

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



Mayor • Brian Holtzclaw, Mayor Pro Tem • Mark Bond
Mike Todd • Vince Cavaleri • John Steckler • Stephanie Vignal

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 and via audio meeting format 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. 2020 - 864

Next Resolution No. 2020 - 589

September 1, 2020
City Council Meeting
6:00 PM

CITY COUNCIL VIRTUAL MEETING INFORMATION

- A. Regular City Council Virtual Meeting
Tue, Sep 1, 2020 6:00 PM - 8:30 PM (PDT)

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/405900509>

You can also dial in using your phone.
(For supported devices, tap a one-touch number below to join instantly.)

United States: +1 (669) 224-3412
- One-touch: tel:+16692243412,,405900509#

Access Code: 405-900-509

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CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

AUDIENCE COMMUNICATION

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

ELECTION OF MAYOR

- C. Election of Mayor and Oath of Office
(Naomi Fay, Interim City Clerk)

ELECTION OF MAYOR PRO TEM

- D. Election of Mayor Pro Tem and Oath of Office
(Naomi Fay, Interim City Clerk)

OLD BUSINESS

- E. Extension of Public Health Emergency Proclamation for COVID-19
(Michael Ciaravino, City Manager)

PROPOSED NEW INITIATIVES

- F. Governance Manual
- G. Request from Mr. Terry Ryan, Snohomish County Aerospace Economic Development Director
- H. City Council Meeting Structure - Regular and Study Sessions

STUDY SESSION

- I. Update on Body Worn Cameras
(Scott Eastman, Interim Chief of Police)

CONSENT AGENDA

- J. City Council Meeting Minutes of Regular Meeting July 28, 2020
Special Meeting August 18, 2020

REPORTS

- K. Mayor/Council
- L. City Manager
 - CARES ACT Funding Update
 - Fire District Update
- M. Staff
 - Update on Mill Creek Boulevard Subarea Plan
(Tom Rogers, Planning Supervisor)

AUDIENCE COMMUNICATION

N. Public comment on items on or not on the agenda

RECESS TO EXECUTIVE SESSION

O. Discussion of the performance of a public employee per RCW 42.30.110 (1)(g)
No Action to be taken.

ADJOURNMENT

Election of Mayor and Mayor Pro Tem

Under our form of government, the Council elects the Mayor and Mayor Pro Tem at the first meeting of each even numbered year. The Mayor is elected biannually. As you know, on August 24, 2020, Mayor Pruitt resigned from the City Council, leaving a vacancy in the position of mayor. State law directs us to hold an election to fill the position of Mayor for the remainder of the term.

Pursuant to Resolution 2011-473, Council adopted a Manual of City Governance that includes the procedures that we use to conduct the election of Mayor and Mayor Pro Tem. Our process includes procedures for nominating candidates and procedures for voting. I will now describe these procedures:

The Nomination Process

Candidates for Mayor and 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. We will first hold the election for mayor and, if necessary, we will conduct an election for Mayor Pro Tem.

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 the 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.

The Voting Process

Our procedure for voting at the close of nominations calls for the Clerk to place the names of all nominated candidates in random order on a written ballot, designating the ballot as "Round # 1, Ballot #1 and distributing the ballot to each Councilmember. The procedure also calls for each Councilmember to cast one vote for the candidate of his or her choosing (or writing "abstain" on the ballot). The ballot is then signed by the Councilmember casting the vote, the ballot is collected by the Clerk who tabulates the vote, announces the name of each candidate, the number of votes for the candidate and the Councilmembers voting for the 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, and shall be designated as "Round #1 Ballot #2." 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

previously described and voting shall continue in the same manner for five ballots or until one candidate receives at least four votes of the Council, whichever occurs first.

Because we are meeting in a virtual format and we are not together, the voting process must be amended slightly. What we propose to do is to conduct the nomination process as I have described; however, instead of voting by paper ballots, the Clerk will prepare a ballot with the name of the nominated candidate(s), email the ballot to the Councilmembers. Each councilmember will complete the ballot and email it back to the Clerk who then will tabulate the ballots, announces the name of each candidate, the number of votes for the candidate and the Councilmembers voting for the candidate.

Is there unanimous consent to conduct the elections with this change in the voting procedure to accommodate our virtual meeting tonight?

Seeing there is unanimous consent, then we will begin by opening the floor to nominations for Mayor. Please raise your hand if you would like to be called upon to make a nomination. Do we have a nomination?

(Once a nomination is received). We have a nomination for _____. Do we have a second?

(If there is no second, the nomination dies for lack of a second).

Any other nominations?

(If there is a second nomination, ask for a second)

Any other nominations?

If there are no further nominations, then I will close the nomination process and would ask the City Clerk to prepare the ballots with the name(s) of _____ (and _____). And email the ballots to the Councilmembers.

(Once the vote is announced and one councilmember receives four votes, that councilmember is elected Mayor. If the Mayor Pro Tem is elected Mayor, then the process will be used to elect a new Mayor Pro Tem. Once both the elections are completed the Clerk must administer the oath of office for the new Mayor and Mayor Pro Tem).

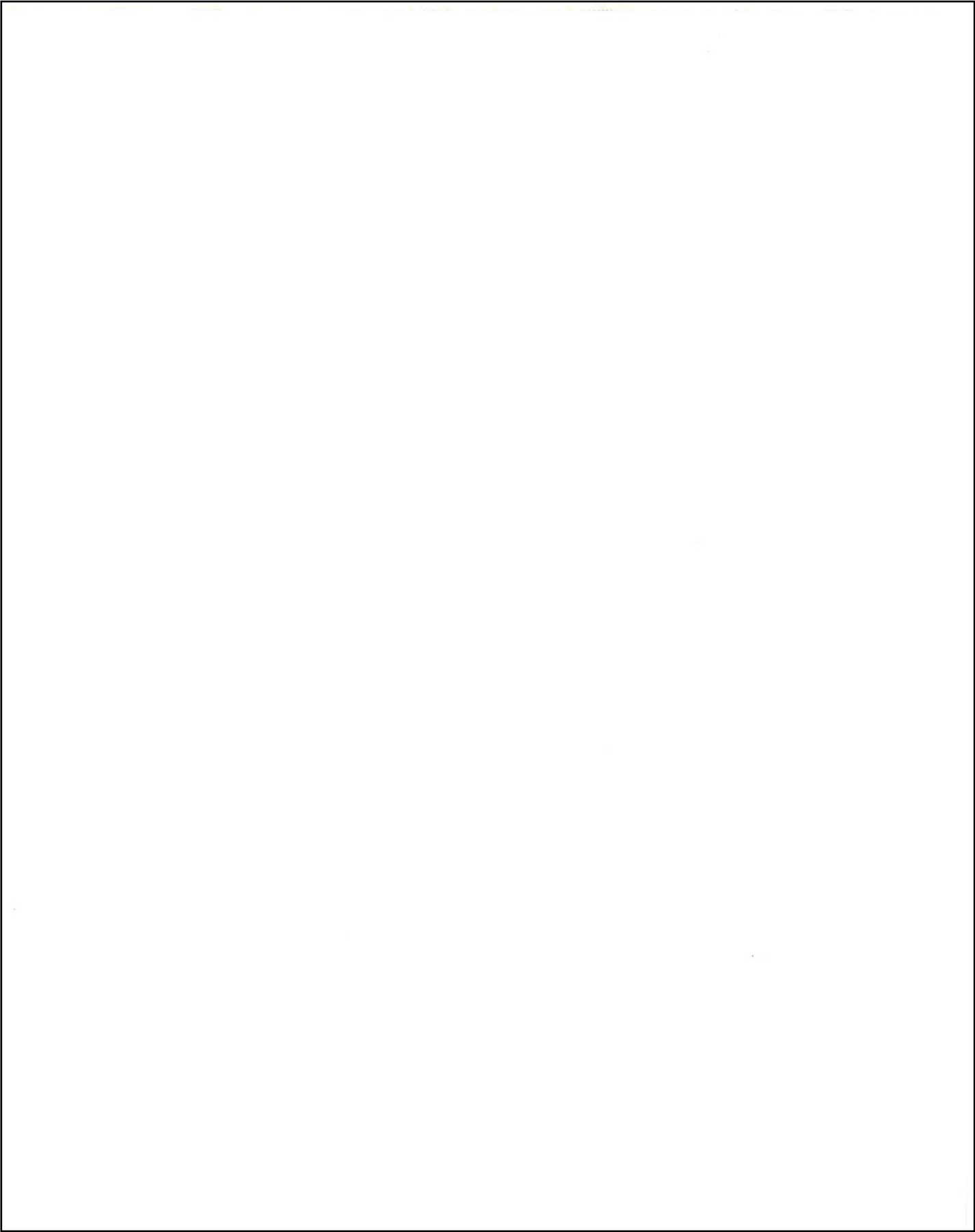


*Manual of City Governance
Policies, Procedures and Guidelines*

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.

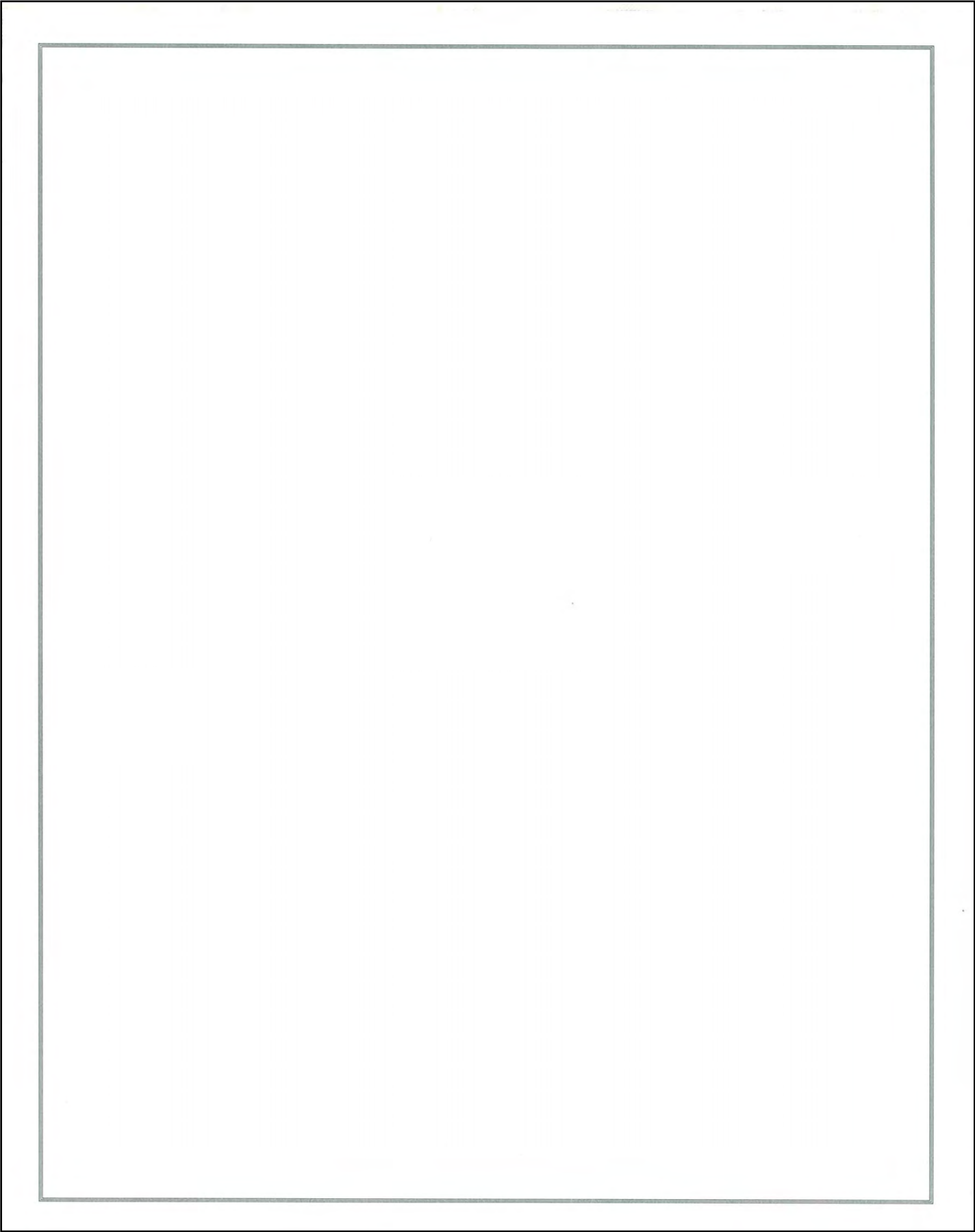
These rules should not be construed to invalidate any action of the City Council or City Manager that is otherwise in compliance with applicable law.

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".

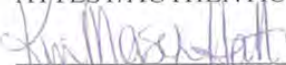
ADOPTED by the City Council of the City of Mill Creek, this 5th day of July, 2011 by a vote of 5 for, 0 against and 0 abstaining. (Councilmembers Ryan and Harmsworth absent)

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

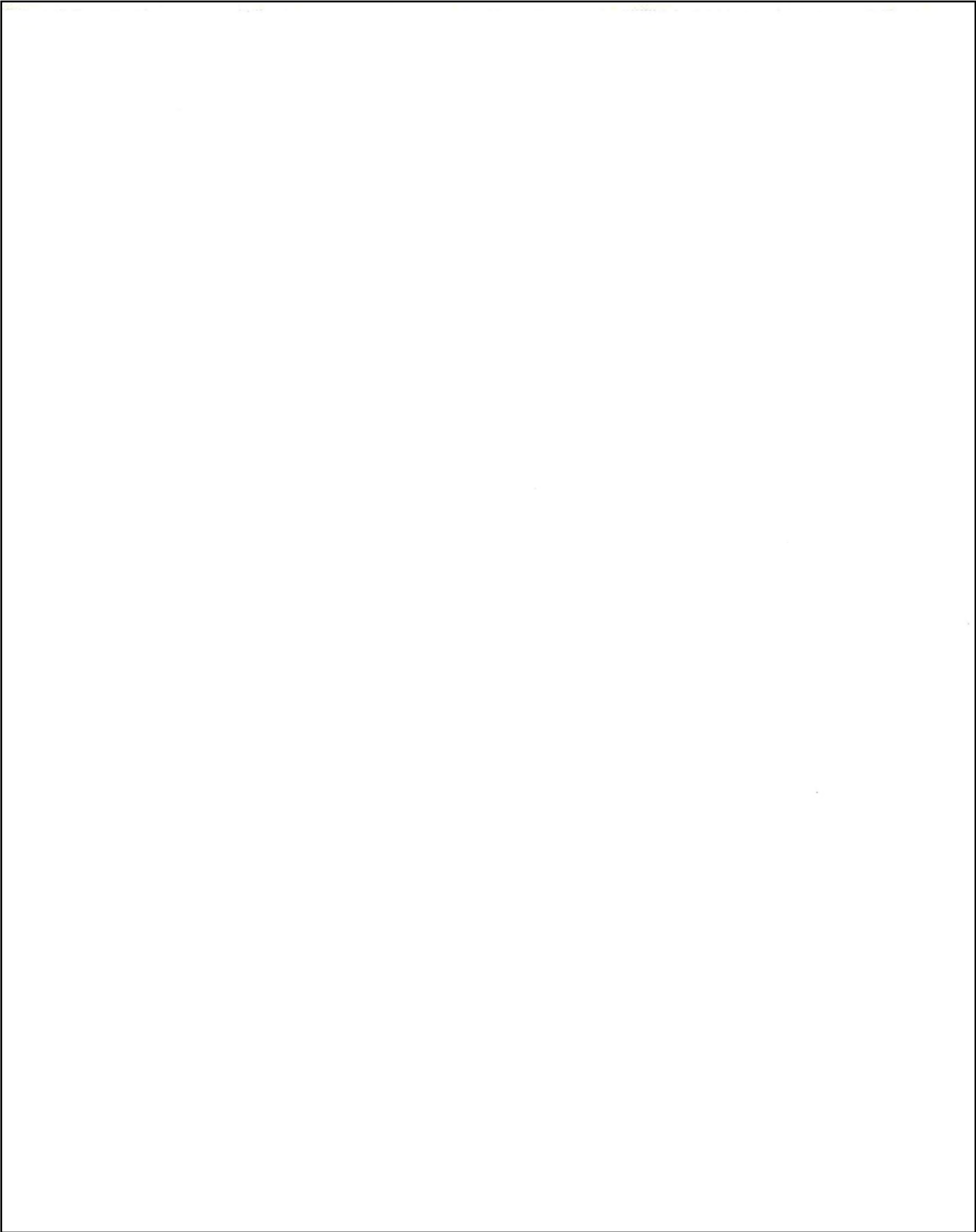


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Article 1: Principles

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.

6.3 Informal Communications Encouraged

Members of the Council are encouraged to interact informally and casually with City staff for the purpose of gathering information, obtaining progress reports on policies and programs or providing information to staff relevant to their Council office. Such informal contacts can serve to promote better understanding of specific City functions and problems. However, Councilmembers should be careful, in such interaction, to avoid giving direction or advice to members of City staff, which may conflict with the City Manager's directives. City staff should provide their supervisor with the same information shared with the Councilmember.

6.4 City Manager – Interference by Councilmembers

As provided by RCW 35A.13.120, neither the Council, nor any of its committees or members, shall direct the appointment of any person to, or his or her removal from, office by the City Manager or any of his or her subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any committee or member thereof shall give orders to any subordinate of the City Manager, either publicly or privately. The provisions of this section do not 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.

6.5 Complaints to Councilmembers

When performance complaints are made by citizens about staff actions or non-action directly to an individual Councilmember or in a Council or committee meeting, the Council or Councilmember should then refer the matter directly to the City Manager for review and/or action. The individual Councilmember or the Council may request to be informed by the Administration of the action or response made to the complainant.

6.6 Administrative Complaints - "Best Practice"

Although citizens' direct access to elected officials is to be encouraged to help develop public policy, City Councilmembers should not develop a "personal intervention" pattern in minor calls for service or administrative appeals which may actually delay a timely customer service response. The best policy is to get the citizen into direct contact with the appropriate department or the City Manager, unless an unsatisfactory result has occurred.

6.7 City Clerk - Minutes - Public Information Access

The City Clerk shall adhere to the requirements of State law, and shall be the ex-officio Clerk-of-the-Council. The City Clerk shall keep minutes as required by law, and shall perform such other duties in the meeting as may be required by the Council, Chair or City Manager. In the absence of the City Clerk, the City Clerk shall appoint a replacement to act as Clerk-of-the-Council. The Clerk-of-the-Council shall keep minutes which identify the general discussion of the issue and complete detail of the official action or consensus reached, if any. The City Clerk shall make an audio recording of the proceedings of all public hearings, regular business meetings, study sessions and workshops, and quasi-judicial proceedings. The Clerk shall keep, and make available, an agenda and date for each audio recording, which will facilitate location of the recorded proceedings. The audio recordings shall be posted publicly on the City website.

6.8 City Staff – Attendance at Meetings

Attendance at meetings by City staff shall be at the discretion of the City Manager. It is the intent of the Council that the City Manager schedule adequate administrative support for the business at hand but also to protect the productive capability of department heads. When sound system or other monitoring capabilities exist, the City Manager may allow personnel to utilize time in their offices or other areas while waiting for the item of business for which appearance before the Council is required.

6.9 Administrative Presentations and Briefings

In order to enhance public understanding of complex issues being presented, City Administration is encouraged to include the use of visual communication tools whenever possible, such as:

- Overhead projection summaries or PowerPoint bullet points;
- Flow charts or box diagrams to illustrate complex organizations, sequences or systems;
- Bullet point or summary handouts for the public and the press, when appropriate;
- Slide projector or video-cam clips to show actual situations or settings;
- Large maps to help pinpoint specific locations or parcels;
- Use of color to highlight important elements;
- White board for illustration; and/or
- Configuring the room/display so as to allow the public to follow and understand issues.

Article 7: Preparation for Council Meetings**7.1 Council Meeting Agendas**

The City Manager, and in consultation with the Mayor/Mayor Pro Tem, shall arrange a list of proposed matters deemed ready for Council consideration. Copies of the “proposed agenda” shall be posted on the City website at least 24 hours prior to the Council meeting and shall be subject to the notice provisions stated in the City Code.

Requests for presentations to be scheduled on the formal agenda imply that the presentation is an official business consideration of the City. The Council shall rule on whether or not a graphic presentation, video or other audio-visual presentation by non-City personnel is appropriate to be presented at the meeting.

The Council, or the City Manager may propose a new item for the agenda at a meeting when circumstances require, except that items may not be added to a Special Meeting agenda.

7.2 Consent Agenda

The City Clerk or City Manager, or Council, may place matters on the consent agenda which:

- have been previously discussed by the Council; or

- based on the information delivered to members of the Council by Administration, can be reviewed by a Councilmember without further explanation;
- are so routine, technical or "housekeeping" in nature, that passage without discussion is likely; or
- are otherwise deemed in the best interest of the City

7.3 Study Session Procedure

During a Council Study Session or Workshop, the discussion leader introduced by the Chair should:

- Introduce the subject and give background information;
- Identify the discussion goal;
- Keep the discussion focused toward the goal; and
- Recommend appropriate action to the Council.

The Chair shall retain the option of assuming the function of the discussion leader at any time in order to keep the discussion properly focused. The City Clerk shall keep notes of the discussion subjects with special attention to Council consensus or administrative direction which may need more formal action in a later meeting (i.e. agenda, future budget changes, etc).

7.4 Process for Preparing Legislation or Policies for Adoption

7.4.1 Draft Documents

Prior to consideration or final passage of all Ordinances, Resolutions or pre-written Motions , draft documents or proposals shall be designated as drafts.

7.4.2 Preparation of Ordinances and Resolutions

The procedures for ordinances and resolutions are as follows:

(a) Proposing an Ordinance or Resolution

A Councilmember may, in open session, request of the Council to study the wisdom of enacting an ordinance/resolution. The Council then may assign the development of the proposed ordinance/resolution to the staff, an Ad Hoc Committee, an Advisory Committee or the Council for consideration. The committee or staff shall report its findings to the Council. The City Manager, the City Attorney, or any of the citizen boards, committees or commissions may propose that Council consider an ordinance or resolution.

(b) Ordinance and Resolution Review

Council will discuss the merits of the proposed ordinance/resolution in open session. Council shall decide whether to amend the ordinance/resolution, direct staff to further

review the ordinance/resolution, or approve placing the ordinance/resolution in the business session of the meeting for enactment as an enforceable city law or policy. The Council may invoke a two (2) reading procedure, to facilitate public understanding and/or opportunity to comment on the ordinance/resolution. Not later than the date of the meeting at which the reading occurs, the full text of the draft ordinance/resolution shall be posted on the City website. A printed copy of the ordinance shall be made available by the City upon request by a member of the public.

(c) **Repealer**

Any ordinance repealing any portion of the Municipal Code shall also repeal the respective portions of the original ordinance(s). Ordinances repealing earlier ordinances shall not apply to acts, incidents, transactions or decisions occurring before such repeal.

7.5 Council Packets

Councilmembers shall personally pick up their agenda packets from their individual mailboxes, provided by the City Clerk, unless otherwise arranged by the member or further directed by Council. Councilmembers and affected staff should read the agenda material and ask clarification questions prior to the Council meeting, when possible.

Article 8: Rules Of Order For Council Meetings

8.1 Parliamentary Procedure

Council meetings are conducted under the current edition of Roberts Rules of Order (RRO). A short form of RRO was adopted by Resolution 1 of the Council. For convenience, the Council typically conducts its business using Resolution 1, but will substitute the official RRO when Council agrees to do so on any particular matter pending. In the event of any conflict between those procedural rules and provisions of this Governance Manual, Resolution 1 will take precedence, followed by RRO.

8.2 Motions and Discussion

Affirmative motions are preferred to prevent "approval by default" of a failed negative motion. All items of business placed before the Council that require the expenditure of funds or resources and changes in land use shall be in the form of an affirmative motion.

8.3 Voting

The votes during all meetings of the Council shall be transacted as follows:

- Council votes will be taken by voice. Roll call votes are allowed pursuant to Resolution 1 and RRO. Written ballots will not generally be used, but if they are appropriate (i.e., biennial election of the Mayor), they must be signed, collected by the City Clerk, tabulated, and the results announced immediately as to each vote and the cumulative total.

- When there is a tie vote, the motion fails, absent specially adopted rules of procedure.
- All Councilmembers present for a vote must vote or abstain. Any councilmember abstaining from voting, at the time of declaring their abstention, shall state the reason.

8.4 Dissents and Protests

Any Councilmember shall have the right to express dissent from or protest, orally or in writing, against any Motion, Resolution or Ordinance of the Council and have the reason therefore entered or retained in the minutes.

8.5 Complaints and Suggestions to Council

When citizen complaints or suggestions, not on the agenda, are brought before the Council at a meeting, the Chair may, if circumstances warrant it, attempt to direct the citizen matter to an appropriate channel for resolution. In such a case, the Chair shall, in consultation with the City Manager, first determine whether the issue is legislative or administrative in nature and then:

- If legislative, the Chair may refer the matter to the Council or City Manager for consideration and report, as appropriate.
- If administrative, the Chair should refer the matter to the City Manager for consideration and report, as appropriate.

8.6 Prior Permission Required for Certain Elaborate Presentations

The Council will determine the nature, length and format of any presentation. Presentations will not be allowed to disrupt the meeting or the public's view. If special or technical accommodations are needed, advance permission and arrangements are needed.

8.7 Conduct of Business Meetings

The Chair may, during a Council meeting, rearrange items on the agenda to conduct the Council's business more expeditiously. Business Meetings of the Council may generally include many or most of the following agenda elements, which need not occur in the order stated below (see Section 2.3 and Article 7).

Examples of meeting agenda elements include:

- **Executive Session**

The Council may hold an executive session at any time in accordance with RCW Chapter 42.30. No final action may be taken during an executive session. Councilmembers and others attending the executive session shall maintain the confidentiality of all information presented and discussions had in the executive session.

- **Summary Reports**

Short summary reports may be presented near the beginning of the meeting. Short summary reports may, for example, be presented by the Chair, the City Manager, or the chair of an Ad Hoc Committee or Steering Group.

- **Public Comment Period or Public Hearing**

The routine public comment period at a Business Meeting is conducted as described in Section 8.10 below. By contrast, a public hearing is governed by different rules of procedure than a public comment period, and may either be (a) a quasi-judicial matter, (b) an opportunity for public comments to be heard and recorded on a legislative matter, or (c) whenever the Council desires or directs a public hearing to be held. Special opportunities for public comment apply to a public hearing (see Section 8.11 below), and special rules and procedures apply to a quasi-judicial hearing (see Section 8.12 below).

- **Consent Agenda**

The proper Council motion on the consent agenda is as follows: *"I move adoption of the consent agenda"*. This motion shall have the effect of moving to adopt all items on the consent agenda. Any member of the Council shall have the right to remove ("pull") any item from the consent agenda. Therefore, prior to the vote on the motion to adopt the consent agenda, the Chair shall inquire if any Councilmember wishes an item to be "pulled" from the consent agenda. If any matter is pulled, the Chair shall entertain discussion and a motion on any pulled item after the vote on the passage of the unpulled items of the consent agenda.

- **Discussion of Matters for Future Meetings**

The purpose of such a discussion is to offer Councilmembers to express preferences regarding the setting of the agenda for a future Council meeting, subject to the prerogatives of the agenda-setting process described in Section 7.1.

8.8 Conduct of Study Sessions

Regular or Special Meetings of the Council, or portions thereof, may be designated as Study Sessions. The definition and the basic rules for Study Sessions are stated in Section 2.3.4, and Article 7.

A Study Session may consist of any or all of the following elements:

- (a) **Audience Communication Period**
In general, because a Study Session is more informal and more interactive than a Business Meeting, the Council may have greater latitude to seek public comment on a particular issue being discussed. Therefore, the Council may invite public comment and dialog from time to time during the Study Session. In general, public comment shall be sought solely or primarily on matters on the Study Session agenda.
- (b) **Vetting of Agenda Items:**
This element of a Study Session involves a vetting and review of agenda items that are expected to appear for Council action on the agenda of future Council meetings. This

element of the Study Session may include: review of clarity and completeness of issues presented; discussion of the merits of the proposal; and a procedural vote to determine whether the agenda item shall be advanced to an ensuing Business Meeting of the Council.

- (c) Referral to Committee, Steering Group or Further Public Process
At a Study Session, the Council may choose to refer an issue to an Ad Hoc Committee or Steering Group, or schedule a Public Forum, before the issue returns to a future agenda.

8.9 Workshops

The purpose of a Workshop (i.e., a single-topic Study Session) is to allow Councilmembers to do concentrated preliminary work with Administration or the public on a single subject (i.e., budget, complex legislation or reports, etc.). Workshops shall be in a less formal setting, but shall not discourage public observation. Public comment is not normally allowed at Workshops although the Council may allow, or request, participation in the same manner as other Council Study Sessions. The definition and the basic rules for Study Sessions are stated in Section 2.3.5, and Article 7.

8.10 Procedures for Public Comment at Business Meetings

8.10.1 In General

The City Council desires to allow a maximum opportunity for public comment at various public forums and meetings. However, at a Business Meeting, the business of the City must proceed in an orderly, timely manner, and in that setting, the open Public Comment period is generally limited in overall time on the agenda, and is further limited in the amount of time per speaker (3 minutes, or such lesser time determined by the Council if a large number of individuals wish to speak). At any time, the Council Chair may set such further limitations as are necessary to progress through the agenda and/or to prevent disruption of other necessary business.

The City will utilize a sign-in procedure for public comments, but, if time permits, the Chair may also invite comments from individuals who failed to sign in. The Chair may require a member of the public to state their name, address, and the subject of their comments.

These rules are intended to promote an orderly system of holding a public meeting, to give persons opportunity to be heard and to create an environment in which no individuals are embarrassed or uncomfortable.

8.10.2 Subjects – Whether or Not on the Current Agenda

Public comments received during the public comment period may be on any public topic, whether or not on the agenda. A comment on the subject that is covered by a public hearing at that meeting must be made during the period of the public hearing. Comments about other items on the agenda may be made during the public comment period or, if approved by the Council, during the Council discussion or action on the agenda item.

8.10.3 Use of Microphones

Comments shall be made directly into the microphone, as it is necessary for the public record and for the audience to hear all proceedings. No comments shall be made from any other location.

8.10.4 Civility

Attendees at Council meetings shall conduct themselves with civility, deal courteously with all who participate in the proceedings, and recognize the authority of the Chair. There will be no demonstrations during, or at the conclusion of, any person's presentation. Disruptive behavior will be cause for removal from the Council chambers and/or City Hall.

8.10.5 Council May Overrule the Chair

Any ruling by the Chair relative to the conduct of the public comment period may be overruled by a vote of a majority of Councilmembers present.

8.11 Public Hearings – In General

8.11.1 Sign in Procedure

Prior to the start of the public hearing, the Chair may require that all persons wishing to be heard sign in with the Clerk, giving their names and addresses, the agenda item, and whether they wish to speak as proponent, opponent, or otherwise. Any person who fails to sign in shall not be permitted to speak until all those who signed in have done so. At any public hearing, persons who have signed in and wish to be heard shall be given an opportunity to be heard.

8.11.2 Time Limits

The Chair will establish speaker time limits and otherwise control presentations to avoid repetition in accordance with these rules. The Chair may change the order of speakers so that testimony is heard in the most logical groupings, (i.e., proponents, opponents, adjacent owners, vested interests, etc.).

8.11.3 Other Rules

The rules applicable to a Public Comment period under Section 8.12 shall likewise apply to legislative public hearings.

8.12 Council Quasi-Judicial Hearings

Quasi-judicial hearings and actions of the Council are those proceedings which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions or hearings do not include the hearings pertaining to legislative actions adopting, amending, or revising a general governmental policy or ordinance, or a comprehensive, or community plan or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance.

8.12.1 Appearance of Fairness Doctrine Applies to Quasi-Judicial Actions

If a proceeding is quasi-judicial, the “appearance of fairness doctrine” under Washington state law is generally applicable. See RCW 42.36.010 and Section 3.6.4 of this Manual. If a proceeding contains both legislative and adjudicative functions, it is recommended that the Council consult with the City Attorney.

8.12.2 Obligations of Councilmembers in Quasi-Judicial Proceeding

In the event of a quasi-judicial proceeding of the Council, a Councilmember should immediately disclose any interests that may appear to constitute a conflict of interest. Councilmembers should recognize that the Appearance of Fairness Doctrine does not require establishment of a conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve a Councilmember’s business associate, or a member of the Councilmember’s immediate family. It could involve *ex parte communications* (that is, communications with one party to the quasi-judicial matter without notice to or argument from the other party). Or it could involve ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the Councilmember’s employer with the proponents or opponents, announced predisposition, and the like. Prior to any quasi-judicial hearing, each Councilmember should give consideration to whether an actual or potential violation of the Appearance of Fairness Doctrine exists. If the answer is in the affirmative, no matter how remote, the Councilmember should consult with the City Attorney.

Anyone seeking to disqualify a Councilmember from participating in a decision on the basis of a violation of the Appearance of Fairness Doctrine must raise the challenge as soon as the basis for disqualification is known or made known, or reasonably should have been known or made known. Upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the Councilmember shall state, with specificity, the basis for disqualification.

In the case of the Council sitting as a quasi-judicial body, the Chair shall have authority to request a Councilmember to disclose and excuse him/herself on the basis of an Appearance of Fairness violation. Further, if a Councilmember believes that an Appearance of Fairness violation exists, such individual may move to request a Councilmember to excuse him/herself on the basis of an Appearance of Fairness violation. Any Councilmember may seek the opinion of the City Attorney on the matter or call for an executive session as permitted by law.

8.12.3 Avoid Ex Parte Communications with Quasi-Judicial Parties

During the pendency of any quasi-judicial proceeding, no Councilmember may engage in *ex parte* communications with proponents or opponents about the pending proceeding. In the event of an *ex parte* contact, the affected Councilmember should consult with the City Attorney and review the Appearance of Fairness Doctrine requirements for disclosure of such contact. Generally, the Appearance of Fairness Doctrine does not prohibit a Councilmember from discussing unrelated matters with their constituents.

Article 9: Use Of This Manual and Its Rules**9.1 Purpose**

This manual, and its governance policies and rules of procedure, are designed to provide guidance for the Council and City Administration. They are not to be considered restrictions or expansions of Council authority. These rules have been prepared from review of many statutes, ordinances, court cases and other sources but they are not intended to be an amendment or substitute for those statutes, ordinances, court decisions or other authority.

9.2 Use of Rules by Council

No action taken by a Councilmember or by the Council which is not in compliance with these rules, but which is otherwise lawful, shall invalidate such Councilmember's or Council action or be deemed a violation of oath of office, misfeasance or malfeasance. No authority other than the Council may enforce these rules or rely on these rules. References to other documents or laws included herein does not signify the intent to incorporate such documents in their entirety. Failure of the Council to follow any of these rules shall be considered a Council decision to waive such rule. No notice of such waiver need be given.

9.3 Public Use or Reliance Not Intended

Because these rules are designed to assist the Council and not to provide substantive rules affecting constituents, it is expressly stated that these rules do not constitute land use regulations, official controls, "appearance of fairness rules", public hearing rules or other substantive rules binding upon or to be used by or relied upon by members of the public. These rules do not amend statutory or other regulatory (such as ordinance) requirements.

9.4 Amendments or Suspension of Portions of this Manual

Amendments of all or any part of these rules may be made by resolution or temporarily suspended by motion until changed, provided there is no conflict with any superior statute.

Exhibit A: Resolution 1

**[RETIPTED WITHOUT EDITS OR CORRECTION]
[May 5, 2011]**

RESOLUTION NO. 1

A RESOLUTION OF THE CITY OF MILL CREEK, WASHINGTON,
ADOPTING RULES OF PROCEDURE FOR CONDUCT OF COUNCIL
MEETINGS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILL
CREEK, WASHINGTON, that the Rules of Procedure attached hereto, identified as Exhibit A
and incorporated in full by this reference are hereby adopted as the Rules of Procedure for all
meetings of the City Council of the City of Mill Creek, Washington. The Rules of Procedure for
the Conduct of Public Hearings, attached hereto and identified as Exhibit B, are hereby adopted
as the Rules of Procedure for all public hearings before the City Council of the City of Mill
Creek, Washington.

RESOLVED this 4th day of October, 1983.

APPROVED:

_____ [Sid Hansen] _____
MAYOR

ATTEST/AUTHENTICATED:

_____ [Michele Schutz] _____
CITY CLERK

FILED WITH THE CITY CLERK:10-4-83
PASSED BY THE CITY COUNCIL:10-4-83
RESOLUTION NO. 1

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EXHIBIT A

A. GENERAL RULES OF PROCEDURE.

1. Obtaining floor. Before a member can make a motion or address the body upon any question, it is necessary that he obtain the floor by being recognized by the chairman. If two or more members shall request the floor at the same time the chairman shall recognize the first member requesting recognition.

2. Second. When a member obtains the floor and makes a motion, that is in order, the chair should immediately inquire if the motion is seconded; if seconded the maker of the motion should then be regarded as having the refusal of the floor in preference to all other members.

3. Modification of motion. Before any subject is open to debate it is necessary, first, that a motion be made by a member who has the floor; second, that it be seconded; and third, that it be stated by the chairman. This does not prevent suggestions of alterations, before the question is stated by the chairman. The chairman may consult the members before stating the question to clarify the motion. The member who offers the motion, until it has been stated by the chairman, can modify his motion, or withdraw it entirely; after it is stated he can do neither, without the consent of the body (majority). For example, the mover may state, "With the consent of the body I will notify my motion to state as follows, * * *" If no one objects it shall be deemed that he has the consent of the body to modify his motion. When the mover modifies his motion, the one who seconds it can withdraw his second.

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4. Stating the question. After a question has been stated by the chairman, it is in the possession of the body for debate; the mover cannot withdraw or modify it except by obtaining leave from the body as just described, or by moving an amendment.

5. Withdrawal or substitution of motion. When a question is before the body and the mover wishes to withdraw or modify it, or substitute a different one in its place, with consent of the body, the chairman shall grant permission; if any objection is made, it will be necessary to obtain leave to withdraw by a motion for that purpose. This motion cannot be debated or amended. When a motion is withdrawn, the effect is the same as if it had never been made.

6. Abstention from voting. Any member may abstain from voting on any question, provided, at the time of declaring his abstention he shall state the reason.

7. Standing to question procedures. These rules shall govern the parliamentary procedures of the members and by the members only. Procedures may be questioned only by members of the body, and then only in accordance with these rules. The decision of the chair will be final and conclusive as to all, subject only to a motion by a member of the body, duly and timely made, in which case the ruling of the body shall be final and conclusive. Nothing in these rules will be construed to prevent the chairman or a member from requesting aid in the interpretation of these rules or other matters from the City staff or officials.

8. Precedence. Motions having precedence on those that may be made while another motion is pending.

9. To yield. Motions yield when they are pending and another matter can be considered while the yielding motion still pends.

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10. Applied. Where a motion can have no subordinate motion applied to it, the fact is stated. For example, the motion to continue may not be applied to the motion to lay on the table.

11. Debate. Debate shall not take place until the chair has stated the question. Debate shall be limited to the immediately pending question, except that the main question is also open when the following motions are pending; postpone indefinitely, or reconsider a debatable question.

12. Putting the question. When the debate appears to have closed the chair will ask, "Are you ready for the question?" If no one asks for the floor he shall put the question to vote, making it clear what the question is.

13. Majority. A majority of those present shall constitute a majority of the body assuming a quorum is present. The chairman may vote as any other member and may make or second motions.

B. **SPECIFIC RULES OF PROCEDURE.** The following motions are permissible in considering any matter on the agenda, and unless otherwise specified shall rank in precedence and application as set forth numerically below.

1. **UNDEBATABLE MOTIONS.**

a. Question of order and appeal. A question of order takes precedence of the question giving rise to it, may be put when another member has the floor, needs no second, and must be decided by the chairman without debate. If a member objects he may appeal, which if seconded, will immediately be put to the body. An appeal is waived if not made immediately. On appeal the decision of the chair is sustained on a tie vote.

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b. Suspension of rules. This motion may not be amended, nor another motion be applied for it, nor a vote on it reconsidered. Rules of the body may not be suspended except for a definite and specific purpose and by a vote of one more than a majority present. Nothing else may be done under the suspension. It may not be renewed at the same meeting if once defeated. It shall be in order to change the order of the agenda. No rule can be suspended when the negative vote is as large as the minority protected by that rule.

c. To lay on the table. This motion may not be used for purposes of continuance of a matter which has been specially called for public hearing, which is done by a motion to continue. It may not be amended nor an affirmative vote on it be reconsidered.

If carried the subject tabled may not be considered again until the body votes to take it from the table, which motion is also undebatable.

The object of the motion is to postpone the subject in such a manner that it can be taken up at any time, either at the same or some future meeting. It may be used to suppress a question for that meeting, but not for a matter for which a public meeting has been specially set. The effect of the motion is to place on the table everything that adheres to the subject, so that if an amendment be ordered to lie on the table, the subject which it is proposed to amend is also tabled. However, it may be limited to the particular pending matter and if so adopted the remaining matters shall still be before the body.

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After demand for the previous question up to the time of taking final action under it, it is in order to move that the main question be laid on the table. Passage requires the vote of one more than a majority of the members present.

d. The previous question. This motion is not amendable and applies to any debatable question, but is not debatable itself. It requires the vote of one more than a majority of the members present for its adoption. When called, and seconded, the chair shall immediately put the question. If the motion fails to carry by a majority plus one of the members present, the debate will continue as if the motion had not been made. If adopted the chair shall immediately bring the body to vote upon the pending question.

If applied to an amendment to a pending question it brings to a vote not only the motion to amend but also the question to be amended. However, the motion for the previous question may be limited to the pending amendment, and, if adopted, debate will be closed only to the motion to amend.

It shall be proper for a member to submit a motion and at the same time move the previous question thereon and thus cut-off debate on the motion. In this case the chair shall first put the motion for previous question to vote.

2. DEBATABLE MOTIONS.

a. Continue to a certain day. This motion yields to all undebatable motions, and take precedence of all other debatable motions, except that it may be amended by altering the time, and the previous question can be applied to it without affecting any other motions pending.

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b. To commit or refer. This motion is to commit or refer a matter to a committee. It can be amended by altering the committee, or giving the committee instructions. The debate on the motion opens the debate on the main question it is proposed to commit.

c. To amend. This motion takes precedence over nothing but the question to which it is proposed to amend and yields to all questions except to postpone indefinitely. It can be applied to all but undebatable questions, an amendment of an amendment, to postpone indefinitely or to reconsider. It can be amended itself, but an amendment of an amendment cannot be amended.

An amendment may be inconsistent with the one already adopted, or may be directly in conflict with the spirit of the original motion, but it must have a direct bearing upon the subject of that motion. A motion to amend by inserting new words once past, may not be the subject matter of a new amendment to change the same words. The proper motion is the motion to reconsider the vote by which the words were inserted.

A motion to amend may be made to "divide the question" into two or more questions as the mover specifies, so as to get a separate vote on any particular point or points.

d. To postpone indefinitely. This motion takes precedence of nothing except the question to which it is applied and yields to all motions except to amend. It cannot be amended, and opens to debate the entire question which it is proposed to postpone.

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Its effect is to entirely remove the question from the body for that session. The previous question, if ordered when this motion is pending, applies only to it without affecting the main question.

It cannot be applied to a matter that has been specially set for public hearing. A negative vote on it cannot be reconsidered.

e. Principal question. The main or principal question is a motion to bring before the body for its consideration any particular subject. No principal motion can be made when any other motion is before the body. It takes precedence over nothing and yields to all.

C. MISCELLANEOUS MOTIONS.

1. To rescind. This motion cannot be made for a matter that has been voted upon for which a matter has been specially called for public hearing. However, for other matters to which it is appropriately addressed, as where it is too late to reconsider the vote, the motion is the course to pursue to rescind an objectionable policy, order or motion; it is debatable.

2. To reconsider. This motion is not in order after the body has voted upon the principal question which is the subject matter of a specially called public hearing unless made immediately after thereon and before any member of the public has left the public hearing. It is otherwise in order at any time, even when another member has the floor, but not after that session has adjourned.

It must be made by a member who voted with the prevailing side. It can be applied to the vote of every other question, except as noted above, and except to suspend the rules and an affirmative vote to lay on the table or to take from the table.

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The motion may not be amended. Whether or not it is debatable depends upon whether the question to be reconsidered is debatable or undebatable. It may be laid on the table, in which case, the reconsideration, like any other question, can be taken from the table.

3. Roll call. Any member may demand a roll call vote any time before or after any question is put. The demand needs no second and the chairman must ask for a roll call vote on demand. It is not debatable and may be applied to any question. It is waived if after the vote it is not immediately made and prior to the next matter being considered.

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SUGGESTED FORMS

1. UNDEBATABLE MOTIONS

a. Question of order

Member: "I raise a point of order."

Chair: "State your point of order."

Member: States his point of order

Chair: Ruling by the chairman, who may give reasons.

Member: "I appeal from the decision of the chair."

Chair: (If seconded) "Shall the decision of the chair stand as the decision of the body?"

b. Suspension of rules (majority plus one)

Member: "I move to suspend the rules requiring . . ."

c. To lay on table (majority plus one)

Member: "I move to lay the question (stating it) on the table."

Member: "I move to take the question (stating it) from the table."

d. Previous question (majority plus one)

Member: "I call (demand or move) for the previous question."

Chair: (If seconded) "Shall the main question be now put?"

Member: "I call for the previous question on the amendment."

Chair: (If seconded) "Shall the question be now put on the amendment?"

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2. DEBATABLE MOTIONS

a. Continue to a certain day (majority)

Member: "I move to continue the question of (stating it) to the next regular [or recessed] meeting of (date).

NOTE: (1) Zoning matters must be decided and reported by the planning commission within 90 days of the application.
(2) Plats and subdivisions must be approved, disapproved or returned to applicant for modification or correction within 60 days from date of filing, unless applicant files written consent for longer period in which to act.

b. To commit or refer (majority)

Member: "I move to refer the subject to a committee."

c. To amend (majority)

Member: "I move to amend the motion to 'add', or 'insert', to 'strike', to 'strike out _____ and insert _____', to 'divide the question' (into two or more questions), etc."

d. To postpone indefinitely (majority)

Member: "I move to postpone the question indefinitely."

e. Principal question (majority)

Member: "I move that . . .

[CP, ZO, R] ". . . we recommend by resolution to the city council that CP-123 be approved, denied, etc., for the following reasons: _____, _____, _____"

[P, S] ". . . we find that P-123 makes appropriate provision for public dedication and improvements and that the public

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use and interest will be served by its approval, and that we approve the same subject to the listed engineering requirements (and dedications within 90 days)."

3. MISCELLANEOUS MOTIONS.

a. To rescind (majority)

Member: "I move to rescind that motion, policy, etc."

b. To reconsider (majority)

Member: "Having voted on the prevailing side, I move that we reconsider the vote on the motion to (stating it) and have such motion entered on the record."

c. Roll call (any member)

Member: "I demand a roll call vote." No second needed.

Chairman: "The secretary will please call the roll."

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	Main question open for debate	Need not be seconded	Majority	Majority plus one	Cannot be amended	Cannot be reconsidered	Cannot be made on specially set hearings
1. UNDEBATABLE							
a. Question of Order		*					
– Appeal			*				
b. Suspension of Rules				*		*	
c. Lay on Table				*		A.V.	*
d. Previous Question				*			
2. DEBATABLE							
a. Continue to Certain Day			*				
b. Commit or Refer	*		*				*
c. Amend			*				
d. Postpone Indefinitely	*			*		N.V.	*
e. Principle Question			*				
3. MISCELLANEOUS							
a. Rescind			*				*
b. Reconsider	*		*		*		*
c. Roll Call		*					

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EXHIBIT B

RULES OF PROCEDURE FOR THE CONDUCT OF
PUBLIC HEARINGS

The format for public hearings conducted by the City Council should be as follows:

1. A request to have the City Attorney or staff member read or otherwise paraphrase the scope of the particular hearing (the purpose of the hearing) and advise the Council of the applicable criteria that they must consider in the course of their review. The purpose of this is to advise the Council before they receive all of the input and testimony as to what items they should be looking at and paying the most attention to during the course of the ensuing hearing.
2. The hearing should be commenced with a staff report to the City Council together with the staff's recommendation.
3. The Council should direct any questions they have at that time to the staff.
4. The hearing should be open to permit the applicant to make a presentation to the body hearing the matter.
5. Questions from the body should be directed to the applicant.
6. The hearing should be opened to the audience as a whole preferably a sign up list should have been circulated. If a sign up list has been circulated you then have an indication of the number of persons desiring to speak which may be weighed against the amount of time available that evening for the public hearing. The City of Bothell utilizes a method of allocating a stated amount of time to the hearing and giving each person who has signed up an equal amount of time to speak. Frequently, persons who have signed up waive their opportunity to speak which leaves time to be further allocated to those who wish additional time. If the time allocated for the hearing is exhausted the hearing can then be continued to another date if such is

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necessary. The sign up list also provides a backup list for the Clerk who is having to take the minutes for the name and address of the speaker. In addition, it provides an orderly process for the calling of speakers. It also assures that each person is given an opportunity to speak before those who have already spoken are given an additional opportunity to speak.

7. Each person speaking whether it be the applicant or a member of the audience should be required to come to the podium that is tied into the recording machine and before giving their position should, for the record, state their full name and their residence address. At the time all of the names on the list have been called and have either waived the opportunity to speak or have spoken you may then ask if there are any other persons who desire to speak that have not yet had the opportunity to speak and who had not signed on the list. If there are any then those persons should be allocated the same amount of time if there is such time remaining.

8. When all who desire to speak have had an opportunity to speak then, in the event there is hearing time remaining, and in the event there are those who have already spoken that have something additional in the way of input then additional time may be allocated to them.

9. If at the conclusion of the time allocated for the hearing there are still persons desiring to speak that have additional input and information then the hearing time may either be extended or may be continued to a date certain in the future.

10. As photographs, maps, slides, letters, invoices, memorandums, petitions or any other documents of any nature are presented to the Council in connection with the hearing each one should be identified at the time it is presented and an exhibit number assigned to it. The Clerk should maintain an exhibit number list and ascribe the exhibit number on the face of the particular exhibit and note the date of submission on it.

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11. Councilmembers should in every instance first be recognized by the Chairman before asking questions or providing other input. The purpose of this is for the Chair to specifically recognize the Councilmember about to speak by name so that the record accurately reflects who is speaking at the time.

12. Each person who speaks a second time or who responds to a question should come to the podium on each occasion and again re-identify themselves by the giving of their name. The giving of the address the second time is not necessary.

13. Any questions that any Councilmember has of any member of the audience or of the applicant should be addressed to those person or persons prior to the closing of the hearing. Once the hearing is closed no additional testimony may be taken and the Council will be limited to questions of clarification to the staff only.

14. Councilmembers should avoid whispered conversation between themselves during the course of the hearing. These conversations are semi-intelligible on the tape recording and may jeopardize the record since there then is obviously evidence or part of the record that cannot be ascertained as to what was said should the case be on review. When the public has completed their input the applicant or appellant or their designated representative should be given a brief opportunity for rebuttal. Upon conclusion of the rebuttal if there are no more questions for any member of the audience or the applicant the hearing should be closed.

15. It should also be noted that proponents or opponents do have a right of examination of persons who have given testimony at the hearing. However, these questions should in every instance be directed through the Chairman of the meeting and not directly to the person whose response is being elicited. For example, the person would request that the Chairman ask person X for an answer to a given question. The Chairman would direct that

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person to come to the podium, identify himself and give a response. At the conclusion of that response any additional questions from that person or other persons should be handled in the same manner. That is one question at a time, each question always channeled through the Chairman to the person whose response is being elicited.

16. At the conclusion of the hearing the Council should commence their deliberations. Obviously it is preferable that the deliberations be completed on the night of the hearing. This, however, is not mandatory and the Council's deliberations may be continued to a date certain in the future. Continuance should be avoided at all costs if it can be.

17. During the course of deliberation and discussion the pros and cons of the project or appeal should be thoroughly and completely discussed particularly as they relate to the criteria to be applied in the particular matter.

18. Any motion for action should as fully and completely as possible include a statement of conclusion or factual findings that are forming the basis for the motion. For example, Mr. Chairman after a review of the file and having heard the testimony from the hearing and having visited the site or otherwise being familiar with the particular site I find that the proposed whatever satisfies the criteria or does not satisfy the criteria for the following reasons (list them 1, 2, 3, 4, 5, etc.). It would not hurt to actually draft these out in advance of making any motion. At the conclusion of this statement of findings and conclusions then the person should say "for the foregoing reason(s) I move that the application or appeal be approved, denied or modified in whatever respect it should be so modified." Assuming the motion is seconded discussion should then ensue. The Chairman may call upon each member to state their reasons for or against the particular motion. At the conclusion of that the Chairman should then call for a vote upon the motion.

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19. At the conclusion of the taking of the vote and the announcement of the decision the Chairman should at that time advise the audience on the record what the appropriate appeal process is. This can be done either by the Chairman himself or by the Chairman directing such an inquiry to the City Attorney or other staff member.

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Exhibit B: Current List of Citizen Committees, Commissions and Boards

- **Civil Service Commission:** 3 members; Police Chief is staff liaison; administers Police Department advancements, demotions, suspensions, discharges and employment.
- **Design Review Board:** 7 members; Planning Director is staff liaison; advises on commercial / mixed-use land use applications, makes recommendations based on design guidelines.
- **Planning Commission:** 7 members; Planning Director is staff liaison; reviews applications for amendments to comprehensive plan, official zoning map and official zoning ordinance and other land use and city planning matters.
- **Board of Appeals/Adjustment:** 5 members; Building Official is staff liaison; determine the suitability of alternate materials and methods of construction, and to provide for reasonable interpretations of the International Fire Code and International Building Code.
- **Library Board:** 5 members; Finance Director is staff liaison; advise the City Council on matters concerning the operations of the Mill Creek Library.
- **Parks and Recreation Board:** 7 members; Recreation Supervisor is staff liaison; develop, design and operation of park and recreation programming and facilities with exception of final landscaping plan; facility use fees and procedures; capital improvement planning; concessions; and interlocal and cooperative use agreements regarding park and recreation activities;
- **Arts/Beautification Advisory Board:** 9 members; Public Works Director is staff liaison; work on special events and projects to enhance the aesthetics and beauty within the residential and business areas of the city; utilization of the municipal art fund; selection, acquisition and placement of artwork for the city.

The committees, commissions and boards listed above shall be subject to the following general guidelines, except to the extent stated to the contrary in the applicable resolution or ordinance.

Meetings

Committee meetings (when held) must be open to the public, including the media, unless discussing matters which would qualify for an executive session (under the state law defining eligible executive session issues that apply to the Council).

Council Liaison to Citizen Committees, Commissions and Boards

Liaisons shall be appointed by the Council for specific purposes and for a time certain (normally a term of one calendar year, which may repeat if Council so determines).

Liaisons may attend assigned citizen group meetings and report to the Council on matters of public concern.

Liaison Procedures

Individual members of the Council may be assigned as liaisons whose duties involve keeping current with a group or activity by either attending meetings or conferring with members, and keeping Council informed. Liaisons may advocate Council actions on behalf of their assigned group or activity. Care must be taken to avoid an Appearance of Fairness Doctrine violation, or conflict of interest possibilities (i.e.: in the unusual case of a quasi-judicial proceeding). Liaisons' functions and duties may be further defined and/or directed by the Mayor or Mayor Pro Tem with concurrence of Council.

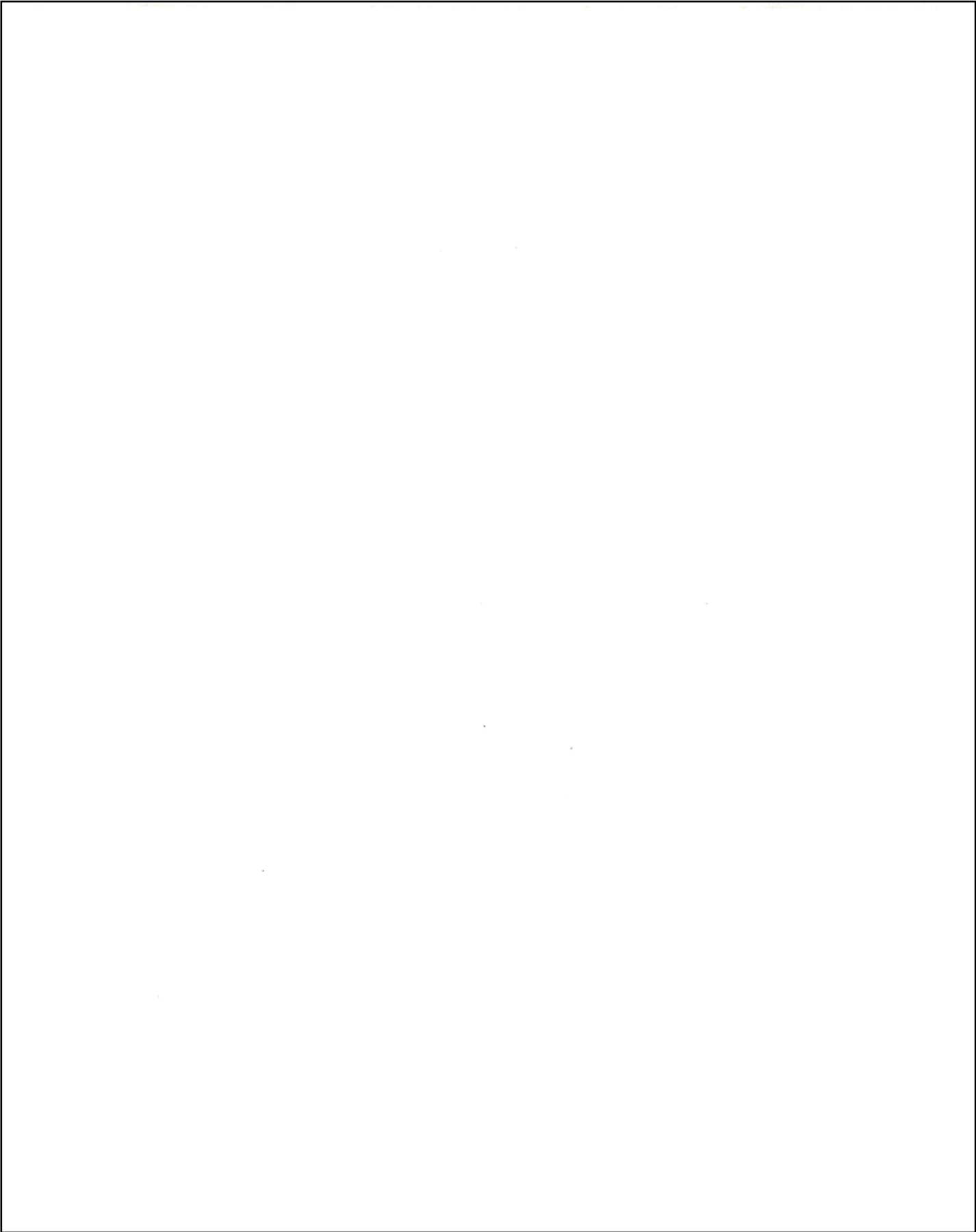
Appointment

Per MCMC 4.02.020 Notice of availability of a position on a board or commission shall be published in a local newspaper and/or posted at City Hall and/or on the City's website after the effective date of the availability or vacancy of the position. Interested persons may apply for the position by submitting a letter of interest. Positions may be filled from the list of applicants or the city may re-advertise the position. Members of a city board or commission shall be appointed by the City Council. Vacancies shall be filled in the same manner as initial appointments and members appointed to fill a vacancy shall serve for the duration of the unexpired term

Publication on Website

It shall be City policy to disclose names and terms of citizen boards, committees and commissions on the City website, with a description of the role and functioning of the body.

Exhibit C: Statement of Values/Rules of Conduct



January, 2010

STATEMENT OF VALUES/RULES OF CONDUCT

The Mill Creek City Council is dedicated to providing quality leadership that will protect, preserve, and enhance the quality of life for its citizens.

The City Council hopes 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 following areas which incorporate the values of respect, honesty, and trust.

1. **Image:** Recognize that the City Council represents the image of the community in its actions; strive to maintain a professional image, high standards of conduct, and respect for others.
2. **Accountability:** Be accountable to others and to yourself; be effective stewards of the public trust and resources; and follow-through on commitments.
3. **Communication:** Communicate with our citizens, City staff and fellow Councilmembers in an open, clear, honest and constructive manner; be a good listener; clarify when needed; be receptive to feedback; and expect and demonstrate courtesy and respect in all interactions.
4. **Planning:** See the big picture; think and plan for the long-term; consider all needs in the jurisdiction; and help define a vision for the future.
5. **Decision-Making:** Become well informed on issues by reading background materials and seeking additional information if necessary; consider competing needs; consider alternative decisions; seek solutions that honor a variety of community values; and be willing to make difficult decisions.
6. **Teamwork:** Encourage a spirit of cooperation in dealing with the challenges facing our community; recognize the need to work together and support each other to achieve success; recognize different personalities and work styles; and remain flexible with each other to accomplish goals.
7. **Personal Development:** Take responsibility seriously and work hard; devote time and effort to personal and professional excellence.
8. **Ethics:** Uphold the public trust; be committed to the premise of good government and service to the public; and be dedicated to the highest ideals of honor and integrity in order to merit the respect and confidence of the public.

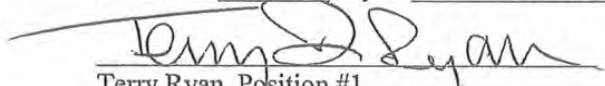
To implement these values, the City Council shall adopt the following rules of conduct to be practiced when representing the City:


1. Be prepared for meetings by familiarity with the materials and having notified City staff and/or the Mayor of concerns or problems in advance of the meeting, when possible.

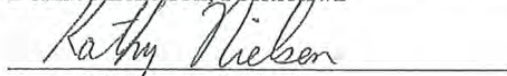
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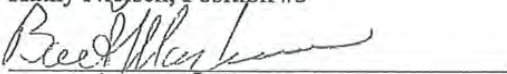
- 2. The Mayor will open a matter for discussion. Councilmembers may debate the merits of the issues with the intent to inform fellow members of opinions and concerns in a concise manner. All Councilmembers shall listen to all points of view, be respectful and professional, and vote based on the objective information presented, including public input.
- 3. The study session will be utilized as a forum for studying complex issues, reviewing plans and priorities, and for informal communications between the Council and City staff.
- 4. The City Council represents the diversity of opinions and personalities within the community. Councilmembers should recognize and respect the principles of the majority rule.
- 5. The City Council shall manage through the City Manager; however, Councilmembers may communicate with City staff members with inquiries related to their respective departments.
- 6. During the time of Council discussion and public input, Councilmembers shall refrain from non-recognized conversation.

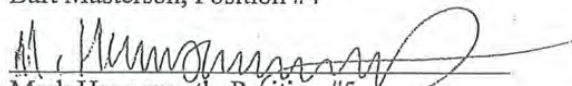
Dated this 2nd day of February, 2010.

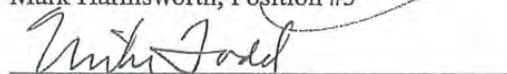

Terry Ryan, Position #1

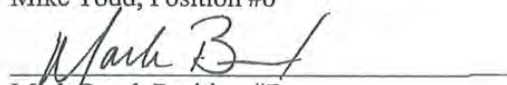

Donna Michelson, Position #2


Kathy Nielsen, Position #3

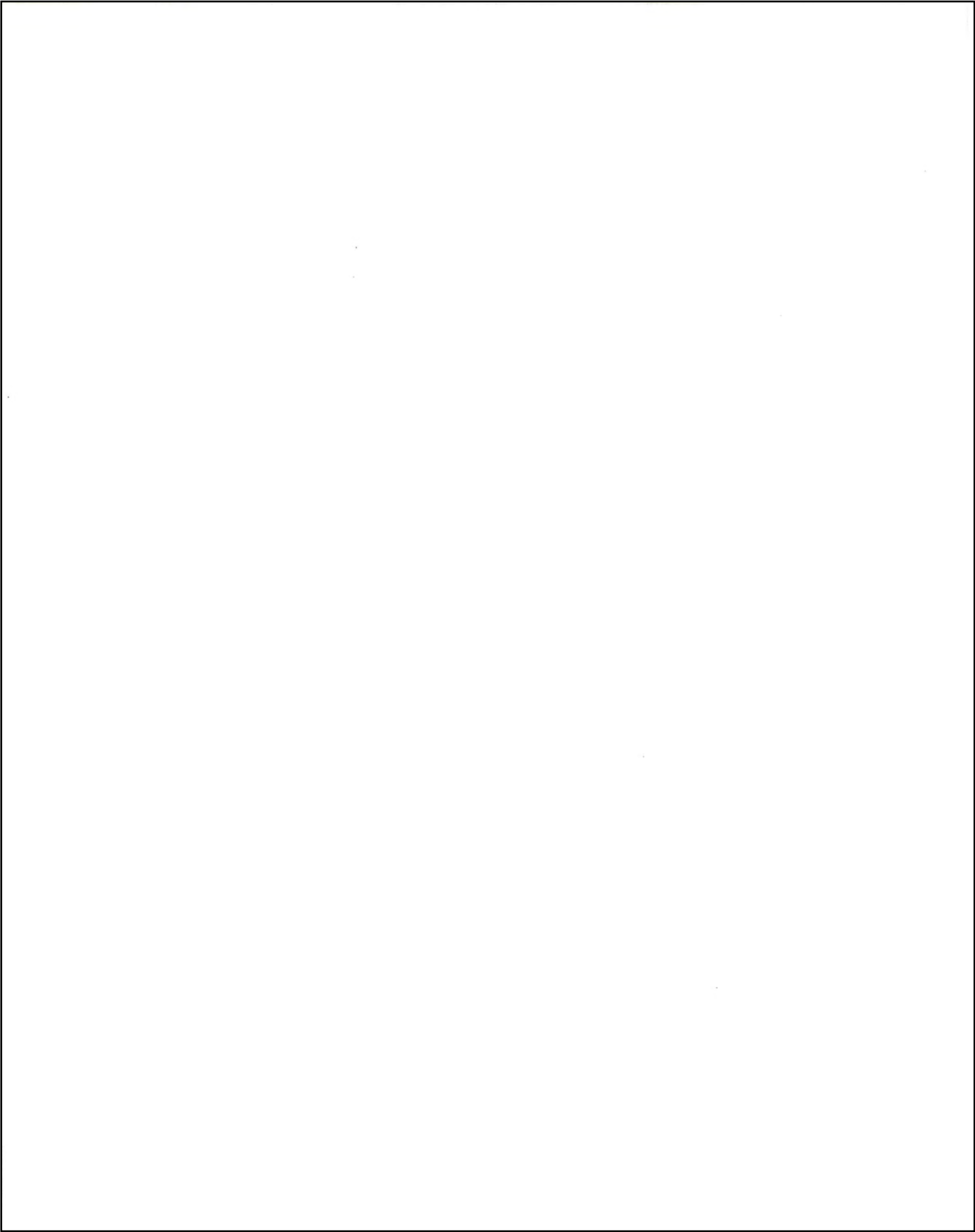

Bart Masterson, Position #4

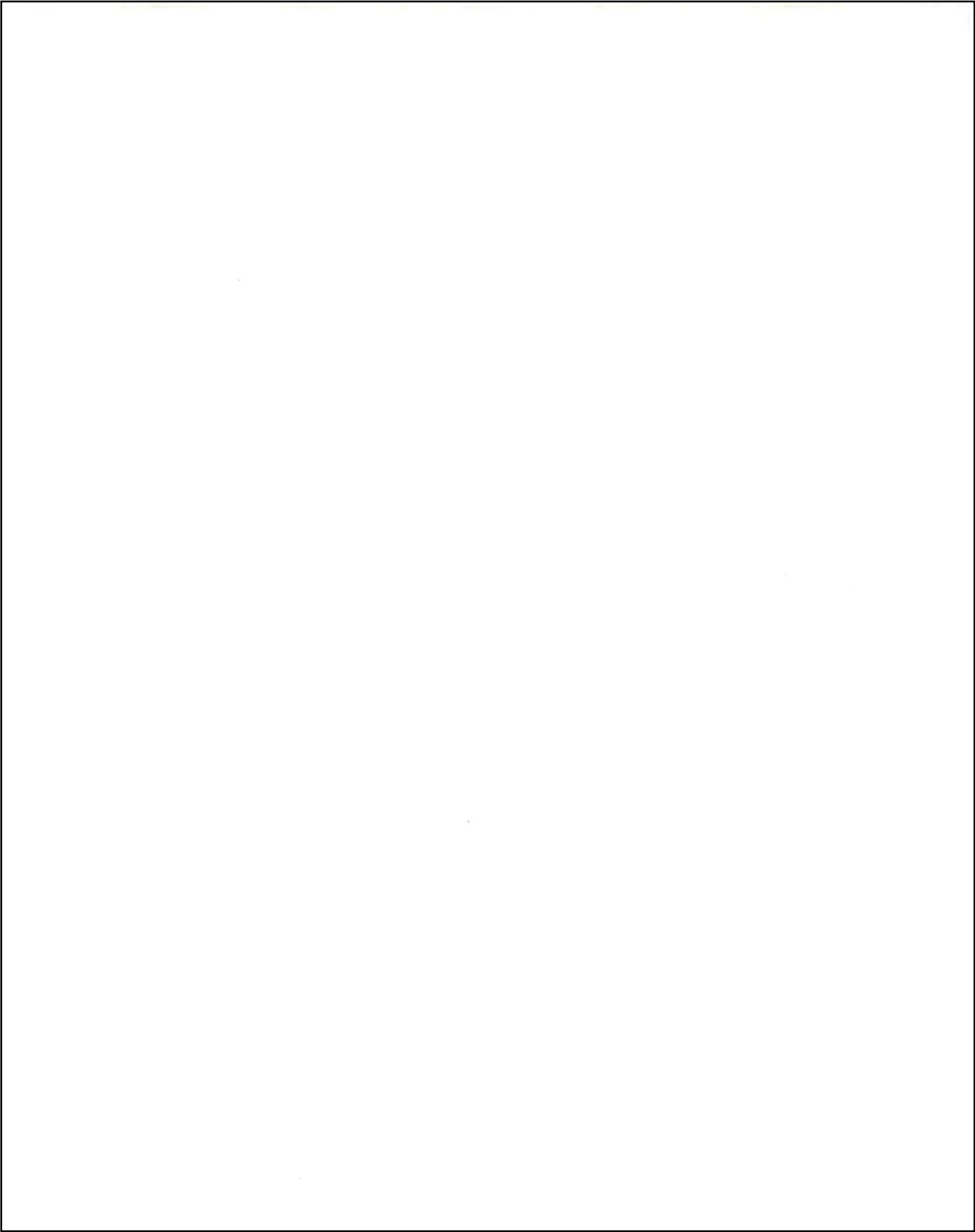

Mark Harmsworth, Position #5


Mike Todd, Position #6


Mark Bond, Position #7

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Agenda Item # _____

Meeting Date: September 1, 2020

CITY COUNCIL AGENDA SUMMARY

City of Mill Creek, Washington

AGENDA ITEM: UPDATE ON BODY-WORN CAMERAS

PROPOSED MOTION:

None.

KEY FACTS AND INFORMATION SUMMARY:

In the Fall of 2016, the Mill Creek Police Department conducted a trial and evaluation of body-worn cameras involving three (3) officers. The officers provided positive feedback on the use of body-worn cameras, but the program was not implemented long term.

Public outcry over police in-custody deaths and use of deadly force incidents involving people of color have renewed the demand police reform including increased accountability and transparency. The use of body-worn cameras (BWCs) for all law enforcement officers has been identified as one solution. A program that requires all officers to wear body-worn cameras that are activated them during critical incidents has support from law enforcement groups and police reform activists alike.

In addition to cost, a deterrent to BWCs has been the technology and staff time required to respond to public records requests for BWC video. The Public Records Act (PRA) was updated to add some additional restriction on access to BWC, but it still allows a significant number of requests to be made. In addition to public records request access, BWC video is also considered evidence in any arrest, use of force incident, internal affairs investigation, etc. requiring staff time to redact, copy, send, and retain.

Interim Chief Eastman will provide a high-level update on body-worn cameras, the Public Records Act, and the staff time required to process BWC video. If there is interest in implementing a BWC program at the Mill Creek Police Department, Interim Chief Eastman will provide a study session at a future Council meeting that includes equipment cost estimates, personnel needs, and draft policy language for the Council's consideration.

ATTACHMENTS:

- Attachment A: PowerPoint – Update on Body-Worn Cameras 090120
- Attachment B: WASPC police reform letter to Governor and state legislature
- Attachment C: RCW 42.56.240
- Attachment D: WASPC Body-Worn Camera Considerations

City Council Agenda Summary
Page 2

Respectfully Submitted:

Michael Ciaravino

Michael Ciaravino
City Manager

Update on Body-Worn Cameras

Interim Chief Scott Eastman



AGENDA ITEM #1.

2016 Trial and Evaluation

- VieVu Body-Worn Cameras
- Three (3) officers
- Three (3) months
- Temporary restrictions to the Public Records Act



Transparency and Accountability

- Body-worn cameras demanded to increase transparency and accountability
- Supported by Washington Association of Sheriffs and Police Chiefs (WASPC)
- Likely to be recommended by Governor's task force on independent investigations involving police use of force



BWC Equipment



Axon Body 2



- HD Video
- Dual Audio Channels
- Bluetooth Connectivity
- Pre-event Buffer
- Wireless Activation
- Mobile App

Axon Body 3

- HD Video
- Dual Audio Channels
- Bluetooth Connectivity
- Pre-event Buffer
- Wireless Activation
- Mobile App
- **Officer Location**
- **Livestreaming**



Axon Redaction

- MDT Redaction
- Face Redaction
- License Plate Redaction





Public Records Act RCW 42.56.240(14)

A law enforcement agency shall not disclose body-worn camera recordings:

- Any areas of a medical facility, counseling, or therapeutic office
- Protected health information
- The interior of a residence where a person has an expectation of privacy
 - An intimate image
 - A minor
 - The body of a deceased person
 - The identity of or communication from a victim or witness involved in DV
 - The identifiable location of a community-based domestic violence program

Public Records Act



Public Records Act RCW 42.56.240(14)

A request for body-worn camera recordings must:

- Specifically identify a name of a person or persons involved in the incident;
- Provide the incident case number;
- Provide the date, time, and location of the incident or incidents; or
- Identify a law enforcement officer involved in the incident or incident





Public Records Act RCW 42.56.240(14)

Subject to restrictions, body-worn camera recordings must be provided at no cost to:

- A person directly involved in an incident recorded by the BWC camera
- An person or attorney representing a person with a criminal case
- Executive Director from either:
 - Washington state commission on African American affairs
 - Asian Pacific American affairs
 - Hispanic affairs

Attorney in a civil action involving denial of state or federal rights

Requests for Body-Worn Camera Recordings

Body-worn camera recording retained for sixty (60) days unless:

- Public records request pursuant to RCW 42.56.240(14)
- Professional Standards investigations
- Use of Force incidents
- Criminal cases



Requests for Body-Worn Camera Recordings

Redactions

- Video redactions
- Audio redactions



Requests for Body-Worn Camera Recordings

May charge for reasonable costs to comply with PRA exemptions:

- Redacting
- Altering
- Pixelating
- Suppressing
- Otherwise obscuring any portion of the BWC recording prior to disclosure
- Requires a cost study to determine actual costs
- Staff time is not counted towards JLARC reporting on public records requests



Next Steps?

- Equipment
 - Identification of BWC equipment needs
 - Cost estimates
- Personnel
 - Required staff time estimates
 - Workload analysis
- Policy
 - Policy development
 - Implementation process
- Budget
 - Initial purchase
 - Ongoing maintenance
 - Additional staff, if necessary



Questions?





**Washington Association of
SHERIFFS &
POLICE CHIEFS**

3060 Willamette Drive NE
Lacey, WA 98516
360-486-2380 (Phone)
360-486-2381 (Fax)
www.waspc.org

June 25, 2020

President
Chief Craig Meidl
City of Spokane

President-Elect
Sheriff Rick Scott
Grays Harbor County

Vice President
Chief Steve Crown
City of Wenatchee

Past President
Sheriff John Snaza
Thurston County

Treasurer
Chief Brett Vance
City of Montesano

Executive Board

Chief John Batiste
Washington State Patrol

Sheriff Tom Jones
Grant County

Chief VACANT

Raymond P. Duda, SAC
FBI—Seattle

Chief Gary Jenkins
City of Pullman

Sheriff Mitzi Johanknecht
King County

Sheriff James Raymond
Franklin County

Director David Trujillo
Washington State
Gambling Commission

Steven D. Strachan
Executive Director

The Honorable Jay Inslee, Governor
The Honorable Members of the Senate
The Honorable Members of the House
Legislative Building
Olympia, WA 98504

RE: WASPC Recommended Law Enforcement Reforms

Governor Inslee and Members of the Legislature:

Washington’s Sheriffs and Police Chiefs recognize our role as leaders in law enforcement, and our responsibility to address racial inequality in our own communities. We acknowledge change is necessary and we endeavor to enact meaningful reform. We call for an approach that is evidence based, informed, comprehensive, and thoughtful. We must listen, learn, and then act to effect change. An important national conversation has begun about the role of law enforcement. This is an opportunity for us, as a state, to come together, to heal, and to improve.

Law enforcement has been asked to respond to emergency calls about social problems that may be better addressed through improved behavioral and community health resources. Many communities have already implemented and embraced these changes. As we stated in January 2019, *“WASPC strongly urges policy makers to fund and support a robust, wrap-around system for those with serious and untreated mental and behavioral health problems.”*

Washington’s law enforcement leaders are committed to working with policy makers, community groups, and other stakeholders to reform law enforcement practices. We wholeheartedly support a conversation about law enforcement that focuses on transparency and accountability in investigations, discipline, and misconduct, reducing barriers to discipline and termination, and ensuring a fair and more equitable criminal justice system.

In 2019, the Washington Association of Sheriffs and Police Chiefs (WASPC) adopted a clear statement that recognizes implicit and institutional bias and discrimination exist in all aspects of society: criminal justice, education, housing, health care, finance, and more. We recognize the hurt, trauma, and anger caused by a history in which our profession has often failed to live up to our own ethical ideals, particularly in our relationships with Communities of Color.

Serving the Law Enforcement Community and the Citizens of Washington

Governor Jay Inslee
Members of the Senate
Members of the House
June 25, 2020
Page 2

The following suggested reforms are presented based on the recommendations contained in often cited frameworks that guide our principles and practices, including:

- [The President's Task Force on 21st Century Policing](#)
- [WASPC's Principles for Public Trust, adopted January 2019](#)
- [Police Executive Research Forum Guiding Principles on Use of Force](#)
- [Campaign Zero Police Use of Force Policy Analysis/8 Can't Wait](#)

We do not present these recommendations as the only credible options for reform, rather as our contribution to the larger conversation of improving law enforcement in our state.

Use of Force:

- Standardize the use of force policies and training centered on the cornerstone principle of the sanctity of human life. De-escalation, proportionality, and the use of time, cover and distance will be emphasized, and the required training from I-940 should be accelerated. This required curriculum also includes training on implicit bias and the history of race and law enforcement.
- Require all law enforcement officers to intervene and report to their agency whenever another law enforcement officer uses excessive force or knowingly violates the rights of any person. Violation of this duty should be cause for discipline, up to and including termination.

Transparency and Accountability:

- Establish and expand wellness, resiliency and mental health support for law enforcement and corrections officers.
- Establish clear and meaningful support for law enforcement and corrections agencies to become accredited (undergo a Best Practice Audit) by a recognized state or national law enforcement or corrections accreditation entity.
- Reform the civil service system to provide greater access for more diverse candidates into the law enforcement profession and enable Sheriffs and Police Chiefs greater flexibility to hire and promote law enforcement officers who are best suited to carry out the agency's mission.
- Assist law enforcement and corrections agencies to establish intervention programs to identify troubling patterns and behaviors among law enforcement and corrections officers so intervention and support can be offered in a non-disciplinary manner.
- Establish a monitoring and review mechanism to ensure existing requirements for independent investigations regarding the use of deadly force are followed. Additionally, explore models for

Governor Jay Inslee
Members of the Senate
Members of the House
June 25, 2020
Page 3

creating a completely independent statewide deadly force investigative team governed by a board that includes community members.

- Facilitate the implementation and use of body cameras.
- Reform binding interest arbitration to provide greater authority for Chiefs and Sheriffs to dismiss officers who are not helpful to the agency's mission or betray the public's trust.
- Change licensure rules to provide that a law enforcement officer can lose their Peace Officer Certification for excessive use of force, showing a pattern of failing to follow public policy, and other serious breaches of the public's trust.
- Require all Washington law enforcement agencies to submit data regarding the use of deadly force (creation of a statewide data base as proposed in SHB 2789 in 2020).

Defining the role of law enforcement:

- Partner with the Washington Commission on African American Affairs, Commission on Asian Pacific American Affairs, Commission on Hispanic Affairs, and the Governor's Office of Indian Affairs to build relationships and trust between law enforcement and the community.
- Study and establish clear expectations for state investments and expansions of programs that support social services to address mental illness, substance use, and other adverse events that are shown to increase the likelihood of future criminal justice involvement.

As a profession and a society, we have an opportunity to implement reforms that will make progress on long standing issues. We must not squander it. WASPC is committed to working with all stakeholders, at every level of government, and from every facet of the communities we serve, to implement reforms that hold our profession accountable and build trust with the community. We will continue to listen, learn, and then act.

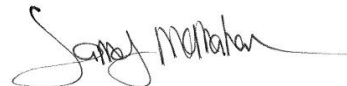
Sincerely,



Craig Meidl
Chief of Police, Spokane
President, WASPC



Steven D. Strachan
WASPC Executive Director



James McMahan
WASPC Policy Director

RCW 42.56.240**Investigative, law enforcement, and crime victims.**

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter **9A.44** RCW or sexually violent offenses as defined in RCW **71.09.020**, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW **40.14.070**(2) (b);

(4) License applications under RCW **9.41.070**; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the specific details that describe an alleged or proven child victim of sexual assault under age eighteen, or the identity or contact information of an alleged or proven child victim of sexual assault who is under age eighteen. Identifying information includes the child victim's name, addresses, location, photograph, and in cases in which the child victim is a relative, stepchild, or stepsibling of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Contact information includes phone numbers, email addresses, social media profiles, and user names and passwords;

(6) Information contained in a local or regionally maintained gang database as well as the statewide gang database referenced in RCW **43.43.762**;

(7) Data from the electronic sales tracking system established in RCW **69.43.165**;

(8) Information submitted to the statewide unified sex offender notification and registration program under RCW **36.28A.040**(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and email address;

(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business;

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW **43.43.822**;

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW **42.52.410**, or who has in good faith reported improper governmental action, as defined in RCW **42.40.020**, to the auditor or other public official, as defined in RCW **42.40.020**;

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW **72.09.745**: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates;

(13) The global positioning system data that would indicate the location of the residence of an employee or worker of a criminal justice agency as defined in RCW **10.97.030**;

(14) Body worn camera recordings to the extent nondisclosure is essential for the protection of any person's right to privacy as described in RCW **42.56.050**, including, but not limited to, the circumstances enumerated in (a) of this subsection. A law enforcement or corrections agency shall not disclose a body worn camera recording to the extent the recording is exempt under this subsection.

(a) Disclosure of a body worn camera recording is presumed to be highly offensive to a reasonable person under RCW **42.56.050** to the extent it depicts:

(i)(A) Any areas of a medical facility, counseling, or therapeutic program office where:

(I) A patient is registered to receive treatment, receiving treatment, waiting for treatment, or being transported in the course of treatment; or

(II) Health care information is shared with patients, their families, or among the care team; or

(B) Information that meets the definition of protected health information for purposes of the health insurance portability and accountability act of 1996 or health care information for purposes of chapter **70.02** RCW;

(ii) The interior of a place of residence where a person has a reasonable expectation of privacy;

(iii) An intimate image;

(iv) A minor;

(v) The body of a deceased person;

(vi) The identity of or communications from a victim or witness of an incident involving domestic violence as defined in RCW **10.99.020** or sexual assault as defined in RCW **70.125.030**, or disclosure of intimate images as defined in RCW **9A.86.010**. If at the time of recording the victim or witness indicates a desire for disclosure or nondisclosure of the recorded identity or communications, such desire shall govern; or

(vii) The identifiable location information of a community-based domestic violence program as defined in RCW **70.123.020**, or emergency shelter as defined in RCW **70.123.020**.

(b) The presumptions set out in (a) of this subsection may be rebutted by specific evidence in individual cases.

(c) In a court action seeking the right to inspect or copy a body worn camera recording, a person who prevails against a law enforcement or corrections agency that withholds or discloses all or part of a body worn camera recording pursuant to (a) of this subsection is not entitled to fees, costs, or awards pursuant to RCW **42.56.550** unless it is shown that the law enforcement or corrections agency acted in bad faith or with gross negligence.

(d) A request for body worn camera recordings must:

(i) Specifically identify a name of a person or persons involved in the incident;

(ii) Provide the incident or case number;

(iii) Provide the date, time, and location of the incident or incidents; or

(iv) Identify a law enforcement or corrections officer involved in the incident or incidents.

(e)(i) A person directly involved in an incident recorded by the requested body worn camera recording, an attorney representing a person directly involved in an incident recorded by the requested body worn camera recording, a person or his or her attorney who requests a body worn camera recording relevant to a criminal case involving that person, or the executive director from either the Washington state commission on African American affairs, Asian Pacific American affairs, or Hispanic affairs, has the right to obtain the body worn camera recording, subject to any exemption under this chapter or any applicable law. In addition, an attorney who represents a person regarding a potential or existing civil cause of action involving the denial of civil rights under the federal or state Constitution, or a violation of a United States department of justice settlement agreement, has the right to obtain the body worn camera recording if relevant to the cause of action, subject to any exemption under this chapter or any applicable law. The attorney must explain the relevancy of the requested body worn camera recording to the cause of action and specify that he or she is seeking relief from redaction costs under this subsection (14)(e).

(ii) A law enforcement or corrections agency responding to requests under this subsection (14)(e) may not require the requesting individual to pay costs of any redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of a body worn camera recording.

(iii) A law enforcement or corrections agency may require any person requesting a body worn camera recording pursuant to this subsection (14)(e) to identify himself or herself to ensure he or she is a person entitled to obtain the body worn camera recording under this subsection (14)(e).

(f)(i) A law enforcement or corrections agency responding to a request to disclose body worn camera recordings may require any requester not listed in (e) of this subsection to pay the reasonable costs of redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of the body worn camera recording prior to disclosure only to the extent necessary to comply with the exemptions in this chapter or any applicable law.

(ii) An agency that charges redaction costs under this subsection (14)(f) must use redaction technology that provides the least costly commercially available method of redacting body worn camera recordings, to the extent possible and reasonable.

(iii) In any case where an agency charges a requestor for the costs of redacting a body worn camera recording under this subsection (14)(f), the time spent on redaction of the recording shall not count towards the agency's allocation of, or limitation on, time or costs spent responding to public records requests under this chapter, as established pursuant to local ordinance, policy, procedure, or state law.

(g) For purposes of this subsection (14):

(i) "Body worn camera recording" means a video and/or sound recording that is made by a body worn camera attached to the uniform or eyewear of a law enforcement or corrections officer while in the course of his or her official duties; and

(ii) "Intimate image" means an individual or individuals engaged in sexual activity, including sexual intercourse as defined in RCW **9A.44.010** and masturbation, or an individual's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or postpubescent female nipple.

(h) Nothing in this subsection shall be construed to restrict access to body worn camera recordings as otherwise permitted by law for official or recognized civilian and accountability bodies or pursuant to any court order.

(i) Nothing in this section is intended to modify the obligations of prosecuting attorneys and law enforcement under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), *Kyles v. Whitley*, 541 U.S. 419, 115 S. Ct. 1555, 131 L. Ed.2d 490 (1995), and the relevant Washington court criminal rules and statutes.

(j) A law enforcement or corrections agency must retain body worn camera recordings for at least sixty days and thereafter may destroy the records in accordance with the applicable records retention schedule;

(15) Any records and information contained within the statewide sexual assault kit tracking system established in RCW **43.43.545**;

(16)(a) Survivor communications with, and survivor records maintained by, campus-affiliated advocates.

(b) Nothing in this subsection shall be construed to restrict access to records maintained by a campus-affiliated advocate in the event that:

(i) The survivor consents to inspection or copying;

(ii) There is a clear, imminent risk of serious physical injury or death of the survivor or another person;

(iii) Inspection or copying is required by federal law; or

(iv) A court of competent jurisdiction mandates that the record be available for inspection or copying.

(c) "Campus-affiliated advocate" and "survivor" have the definitions in RCW **28B.112.030**;

(17) Information and records prepared, owned, used, or retained by the Washington association of sheriffs and police chiefs and information and records prepared, owned, used, or retained by the Washington state patrol pursuant to chapter 261, Laws of 2017; and

(18) Any and all audio or video recordings of child forensic interviews as defined in chapter **26.44** RCW. Such recordings are confidential and may only be disclosed pursuant to a court order entered upon a showing of good cause and with advance notice to the child's parent, guardian, or legal custodian. However, if the child is an emancipated minor or has attained the age of majority as defined in RCW **26.28.010**, advance notice must be to the child. Failure to disclose an audio or video recording of a child forensic interview as defined in chapter **26.44** RCW is not grounds for penalties or other sanctions available under this chapter.

[**2019 c 300 § 1**. Prior: **2018 c 285 § 1**; **2018 c 171 § 7**; prior: **2017 c 261 § 7**; **2017 c 72 § 3**; prior: **2016 c 173 § 8**; **2016 c 163 § 2**; prior: **2015 c 224 § 3**; **2015 c 91 § 1**; prior: **2013 c 315 § 2**; **2013 c 190 § 7**; **2013 c 183 § 1**; **2012 c 88 § 1**; prior: **2010 c 266 § 2**; **2010 c 182 § 5**; **2008 c 276 § 202**; **2005 c 274 § 404**.]

NOTES:

Retroactive application—2018 c 171 § 7: "Section 7 of this act applies retroactively to all outstanding public records requests submitted prior to March 22, 2018." [**2018 c 171 § 8**.]

Effective date—2018 c 171: See note following RCW **26.44.188**.

Finding—Intent—2017 c 72: See note following RCW **28B.112.030**.

Finding—Intent—2016 c 173: See note following RCW **43.43.545**.

Finding—Intent—2016 c 163: "The legislature finds that technological developments present opportunities for additional truth-finding, transparency, and accountability in interactions between law enforcement or corrections officers and the public. The legislature intends to promote transparency and accountability by permitting access to video and/or sound recordings of interactions with law enforcement or corrections officers, while preserving the public's reasonable expectation that the recordings of these interactions will not be publicly disclosed to enable voyeurism or exploitation." [**2016 c 163 § 1**.]

Finding—2013 c 190: See note following RCW **42.52.410**.

Severability—Part headings, subheadings not law—2008 c 276: See notes following RCW **36.28A.200**.

*Restrictions on dissemination of child forensic interview recordings: RCW **26.44.187** and **26.44.188**.*

BWC Considerations

Body worn cameras (BWC) can be a useful tool for a law enforcement agency that deploys them the community it serves. This document is intended to offer some considerations that a law enforcement agency should work through before starting a BWC program.

1. Community Considerations
 - a. Is our community ready for our officers to wear BWCs?
 - b. How would deployment of BWCs affect our community's existing level of trust in our agency? Would our community perceive BWCs as an effort toward transparency and accountability, or would our community perceive BWCs as a surveillance tool?
 - c. Would deployment of BWCs create hesitancy for a victim in our community to call 911, fearing that a video of their crisis might be made available for all to see?

2. Officer Considerations
 - a. How will our officers react to wearing BWCs?
 - b. Would our officers embrace BWCs, or would they resist it?
 - c. Would the topic of BWCs be the subject of mandatory bargaining with our union?

3. Financial Considerations
 - a. Does our agency have the financial resources to implement *and sustain* a BWC program?
 - i. Hardware costs
 1. Cameras, charging equipment, etc.
 - ii. Software costs
 1. Software to manage, view, sort & tag videos to case/incident number, officer(s), date/time, etc
 - iii. Storage costs
 1. Sufficient IT storage capacity to ensure secure, safe and stable storage of large capacity audio/video files (with adequate backup capacity)
 - iv. Training costs
 1. Time and expertise to ensure that officers equipped with BWC are properly trained in their operation and use
 - v. Public records costs
 1. Human resources to identify and review BWC footage responsive to records requests, and identify portions of the audio/video footage that requires redacting/blurring
 2. Software capable of effectively redacting/blurring both the audio and video portions of BWC footage, as required by the PRA
 3. Human resources with expertise to properly redact/blur the portions of the footage that requires redacting/blurring

4. Policy Considerations
 - a. What portion of the agency will be equipped with BWCs?
 - i. Uniformed officers?

- ii. All commissioned officers?
 - b. Will BWCs be mandatory or voluntary?
 - c. What circumstances will BWCs be required to be turned on/discretionary to turn on/required to be turned off?
 - i. Inside a person's home
 - ii. Inside a place of worship
 - iii. Inside a medical facility
 - iv. When medical treatment is being provided
 - v. Casual conversations with the community
 - vi. When interacting with juveniles
 - vii. When interacting with a person in a mental health crisis
 - viii. When conversing with a confidential informant
 - ix. When discussing tactical enforcement strategies with another officer
 - x. When in a law enforcement facility (station, dispatch, etc)
 - xi. When viewing sensitive information (such as a WACIC return on an MDT)
 - d. Will officers be allowed to review BWC footage prior to writing his/her report on an incident?
 - e. Will officers be required to inform a person that their interaction is being recorded on BWC?
 - f. What circumstances will supervisors be allowed to review BWC footage?
 - i. Randomly to ensure compliance with agency policy?
 - ii. Only upon receipt of a complaint?
 - iii. Will supervisors be permitted to issue discipline based on their observations from BWC footage?
 - g. How would the presence of BWC footage affect our agency's actions after a deadly-force incident?
 - i. Pre-emptively releasing the footage prior to the conclusion of a criminal investigation?
- 5. Operational Considerations
 - a. Is our Prosecutor prepared to effectively manage and use



MINUTES

City Council Regular Meeting

6:00 PM - Tuesday, July 28, 2020

Council Chambers, 15728 Main Street, Mill Creek, WA 98012

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

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

City of Mill Creek Virtual Council Meeting

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CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

- B. The Pledge of Allegiance was led by Councilmember Stephanie Vignal.

ROLL CALL

Councilmembers Present:

Pam Pruitt, Mayor
Brian Holtzclaw, Mayor Pro Tem
Vince Cavaleri, Councilmember
Mike Todd, Councilmember
Mark Bond, Councilmember
John Steckler, Councilmember
Stephanie Vignal, Councilmember

Councilmembers Absent:

AUDIENCE COMMUNICATION

- C. There were no public comments on items on or not on the agenda.

July 28, 2020 REGULAR COUNCIL MEETING MINUTES

NEW BUSINESS

- D. Surface Water Aging Infrastructure (2021 Grade C Pipe Repairs) Project Professional Services Contract
(Matthew Feeley, Interim Director of Public Works and Development Services)

Interim Director of Public Works and Development Services Matthew Feeley briefed members of Council on the 2021 Grade C Pipe Repair Project and professional services contract with Gray and Osborne Inc. for design services which is funded by the City's surface water fund and budgeted in the Capital Improvement Plan (CIP).

The professional services contract includes:

- Project management and oversight
- Video inspection
- Utility data acquisition
- Design services
- Quality assurance/quality control
- Bid support
- Design support during construction.

[2021 Surface Water Aging Infrastructure C Failures Gray.and.Osborne Contract AgendaSummary](#)
[Attachment A-Mill Creek - 2021 Grade C Stormwater Pipe Repair-PSA.07.23.2020](#)
[Attachment B-Pages 5-7 Mill Creek Surface Water Repair Program Memo](#)

Council engaged in discussion.

Councilmember Cavaleri made a motion to authorize the City Manager to execute a contract for professional services of the Surface Water Aging Infrastructure Project with Gray and Osborne, Inc. in an amount not to exceed \$81,140.00. Councilmember Todd seconded the motion. The motion passed unanimously.

- E. Gray and Osborne On-Call Engineering Contract
(Matthew Feeley, Interim Director of Public Works and Development Services)

Matthew Feeley, Interim Director of Public Works and Development Services, briefed members of Council on the Gray and Osborne, Inc. On-Call Engineering Services Contract. The on-call engineering services may include, but are not limited to the following:

- Engineering review of work prepared by other consultants for capital projects
- Engineering review of private land development project submittals
- Construction administration and/or management support for capital projects
- Field inspection of development and/or capital project construction
- Traffic engineering
- Road design and transportation planning
- Pavement Management

July 28, 2020 REGULAR COUNCIL MEETING MINUTES

- Drainage and stormwater /LID engineering
- Building facility equipment (HVAC, lighting, security systems, etc.)
- Improvements
- Surveying work
- Environmental / SEPA / NEPA permitting and/or review
- Grant applications.

[On-Call Engineering Services Contract - Agenda Summary](#)
[Attachment A - 2020-XX G&O Engineering On-Call](#)

Council engaged in discussion.

Councilmember Todd made a motion to authorize the City Manager to execute a contract for professional services for on-call engineering services with Gray and Osborne, Inc. in an amount not to exceed \$75,000.00 and a term extending December 31, 2021. Councilmember Cavaleri seconded the motion. The motion passed unanimously.

STUDY SESSION

- F. 2021 - 2022 Biennium Budget Kick Off Presentation
(Jeff Balentine, Finance Director)

Jeff Balentine, Finance Director presented to members of City Council the [COMC Biennial Budgeting Presentation](#). The presentation included the following:

- Budget Calendar
- Budget Cycle
- Mill Creek Biennial Budget Considerations
- Financial Intelligence Tool (FIT)
- Biennial Budget Steps

Council engaged in discussion and Q & A.

CONSENT AGENDA

- G. Comcast Franchise
(Elana Zana, Esq. Ogden Murphy Wallace)

[Agenda Summary Mill Creek Comcast Franchise Agenda Bill](#)
[Attachment A Cohen Law Group Mill Creek Comcast Executive Summary \(2201076x7ACF2\)](#)
[Attachment B FCC Section 621 Third Report and Order Summary - Cohen Law Group\(2201079x7ACF2\)](#) [Attachment C Mill Creek Comcast Franchise - Final \(2176901-2x7ACF2\)](#)

- H. Approval of Checks #62182 through #62260 and ACH Wire Transfers in the Amount of \$413753.06
(Audit Committee: Councilmember Vignal in Mayor Pro Tem Holtzclaw's stead and

July 28, 2020 REGULAR COUNCIL MEETING MINUTES

Mayor Pruitt)
[Check Vouchers](#)

- I. Payroll and Benefit ACH Payments in the Amount of \$300,054.28.
(Audit Committee: Councilmember Vignal in Mayor Pro Tem Holtzclaw's stead and Mayor Pruitt)
[Payroll Vouchers](#)
- J. City Council Meeting Minutes of: [July 7, 2020](#)
[July 14, 2020](#)
[Sept. 3, 2019](#)
[Sept. 10, 2019](#)
[Sept. 24, 2019](#)
[Oct. 1, 2019](#)
[Oct. 8, 2019](#)
[Oct. 22, 2019](#)
[Nov. 5, 2019](#)
[Nov. 12, 2019](#)
[Nov. 26, 2019](#)
[Dec. 3, 2019](#)
[Dec. 10, 2019](#)
[Dec. 19, 2019](#)

**Councilmember Vignal made a motion to approve the consent agenda.
Councilmember Todd seconded the motion. The motion passed unanimously.**

REPORTS

- K. **Mayor Pruitt** reported that on the following items:
 - Sno911
 - COVID-19 cases and statistics
 - Local Business support during COVID-19.

Councilmember Bond thanked Finance Director Balentine for the presentation and also commented on the support for local business and outdoor seating for restaurants.

Councilmember Steckler reported on COVID-19 testing vs. cases.

Councilmember Vignal reported her participation in the following events and conferences and her take-aways:

- AWC Conference
- Mill Creek Chamber of Commerce Luncheon
- Representative of the 44th District John Lovick's Town Hall Event.

Also, due to projects being on hold, **Councilmember Vignal** requested a status and funding update on the Mill Creek Subarea Project and wanted to ensure that Mill Creek does not lose any funding for the project.

Mayor Pro Tem Holtzclaw reported to members of Council on the upcoming City Manager Performance Evaluation. He briefed members of Council with a tentative

schedule.

Councilmember Todd reported on the following:

- Puget Sound Regional Council (PSRC) Executive Board Meeting
- COVID-19 spending and the use of federal funds
- Snohomish County Committee for Improved Transportation (SCCIT) meeting

AUDIENCE COMMUNICATION

- L. Public comment on items on or not on the agenda were made by the following participants:

Barbara Heidel, Mill Creek resident thanked Councilmember Todd's comment to continue to update any technology necessary to ensure public participation and thanked Finance Director Jeff Balentine for a great job on the Mill Creek 2021-2022 Biennium Budget.

Jon Ramer, Mill Creek resident thanked Finance Director Jeff Balentine's for his financial presentation and commented on his previous remarks regarding his interactions with the City Manager during the coordination of the City of Mill Creek's Memorial Day event as well as the upcoming City Manager performance evaluation and staffing issues at the City of Mill Creek.

ADJOURNMENT

With no objection, Mayor Pruitt adjourned the meeting at 7:38 p.m.

Brian Holtzclaw, Mayor

Naomi Fay, Interim City Clerk

July 28, 2020 REGULAR COUNCIL MEETING MINUTES



MINUTES

City Council Regular Meeting

6:00 PM - Tuesday, August 18, 2020

Council Chambers, 15728 Main Street, Mill Creek, WA 98012

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

Special City Council Virtual Meeting Information

Special City Council Virtual Meeting Notice
Tue, Aug 18, 2020 6:00 PM (PDT)

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CALL TO ORDER

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

ROLL CALL

Councilmembers Present:

Pam Pruitt, Mayor
Brian Holtzclaw, Mayor Pro Tem
Vince Cavaleri, Councilmember
Mike Todd, Councilmember
Mark Bond, Councilmember
John Steckler, Councilmember
Stephanie Vignal, Councilmember

Councilmembers Absent:

RECESS TO EXECUTIVE SESSION

- A. • Discussion of the performance of a public employee per RCW 42.30.110 (1)(g)
- B. Members of Council recessed into Executive Session at approximately 6:01 p.m. for 90 minutes.

August 18, 2020 SPECIAL COUNCIL MEETING MINUTES

At approximately 7:30 p.m., with no objection, Mayor Pruitt extended Executive Session until 8:30 p.m. and extended the Regular Meeting until 9:00 p.m.

At 8:30 p.m. without objection, Mayor Pruitt extended Executive Session until 9:30 p.m. and extended the Regular Meeting until 10:00 p.m.

At 9:30 p.m., Mayor Pruitt extended Executive Session until 10:00 p.m.

No action was taken.

ADJOURNMENT

With no objection, Mayor Pruitt adjourned the meeting at 10:00 p.m.

Brian Holtzclaw, Mayor

Naomi Fay, Interim City Clerk

August 18, 2020 SPECIAL COUNCIL MEETING MINUTES



Agenda Item # _____

Meeting Date: September 1, 2020

CITY COUNCIL AGENDA SUMMARY

City of Mill Creek, Washington

AGENDA ITEM: MILL CREEK BOULEVARD SUBAREA PLAN STATUS UPDATE

PROPOSED MOTION:

None. Presentation and City Council discussion only.

KEY FACTS AND INFORMATION SUMMARY:

At the July 28 City Council meeting, during the Reports portion of the meeting, there was a question about and a brief discussion on the status of the Mill Creek Boulevard Subarea (MCBS) Plan. Questions asked were: What work is being done on the project? Where does the project stand/next steps? And, what is the status of the reimbursement grant? Staff agreed to provide an update on the MCBS Plan that would address these questions at a future meeting.

1. What work was and is being done on the project?

Recent Background - If you will recall, on February 4, staff and the consultant (Mandi Roberts with Otak) presented a draft "Vision Statement." The Vision Statement is to be used by the Planning Advisory Group to create land use and infrastructure alternatives for the MCBS that will be evaluated and compared. The draft Vision Statement presented in February included language in support of including residential development in at least one of the two alternatives to be compared to a third "no land use change" alternative. The Council asked for additional information, and as a result, staff committed to a series of three additional presentations to provide context for considering potential residential/mixed uses in the subarea. Two of these presentations took place last March with the assistance of Snohomish County staff. The topics of the two presentations were:

- a) Growth Management Planning/Population Growth. This included the process for allocating population and employment targets to cities and the County consistent with Vision 2050 Plan and the yet to be released WA state Office of Financial Management (OFM) projections; and
- b) Snohomish County's East-West Corridor Study and light rail station planning efforts taking place in unincorporated Snohomish County within close proximity to the City (Interstate 5/164th Street and Interstate 5/128th Street intersections).

Staff was preparing to make the third presentation on March 24, which would include the background on the economic conditions that led to the Town Center development, and comparing those conditions to the current economic conditions in the MCBS. However, as a result of the pandemic, the presentation did not take place.

City Council Agenda Summary

Page 2

Once all three of these presentations take place, the plan was to bring a Vision Statement to the Council to get direction on whether or not residential use should be considered in the alternative plans.

Work since March 2020 - As a result of the City's focus on the pandemic and the limitation on the City business that was permissible during the early stages of the pandemic, staff directed the consultant to halt most work on the project indefinitely. Thus, little work has been done since March.

2. Where does the project stand/next steps?

Following is the current status of the project and next steps:

- a) As of August 11, staff received authorization to again work on the project. The City Council presentation originally scheduled for March 24 has been scheduled for the September 22, 2020 Council meeting.
- b) At the conclusion of the September 22 presentation, staff will request Council direction regarding the scope of the development options to be considered. A revised vision statement will then be prepared/presented to the City Council (date TBD).
- c) Also at the September 22 meeting, staff will be bringing an addendum to extend the contract with Otak, which is set to expire on October 31. The original expiration date for the contract was April 30, 2020. The contract was administratively extended by the City Manager for 6 months to October 31, 2020. Because work on the plan has not progressed during the pandemic and considering where the project stands, the project will not be complete by the expiration date. The City's procurement procedures require Council approval to extend the contract beyond October 31, 2020.
- d) The rest of the project will proceed per the scope of work. Please be aware that staff and the consultant are currently working on a revised schedule for the remaining work. This revised schedule will be presented with the contract extension request on September 22, 2020.

3. What is the status of the reimbursement grant?

The reimbursement grant from the Department of Commerce is still in effect. The grant is structured with two milestones that must be achieved before the City can submit for a reimbursement. The 1st Milestone is the selection of alternatives, analysis, and the selection of a preferred alternative for the plan. Once this milestone is met, the City can submit for the reimbursement for that work (Phase 1). The second and final milestone is the preparation of the actual subarea plan, including preliminary plans for infrastructure that would support the preferred alternative. Once completed, the City can submit for the balance of the grant (Phase 2).

The City has not achieved the first milestone and thus has not submitted for the reimbursement. No work has been done toward the 2nd (final) milestone.

City Council Agenda Summary
Page 3

CITY MANAGER RECOMMENDATION:

None. Presentation and City Council discussion only.

ATTACHMENTS:

None

Michael Ciaravino

Michael G. Ciaravino
City Manager