records

As a result of a statewide ballot in 1972, strong public protections were put in place relating to (1) political campaign disclosure; (2) disclosure of lobbying; (3) disclosure of the financial interests of a candidate or elected official; and (4) openness of public records. The topic of open access to public records is summarized in pages 36-41 of the KTT, and in greater detail in the MRSC publication: “Public Records Act for Washington Cities, Counties and Special Purpose Districts” (Nov. 2009).

3.8.1 Purpose of the Public Disclosure Law

“The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. [The law] ... shall be liberally construed . . . to promote this public policy.” (See, RCW 42.56.030)

It is hereby the policy of the City that elected and other city officials shall do nothing to hinder the City’s obligation to possess, retain and store public records. Under RCW 42.56.010(2), a

“public record ... includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” Furthermore, and under RCW 42.56.010(3), a writing means “handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents, including existing data compilations from which information may be obtained or translated.”

3.8.2 Emails and Other Electronic Records

Under the state law definitions (above), an email (or an entry on a website, blog, twitter or a social media internet site) is a “writing”, and it is likewise a “public record” if it meets the definition above.

Additional regulations have been adopted which further elaborate on the legal duty of a city to store and archive – not only public records of traditional hard-copy kinds – but also electronic public records. (See Chapter 434-662 of the Washington Administrative Code (WAC))

(a) Policies on Email Platforms

In recognition of the desire to maintain open and transparent government, and to support the City’s duty to accessibly store and archive electronic public records, it is hereby the policy of the City that in the case of each email that contains information relating to the conduct of the government or the performance of any governmental or other City function, Councilmembers will:

- i. take all reasonable steps to ensure that each such email sent or received by him or her is sent or received on the City-maintained email system utilizing the individual’s email address at cityofmillcreek.com.,
- ii. cease utilizing any private, public or proprietary email service other than the City’s, for the sending or receiving of any such emails that meet the definition of public records, and
- iii. establish an automatic reply message on any email service previously used for a Councilmember’s public email correspondence, to automatically advise any email sender that any and all emails pertaining to City matters are to be sent to the Councilmember at the City-provided email address.

Each Councilmember who has been advised by the City Clerk to assist the City in preserving a copy of his or her emails pertaining to the work of the governing body, shall send a copy of each such email, as and when each is sent or received, to the City email address designated by the City Clerk for that purpose.

(b) Policies on Email Practices

It is hereby the policy of the City that with respect to any email sent by a Councilmember that contains information relating to the conduct of the government or the performance of any governmental or other City function, the email will be distributed through the City Manager or City Clerk, and any Councilmember who receives such an email shall not forward the email to any other Councilmember.

3.9 Statement of Values/Rules of Conduct

The City Council strives to provide excellence in public service by respecting and protecting individual rights, acting with integrity, and fostering public trust. To improve the Council's effectiveness and performance, Councilmembers will focus on the areas (designated in the Statement of Values/Rules of Conduct – attached as Exhibit C) which incorporate the values of respect, honesty, and trust.

The Statement of Values/Rules of Conduct will be signed by the all of the members of the Council every two years or upon swearing in of new Councilmembers.

3.9.1 Duty to Act in the Interests of the City

- No elected person shall use his or her position, or the knowledge gained therefrom, in such a manner that a conflict arises between the interests of the City of Mill Creek and his or her personal interests, or the interests of other organizations.
- Each elected person has a duty to place the interests of the City of Mill Creek foremost in any dealings with the City, and has a continuing responsibility to comply with the requirements of this policy.
- If an elected official has an interest in (1) a proposed transaction with the City ... in the form of a significant personal financial interest in the transaction; or (2) any organization or member of immediate family involved in such transaction; or (3) holds a position of trustee, director, officer or employee of such organization; then he or she must make full disclosure of such an interest before any discussion or negotiation of such transaction, and shall abstain from any vote on such matter.

3.10 Duties to Act Consistently with City Policy When Representing City Elsewhere

Both elected City officials and non-elected City officials are frequently called upon to participate in policy bodies and decision-making forums at the county and regional level. It is hereby the policy of the City that, whenever any City official (whether elected or staff) is directly or indirectly representing the City on a policy making or decision-making body at the county or regional level, it shall be the duty of that individual to act in a manner consistent with the interests of the City, as embodied in City policy, budget, capital facilities plan or other action of Council or directive of the City Manager.

3.11 Role of City Attorney

The City Attorney's ultimate client is the City itself – a municipal corporation. The City Attorney's relationship to the local government is similar in a number of respects to that of an attorney who represents a corporation. In that capacity, the City Attorney provides legal advice to the City Council, the City Manager, the Department Directors, and City staff. (See KTT (footnote 39))

The City Attorney may represent the City in actions brought by or against the City or against City officials in their official capacity. However, other attorneys may be hired to handle specific cases because of the nature of the case, because the City Attorney has a conflict or other reason he or she cannot become involved, or due to limited resources of the City Attorney's office. In rare cases, the City Attorney may have a conflict and not be in a position to advise both the City Council and the City Manager. (See MRSC "Knowing the Territory.")

The City Manager cannot prohibit the Council from having access to the City Attorney's advice. For reasons of efficiency or cost effectiveness, the City Manager may decide that certain legal questions should be channeled to the City Attorney through the City Manager, to ensure that questions are clearly worded and communications back to Council are consistent. (See MRSC "Councilmember Handbook" (Dec. 2009; p.12))

The Council can determine as a policy matter whether the City shall obtain legal advice from an on-staff City Attorney or by reliance on a law firm, but the Council may not direct the appointment of an individual to the position of City Attorney – that being the role of the City Manager. (See MRSC "Code City Handbook" (June 2009; p. 51))

3.12 Process for Officials to Question the Legality of City Actions

City officials, including elected officials, may be indemnified by the City (or by insurance purchased by the City) for actions taken by an official within the scope of his or her duties. An official should therefore take care to act within the scope of his or her duties, and not cause City or personal liability by virtue of individual actions taken in the absence of legal advice.

An unfounded assertion by a City official that the City is acting in violation of law can cause undue risk and liability to the city, and may therefore constitute a breach of that official's duty to the City. Therefore, it is hereby the policy of the City that the following steps shall be followed if a City official questions the lawfulness of the conduct (or proposed conduct) of the City, or of any of its officials or staff.

1. Consult the City Attorney and fully describe the facts and issues which raise a question of illegality.
2. If the advice of the City Attorney does not resolve the concern, consult the City Manager.
3. If steps "1" and "2" do not resolve the concern, the official may request an executive session of the full Council, if the matter rises to the level of presenting a risk of litigation.
4. Prior to completing steps "1" through "3", it is a violation of the Official's duty to the City to assert in public the opinion that the City is in violation of law.

3.13 Conduct of Officials with Regard to Litigation Against City

It is hereby the policy of the City that, once an individual or organization has filed a legal proceeding against the City, no City Councilmember shall engage in discussions or other communications with such individual (or the officers or directors of the organization) about the subject of the lawsuit without first disclosing the intent to do so to the Council, either in public or in executive session. It is also

hereby the policy of the City that its conflict of interest rules shall apply to elected officials with regard to individuals or organizations threatening or pursuing a lawsuit against the City.

3.14 Separate Accounting of City Funds

With regard to the City's two enterprise service funds – namely, Parks and Recreation and Surface Water -- it is the policy of the City:

- to separately account for each of the funds; and
- to ensure that fees and charges collected from a customer of any such enterprise is not used to subsidize another enterprise fund or the general operations of city government.

Nothing in this policy is intended to either: (i) prohibit an enterprise fund from paying its duly allocated share of direct or indirect costs or its reasonable allocation of City overhead costs, periodically examined by the State Auditor; or (ii) prohibit the imposition of a tax on the utility funds.

3.15 Duty to Avoid Interfering with City Manager's Role with Staff

Neither the Council nor any Councilmember shall interfere with the authority of the City Manager to appoint and remove any and all department heads, officers, and employees of the City (except Councilmembers), subject to the provisions of applicable law, rule, or civil service regulation. Nor shall the Council or any Councilmember give orders to any subordinate of the City Manager. (See RCW 35A.13.120).

3.16 Duty to Bargain in Good Faith with Collective Bargaining Representatives

Unions have a significant presence in Washington cities. Most city employees have the right to organize under state law and have joined state-wide unions or formed local associations. The city must negotiate labor contracts with these unions over wages, hours and working conditions.

In particular, most police departments are unionized. Except for very small cities, police unions have access to interest arbitration when an impasse in bargaining occurs. This can create a unique dynamic in police negotiations, given the potential for an outside arbitrator to make decisions regarding wages, benefits and contract language.

Certain City employees are represented by the American Federation of State, County & Municipal Employees (AFSCME) and police officers are represented by the Police Guild.

It is the policy of the City that it shall be the responsibility of the Council to set policy for collective bargaining, and the responsibility of the City Manager to engage in such collective bargaining.

3.17 Immunity and Indemnification of Officials For Individual Actions in Good Faith

An appointed or elected official or member of the governing body of a public agency is typically immune from civil liability for damages for any discretionary decision or failure to make a discretionary decision within his or her official capacity. Liability may attach to the public agency for the tortious conduct of its officials or members of the governing body. (See RCW 4.24.470(1))

To the extent official is entitled to immunity, it is because the official's actions were taken in good faith in the course of performing within the scope of the official's duties.

The City is insured through the Washington Cities Insurance Authority (WCIA). WCIA provides coverage for damage claims and/or lawsuits brought against the City and its officials. If a damage claim involves a covered claim against a City official, then WCIA will retain legal counsel to defend the City official and will generally pay any resulting judgment or settlement amount. Please note WCIA coverage is only available if the situation is the result of a City official acting within the scope of her or his official duties and is the matter not otherwise excluded from coverage through WCIA's compact with the City (i.e., hazardous waste claims are generally excluded from WCIA coverage).

Additionally, in the event that a damage claim and/or lawsuit is brought against a City official that is related to the performance or failure to perform his or her official duties and the matter is not covered through WCIA, the City may provide legal representation to defend the City official and may indemnify the City official if warranted. The City will not indemnify and defend a City official acting outside the scope of his or her official duties, or if the claim and/or lawsuit is based upon a dishonest, fraudulent, criminal, malicious, or other improper act.

Article 4: City Council – The Elected Governing Body

4.1 Council Meeting - Time and Location

Regular Meetings of the Council in the form of Business Meetings and/or Study Sessions shall be held on the dates and times as adopted by Council ordinance, unless cancelled or postponed in accordance with applicable State or local procedures. Special meetings may be called by the Mayor or by a majority of Councilmembers.

4.2 Council Meetings – Open to the Public

All meetings of the Council and of any Committees thereof shall be open to the public, except as provided for in RCW 42.30.110 or RCW 42.30.140.

4.3 Mayor and Mayor Pro Tem– Election

RCW 35A.13.030 requires that "biennially at the first meeting of the new Council the members thereof shall choose a chairman from among their members . . . [who] shall have the title of Mayor and shall preside at meetings of the Council".

RCW 35A.13.035 provides that "biennially at the first meeting of the new Council, or periodically, the members thereof, by majority vote, may designate one of their members as mayor pro tempore . . . to serve in the absence or temporary disability of the mayor"; and Mayor Pro Tempore ("Mayor Pro Tem").

4.3.1 Organizational Meeting

In December preceding the biennial seating of the new Council, City Council shall schedule a study session for the purpose of discussing the City Council function and operation, role of the City Mayor and Mayor Pro Tem, expectations of the Council for the City Mayor and Mayor Pro Tem, selection process of the City Mayor and Mayor Pro Tem, and the organizational activities which typically occur at the first biennial meeting of the new Council in January. The study session may be a regular or special meeting of the City Council. Notice shall be given as required by law and, in addition, all new Councilmembers elected at the previous general election shall be given individual notice of the meeting and shall be invited to attend.

4.3.2 Selection of Mayor and Mayor Pro Tem.

Biennially at the first meeting of the new Council, typically the first meeting in January, or as otherwise established by law, the Council shall select from among its members a Mayor and Mayor Pro Tem, as required by RCW 35A.13.030 and 35A.13.035, in accordance with the following procedures. The office of Mayor shall be selected first, followed by selection for the office of Mayor Pro Tem. Nomination, selection, and appointment shall be conducted in an open public meeting, *provided that* recesses to executive session may be called in accordance with RCW Chapter 42.30.

4.3.3 Nominations/Nomination Process

Candidates for Mayor or Mayor Pro Tem shall be nominated by a member of the Council. Nominations shall require a second to place the nominee in contention for selection. Voting shall occur as set forth in Section 4.3.4 below. If the Council is unable to select a Mayor or Mayor Pro Tem (as the case may be) after five ballots, or if on any ballot containing only two candidates one of the candidates withdraws his/her name from consideration before the vote on said ballot, nominations shall be reopened. If nominations are reopened, candidates that did not receive at least one vote during any of the preceding ballots must be nominated as set forth above. Nominations shall be reopened after every fifth ballot thereafter as needed. Any nominated candidate may withdraw from the selection process at any time except during an ongoing vote.

4.3.4 Voting

At the close of nominations for the respective office, the Clerk shall place the names of all nominated candidates in random order on a written ballot, shall designate the ballot as "Round #1, Ballot #1," and shall distribute the ballot to each Councilmember. The Council shall vote on the written ballot provided by the Clerk, each Councilmember casting one (1) vote for the candidate of his/her choosing (or writing "abstain" on the ballot). The ballot shall be signed by the Councilmember casting the vote and all ballots shall be collected by the Clerk and tabulated. The Clerk shall announce the names of each candidate, the number of votes received, and the Councilmembers voting for that candidate. If no candidate obtains at least four votes of the Council, the candidate(s) receiving the lowest number of votes shall be removed from the ballot, provided that at least two candidates shall move forward to the next ballot, and the Clerk shall prepare the next ballot, which shall contain the names of the remaining candidates and shall be designated as "Round #1, Ballot #2." The Council shall vote

on that ballot in the manner provided above. Ballot preparation and voting shall continue in that manner for five ballots or until one candidate receives at least four votes of the Council, whichever occurs first. If no candidate is elected after five ballots, nominations shall be reopened as set forth in Section 4.3.3 and voting shall continue as set forth above, the first ballot in the second round being designated "Round #2, Ballot #1." This process shall continue until a candidate receives at least four votes of the Council. All ballots from all rounds shall be retained by the Clerk as part of the record and shall be available for public inspection at the close of the meeting.

4.3.5 Election and Oath of Office

The candidate first receiving at least four votes cast by the Council shall, by that act, be elected as the Mayor or Mayor Pro Tem (as the case may be) of the City of Mill Creek, Washington for the term prescribed by law. The newly elected Mayor or Mayor Pro Tem (as the case may be) shall take the oath of office and be seated immediately to serve thereafter in their respective office for the City of Mill Creek.

Meetings of the Council shall be presided over by the Mayor, if present, or otherwise by the Mayor Pro Tem if one has been appointed, or (in the absence of both of them) by a member of the Council selected by a majority of the Councilmembers at such meeting. Serving as Chair of the meeting shall not in any way abridge the right of the Chair to vote on matters coming before the Council at such meeting.

In the event of the extended excused absence, disability or resignation of a Councilmember, the remaining members by majority vote may appoint a Councilmember pro tempore to serve during the absence or disability.

4.4 Quorum

As provided under State law, all meetings of the Council, four Councilmembers shall constitute a quorum for the transaction of business. A lesser number may adjourn from time to time, provided that written notice of said adjournment is posted on the exterior Council Chamber doors per RCW 42.30.090.

4.5 Respect and Decorum

It is the duty of the Chair and Councilmembers to maintain dignity and respect for their offices, City staff and the public. While the Council is in session, the Councilmembers shall preserve civility, order and decorum. No member of the public shall, by conversation or otherwise, delay, disrupt or interrupt the proceedings of the Council, nor disparage any person while speaking. Councilmembers and the public shall obey the proper orders of the Chair of the meeting.

4.5.1 Orderly Behavior and Civility in Remarks

Any person disrupting the business of the Council, either while addressing the Council or attending the proceedings, shall be asked to leave, or be removed from the meeting. Continued disruptions may result in a recess, forced removal or adjournment as described elsewhere in this manual.

4.5.2 Permission Required to Address the Council

Persons other than Councilmembers and Administration shall be permitted to address the Council only upon recognition and/or introduction by the Chair of the meeting.

4.5.3 Forms of address

The Mayor or Mayor Pro Tem shall be addressed at a formal meeting where he or she is presiding as “Mayor” or “Mayor Pro Tem”.

4.6 Telephonic Participation from a Remote Location

Requests, by a Councilmember, to participate remotely by telephonic connection in a *nonvoting* capacity shall be granted by the Council provided technical capability exists and adequate notice is given, and shall be at the Councilmember’s own expense, unless waived in a Council motion.

Such a remote participation by a Councilmember for *voting* purposes may be permitted in extraordinary circumstances upon a majority vote of the Council present at the meeting site, provided all documents and exhibits are clearly visible or readable for all participants and provided that the audio recording of the meeting allows the remote participant to be heard. The cost of such remote connectivity shall be paid by the Councilmember requesting remote connectivity, unless waived by vote of the Council. No such remote participation for voting purposes shall be allowed for public hearings or any quasi-judicial proceedings.

Examples of extraordinary circumstances would be: emergencies or illness, accident, unforeseen urgent out-of-town business, or similar circumstances.

4.7 Attendance; Excused Absences

A Councilmember may forfeit his/her office by failing to attend three consecutive regular meetings without being excused by the Council. Members of the Council may be so excused by complying with this section. The member shall contact the Mayor, Mayor Pro Tem, City Manager, or City Clerk prior to the meeting and state the reason for his/her inability to attend the meeting. During “Roll Call,” the Chair shall inform the Council of the member’s absence and state the reason for such absence. The Chair shall call for a motion to excuse the member. This motion shall be non-debatable. In such a case, the outcome of the vote shall determine whether the member shall be considered excused. (See RCW 35A.13.020 and RCW 35A.12.060.)

4.8 Filling Council Vacancies

If a vacancy occurs, the Council will follow the procedures provided in RCW 35A.13.020 and RCW 35A.12.050 in order to fill the vacancy with the most qualified person available until an election can be held. The Council will publish a notice of the vacancy, the procedure, and distribute the application form for soliciting candidates. The Council will draw up an application, which contains relevant information to answer set questions posed by the Council. The application forms will be used in conjunction with an interview of each candidate to aid the Council’s selection of the new Councilmember.

4.9 Continuity of Government Act

In the event that the executive head of any city or town is unavailable by reason of enemy attack to exercise the powers and discharge the duties of the office, the provisions of RCW 42.14.050 shall apply. The same policy shall be applied in the case of a natural or man-made disaster.

Article 5: Citizen Committees, Boards And Commissions

5.1 Approval of Appointees

5.1.1 Citizens on Standing Governing Bodies

All members of standing citizen committees, citizen boards and citizen commissions which are, or which may hereafter be, required by State law or City ordinance or resolution, shall be appointed by the Council.

5.1.2 Citizens on Temporary Governing Bodies

Any citizen members of any other committees – such as Ad Hoc Committees, Citizen Advisory Committees or Steering Committees – shall be appointed and approved in the manner described in this Manual. With regard to any appointments that would normally be subject to Council approval, the Council may choose to waive confirmation in the instrument creating said committee or group.

5.1.3 Removal

Members of any committee, board or commission which has been appointed by the Council, may be removed without cause by a majority vote of the Council unless otherwise provided for in the Code, ordinance or resolution that authorized creation of the committee, board or commission.

5.2 Establishment and Review of Citizen Governing Bodies That Are Temporary

Council-established governing bodies that are intended to be temporary -- such as Ad Hoc Committees or Citizen Advisory Committees – shall be commissioned for a time certain and provided with a clear task description and “sunset” provision. Such temporary committees shall be subject to review whenever a new Council is seated following elections, so as to determine whether the committee and its functions continue to be appropriate and necessary.

Other special ad hoc committees and Council liaisons for a particular purpose may be appointed by the Council, for a time certain along with a clear task description and "sunset" provision.

Citizen Committees, Commissions and Boards, liaisons and citizen advisory or taskforce groups should be given an opportunity to make a recommendation, when appropriate, on proposed ordinances, resolutions and motions within their area of responsibility or interest, before action is taken by the Council. The appropriate spokesperson may present the recommendation(s) during discussion of that business item on a Council agenda.

To the extent that the City Attorney has determined that a citizen committee, commission or board is a “governing body” that is subject to the State open meetings laws, no such body shall take votes for final action outside of a noticed open public meeting.

5.3 Relations with Boards, Commissions and Citizen Advisory Groups

Boards, commissions and citizen advisory bodies of the City shall provide the City with minutes, or a summary report of all meetings. Communications from such boards, commissions and advisory bodies shall be acknowledged by the Council. Any member of the Council may also bring such communication to the Chair’s attention under the agenda item “Reports – Boards and Commissions.” Should any member of the Council determine that such communication be officially answered by the Council, the Chair shall place the matter on the agenda under New Business for the current meeting or any subsequent meeting.

Article 6: City Administration

6.1 City Manager

The City Manager is the chief administrative officer of the City. The City Manager is appointed by and directly accountable to the Council for the execution of the Council’s legislative policy directives, and for the administration and management of City departments. The powers and duties of the City Manager are defined by State law and a variety of City ordinances. Such duties may be expanded or clarified by job description, resolution or Council directive (motion). Balanced with the City Manager’s accountability to the Council for policy execution is the need for the Council to allow the City Manager freedom to perform those duties and responsibilities in his/her day-to-day management. The City Manager makes appointments and removals of employees and may delegate such powers to department heads, provided, that nothing herein shall be construed to prohibit the Council, while in open session, from fully and freely discussing with the City Manager, anything pertaining to appointments and removals of City officers and employees and City affairs. (See RCW 35A.13.)

6.2 Role of the City Manager

The City Manager shall attend all meetings of the City Council, unless excused by the Chair or Council. The City Manager may recommend for adoption by the Council such measures as he/she may deem necessary or expedient, prepare and submit to the Council such reports or proposals as may be required by the body or as the City Manager deems advisable to submit; keep the Council fully advised as to the business and finances of the City; and when appropriate, shall take part in the Council’s discussion on all matters concerning the welfare of the City. In the event that the City Manager is unable to attend a Council meeting, the City Manager shall appoint a key staff member to attend the meeting as the representative of City Administration.

During Council meetings, the Chair should rely on the City Manager to introduce the administrative participation on agenda items and should offer opportunity for comment or recommendation of the City Manager before final vote on important matters.



MINUTES
City Council Regular Meeting

6:00 PM - Tuesday, January 26, 2021
Virtual and Audio Meeting Format during COVID-19 Pandemic

Minutes are the official record of Mill Creek City Council meetings. Minutes summarize the council meeting and documents any actions taken by City Council.

A recording of this City Council meeting can be found [here](#):
The agenda packet for this City Council meeting can be found [here](#).

VIRTUAL MEETING INFO

- A.**
Join Zoom Meeting
<https://zoom.us/j/99423272203>
- Meeting ID: 994 2327 2203
One tap mobile
[+12532158782,99423272203#](tel:+12532158782,99423272203) US (Tacoma)
[+16699006833,99423272203#](tel:+16699006833,99423272203) US (San Jose)

CALL TO ORDER

Mayor Holtzclaw called the meeting of the Mill Creek City Council to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Councilmember Bond

ROLL CALL

<u><i>Councilmembers Present:</i></u> <i>Brian Holtzclaw, Mayor</i> <i>Stephanie Vignal, Mayor Pro Tem</i> <i>Vince Cavaleri, Councilmember</i> <i>Mark Bond, Councilmember</i> <i>John Steckler, Councilmember</i> <i>Benjamin Briles, Councilmember</i> <i>Adam Morgan, Councilmember</i>	<u><i>Councilmembers Absent:</i></u>
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AUDIENCE COMMUNICATION

- B.** There were no comments on items on or not on the agenda from the public.

NEW BUSINESS

- C.** Appointments to the Park and Recreation Board

January 26, 2021 CITY COUNCIL REGULAR MEETING MINUTES

(Mayor Pro Tem Vignal, Councilmember Cavaleri and Councilmember Morgan)

Councilmember Morgan advised that the Park and Recreation Board interviewed six (6) applicants for two (2) vacancies on the Board. He, Mayor Pro Tem Vignal and Board Chair Melissa Duque conducted interviews for the positions prior to the City Council meeting.

Councilmember Cavaleri thanked both Mayor Pro Tem Vignal and Councilmember Morgan for conducting interviews and respectfully submitted he was unable to participate on the Interview Committee due to an appointment he could not reschedule.

Mayor Pro Tem Vignal thanked applicants for applying and recognized that Mill Creek is fortunate to have a community of great volunteers.

Councilmember Morgan made a motion to appoint Michael Bauer and Tyler Hogan to serve on the Park and Recreation Board with terms expiring October 31, 2023. Councilmember Cavaleri seconded the motion. The motion passed unanimously.

[1.26.21 Park Board Agenda Summary](#)
[Interview Schedule 1.26.21 & Applicants Redacted](#)

- D. Approve the Sale of a 1998 Altec Bucket Truck (PW8) by Live Auction
(Matthew Combs, Public Works Supervisor)

Public Works Supervisor Matthew Combs provided an overview of the City's 1998 Altec Aerial lift truck and recommended that the vehicle be sold at auction due to costly maintenance issues and safety concerns. The vehicle is certified as a surplus property that is no longer serviceable for the City use.

Councilmember Steckler made a motion to authorize the City Manager to sell PW-8, a 1998 Altec Aerial lift Bucket Truck by live auction and that the City Manager direct James G. Murphy Company to accept the highest bid. Councilmember Bond seconded the motion. The motion passed unanimously.

[Agenda Summary 98 bucket truck](#)
[MEMORANDUM](#)
[Resolution 2021 601 PW 8 Surplus](#)

STUDY SESSION

- E. The Farm Development Construction Update
(Tom Rogers, Planning Manager, Christi Schmidt, Senior Planner and Mike Todd, Director of Public Works and Development Services)

Planning Manager Tom Rogers made opening remarks regarding the Farm Development Construction Project and introduced Senior Planner Christi Schmidt to give an update to Members of Council on the status of the project.

January 26, 2021 CITY COUNCIL REGULAR MEETING MINUTES

Senior Planner Schmidt provided an update on the development process including:

- Timeline for the Farm development (below)
- Planned Development
- Affordable Housing Units
- Current Construction Phase
- Mitigation area

Farm Development Timeline

- March 2019 City Council Approved Development Agreement
- June 2019 Hearing Examiner approved binding site plan
- July 2019 Construction commenced
- Wetland Preserve Spring 2021
- First opening - Buildings D, F and Parking Garage Summer 2021
- December 2021 completion date

Council engaged in discussion and Q&A.

[Agenda Summary -The Farm Update](#)
[PowerPoint Presentation](#)

PROPOSED NEW INITIATIVES

- F.** Dobson Remillard Church Cook property (DRCC) - Step 1: Guiding Principles
(Mayor Holtzclaw, Michael Ciaravino and Karen Reed)

City Manager Michael Ciaravino began the discussion on the future development of the Dobson Remillard Church Cook property (DRCC) by providing historical context and background. Manager Ciaravino introduced Consultant Karen Reed to provide an informational briefing in preparation for a facilitated Council discussion proposed for February 9, 2021.

Proposed steps for the process for Council's consideration that were discussed were the following:
guiding principles for the property development; brainstorming list of council ideas consistent with guiding principles; conduct a needs assessment and site capacity analysis.

Councilmember Steckler shared his ideas on proposed criteria and evaluation methods in a PowerPoint presentation.

Planning Manager Tom Rogers displayed general vicinity, parcel delineation and critical area maps.

Council engaged in discussion and Q&A.

[Agenda Summary DRCC for 1.26.21 Session](#)
[Vicinity Map 2021](#)
[Aerial](#)

January 26, 2021 CITY COUNCIL REGULAR MEETING MINUTES

[Critical Area May
PowerPoint by JSteckler](#)

CONSENT AGENDA

- G.** Approval of Checks #62948 through #63015 and ACH Wire Transfers in the Amount of \$655,073.42.

(Audit Committee: Councilmember Steckler and Councilmember Cavaleri)

[1-26-21 AP Voucher](#)

- H.** Payroll and Benefit ACH Payments in the Amount of \$273,567.77.

(Audit Committee: Councilmember Steckler and Councilmember Cavaleri)

[1-26-21 PR Voucher](#)

- I.** City Council Meeting Minutes of January 12, 2021

[City Council Regular Meeting - 12 Jan 2021 - Minutes](#)

Councilmember Cavaleri made a motion to approve the consent agenda. Mayor Pro Tem Vignal seconded the motion. The motion passed unanimously.

REPORTS

- J.** Mayor/Council

Mayor Holtzclaw reported on:

- Withholding of State funds for approved projects
- Discussion on Mayors' call on the topic of police reform measures.
- HB 1117 related to fish passage.
- Frustration over COVID-19 vaccine roll out to senior citizens.
- The next Snohomish County Tomorrow (SCT) meeting will be a gathering of the General Assembly in lieu of the normal steering committee.

Mayor Pro Tem Vignal reported:

- Planning to attend the SCT General Assembly meeting
- Learned that the Youth Board has different group opportunities based on student area of interest such as medical, environmental or government.
- Snohomish County Executive Dave Somers stated that 83% of available first vaccines have been given.

Councilmember Steckler reported:

- There is a vacancy on the Art and Beautification Board
- The A&B Board is looking for project ideas.
- Ideas for volunteer opportunities for service groups.

Councilmember Cavaleri spoke against graffiti and vandalism.

Councilmember Briles supported the idea of an adopt-a-street, park or trail or a service day coordinated by the City. Mayor Holtzclaw recommended that this item be included on the agenda under "Proposed New Initiatives" at the next City Council

January 26, 2021 CITY COUNCIL REGULAR MEETING MINUTES

meeting.

Councilmember Morgan reported that HB 1117 was a topic of discussion at a recent WRIA8 meeting.

- K. City Manager**
- [Planning Schedule](#)

City Manager Michael Ciaravino reported on:

- The City's [Planning](#) schedule
- The upcoming SNO911 meeting was moved from 2/2/21 to 3/2/21.

Manager Ciaravino introduced Public Works Supervisor Matthew Combs who provided a status update on

- The downed streetlight on State Route Hwy 527 and the timeline for replacement
- Webster's Pond railing repair.

Mayor Pro Tem Vignal inquired about the broken swing at Highland Park.

- Public Works Supervisor Matthew Combs reported that a new swing is on order and it will be installed as soon as possible.

Councilmember Steckler noted the lack of lighting near Frost Donuts.

- Public Works Supervisor Matthew Combs stated that he was just informed of the issue and that staff will repair as soon as possible.

- L. Staff**
- Report, etc.
- [ABB Minutes Dec 10 2020-Submitted](#)
[ABB Minutes Oct 14 2020- Submitted](#)
[12-2-2020 Park Board Minutes-Submitted](#)

AUDIENCE COMMUNICATION

- M. Public comment on items on or not on the agenda**

Barb Heidel, a Mill Creek resident, thanked Christi Schmidt and Tom Rogers for the excellent presentation on The Farm Development Construction Project and Matthew Combs for the response and links to information on deicing.

Councilmember Cavaleri made a motion to extend the regular meeting until 9:00 PM. Mayor Pro Tem Vignal seconded the motion. The motion passed unanimously.

RECESS TO EXECUTIVE SESSION

(Confidential Session of the Council)

January 26, 2021 CITY COUNCIL REGULAR MEETING MINUTES

At 7:54 PM Council recessed to Executive Session for 30 minutes. No action is expected to be taken.

- N.**
- Discussion on two items relating to negotiations of a collective bargaining agreement pursuant RCW 42.30.140(4).
 - Discuss potential litigation pursuant to RCW 42.30.110(1)(i)

At 8:25 Council reconvened the regular meeting.

ADJOURNMENT

With no objection, Mayor Holtzclaw adjourned the meeting at 8:26 PM

Brian Holtzclaw, Mayor

Naomi Fay, City Clerk

January 26, 2021 CITY COUNCIL REGULAR MEETING MINUTES

JANUARY 2021						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5 Council	6	7	8	9
10	11	12 Council	13	14	15	16
17	18	19	20	21	22	23
24	25	26 Council	27	28	29	30
31						

FEBRUARY 2021						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2 Council	3	4	5	6
7	8	9 Council	10	11	12	13
14	15	16	17	18	19	20
21	22	23 Council	24	25	26	27
28						

MARCH 2021						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
	1	2 Council	3	4	5	6
7	8	9 Council	10	11	12	13
14	15	16	17	18	19	20
21	22	23 Council	24	25	26	27
28	29	30	31			

Tentative Council Meeting Agendas
Subject to change without notice

Last updated: January 26, 2021

City Council Meetings are the first, second and four Tuesdays of every month at 6 p.m.,

February 2, 2021

- Proclamation of Emergency Extension (if needed)
- Governance Manual Study Session – Council Values, Organization and Operations

February 9, 2021

- Dobson Remillard Church (DRC) Property

March 2, 2021

- Governance Manual Study Session – Standards of Conduct and City Administration
- Proclamation of Emergency Extension (if needed)
- Amendment to Public Records Policy Ordinance
- Presentation: Public Works Maintenance Team Update

Future Agenda Items

- Snohomish County 911 Lease Agreement
- Proposed New Initiatives: Potential Farmer’s Market.
- Update on Development projects and permit activity.
- Update on Public Works projects and program activity.
- Update on Surface Water Utility
- Body Worn Camera Update
- Victim Coordination Services Agreement