

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



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

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

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

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

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

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

Next Ordinance No. 2021 - 871

Next Resolution No. 2021 - 602

April 6, 2021
City Council Meeting
6:00 PM

VIRTUAL MEETING INFO

- A. Join Zoom Meeting
<https://zoom.us/j/93258909979>

Meeting ID: 932 5890 9979

One tap mobile

[+12532158782](tel:+12532158782).,93258909979# US (Tacoma)

+16699006833,,93258909979# US (San Jose)

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

AUDIENCE COMMUNICATION

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

PRESENTATIONS

- C. Quarterly Update Regarding Legal Expenses
(Grant Degginger, City Attorney)

OLD BUSINESS

- D. Ordinance Criminalizing Possession of a Controlled Substance without a Prescription
(Jeff Young, Police Chief & Grant Degginger, City Attorney)
- E. Proclamation of Emergency Extension
(Michael Ciaravino, City Manager)

NEW BUSINESS

- F. Snohomish County Inter Local Agreement (ILA) for Jail Services
(Jeff Young, Police Chief)
- G. Letter of Support for County 164th and I-5 Interchange Project

STUDY SESSION

- H. Governance Manual- Session 3: Rules Governing the Conduct of Council Meetings
(Grant Degginger, City Attorney)

CONSENT AGENDA

- I. City Council Meeting Minutes of March 23, 2021 and City Council Special Meeting of March 31, 2021.

REPORTS

- J. Mayor/Council
- K. City Manager
- L. Staff
- Bridge Coordination Services Agreement Update
(Jeff Young, Police Chief)
 - Surface Water Management Plan (SWAMP) Update
(Mike Todd, Director of Public Works & Development Services)

AUDIENCE COMMUNICATION

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

ADJOURNMENT



**Legal Expenses Update
Tuesday, April 6, 2021
6:00 p.m.**

AGENDA ITEM #C.

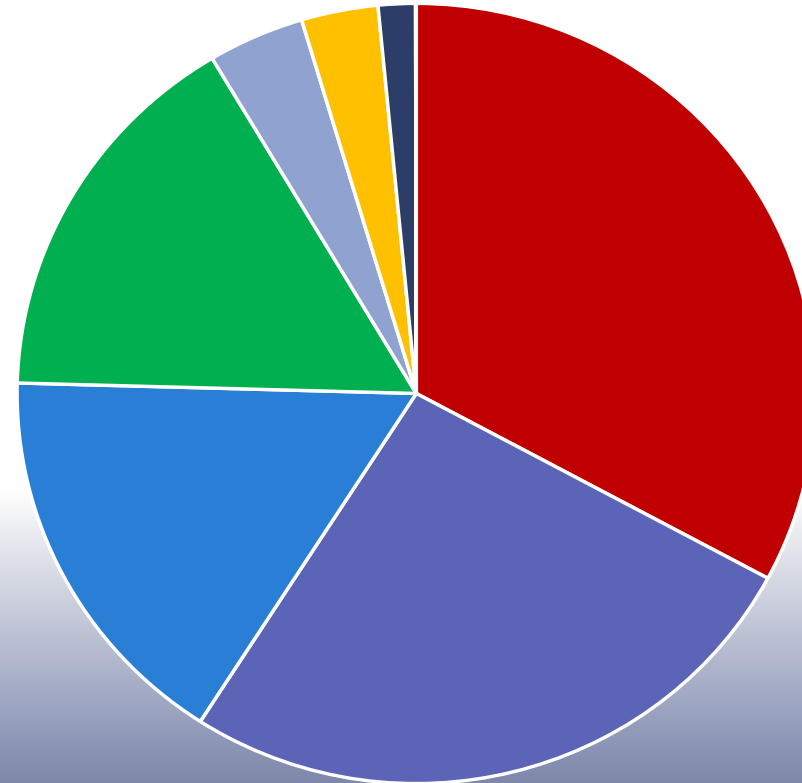
City of Mill Creek's Legal Needs

- Ongoing
 - Public Records Consultation
 - Governance & Compliance
 - Legal & Operational Advice to City Departments
 - Contract Review & Compliance
 - Employment Law & Compliance
 - Civil Enforcement
 - Criminal Prosecution & Indigent Defense
- Periodic
 - Real Estate Transactions
 - Vendor & Franchise Agreements
 - Employment (claims, complaints, discipline & termination, investigations)
 - Financial & Governmental Audits
 - Labor Relations & Negotiations (grievances & arbitrations; bargaining with unions)
 - Special Projects (Governance Manual; DRCC Support)
- Litigation & Administrative Proceedings
 - Negligence Claims
 - Employment Claims
 - Construction Claims
 - Unfair Labor Practice Complaints
 - Equal Employment Opportunity Charges

Legal Expenses by Category

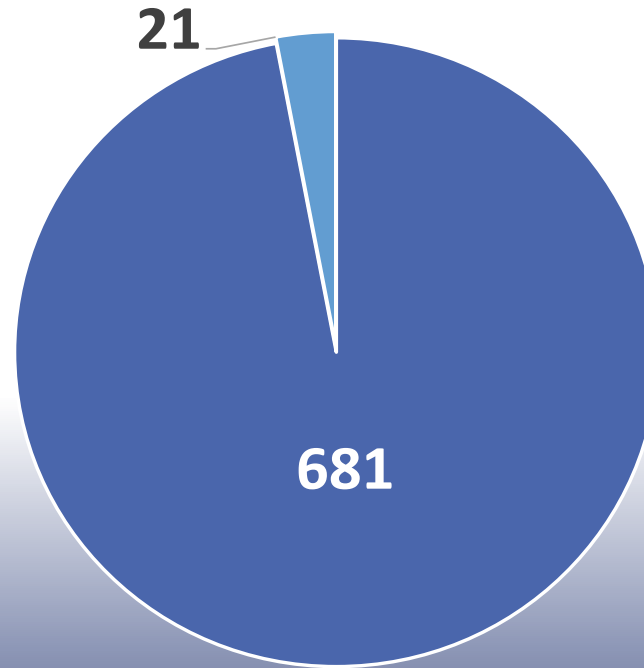
(June 1, 2020 to February 28, 2021)

- General Employment - 32.8%
- Public Records - 26.2%
- AFSCME Unfair Labor Practice Charge 16.3%
- Public Works and City Attorney - 16%
- AFSCME Labor Matters - 3.9%
- General Construction - 3.1%
- Police Officers' Guild Labor Matters - 1.5%
- General Business - 0.03%



Public Records Requests by the Numbers

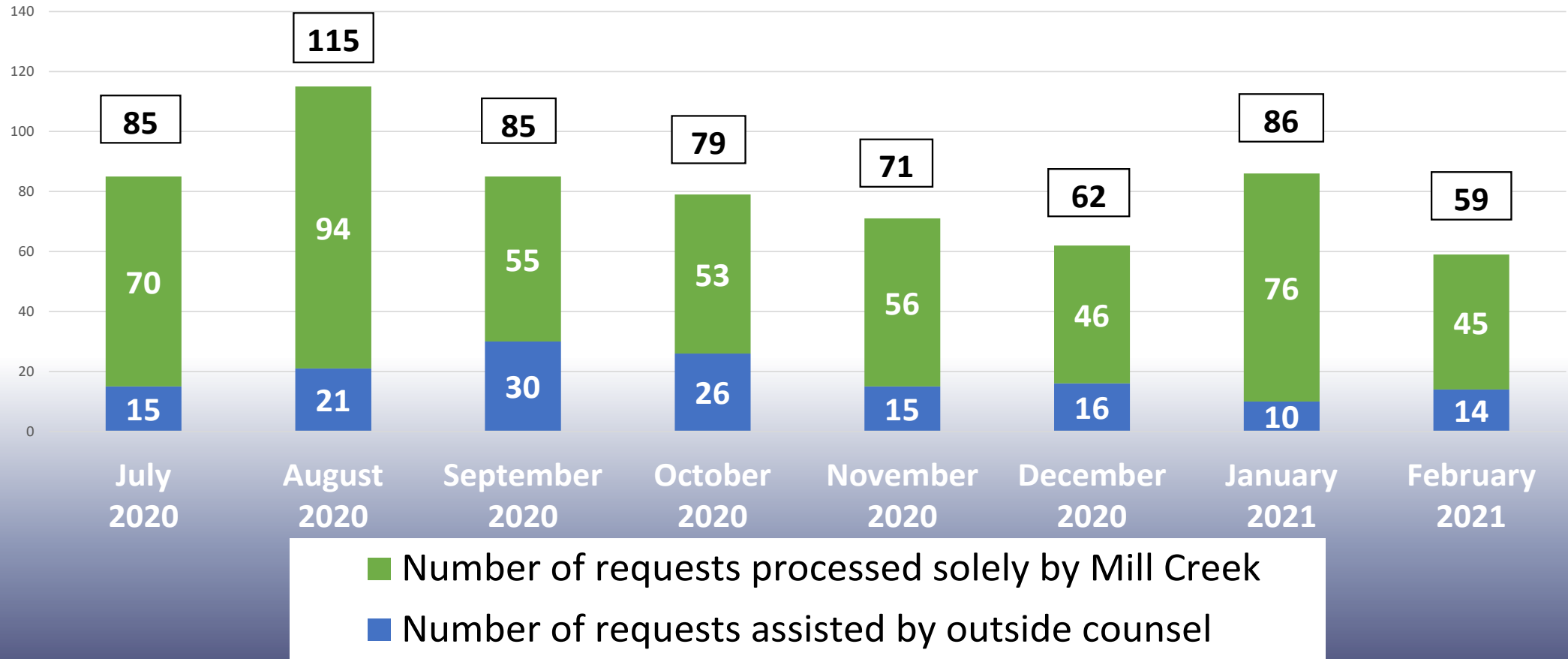
702 Total Requests submitted 7/1/2020 – 3/29/2021



■ Completed ■ Open

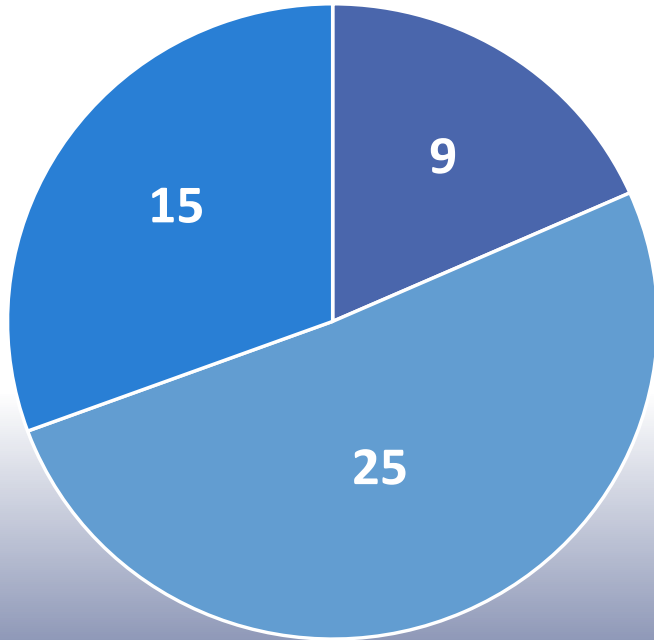
Public Records Requests by the Numbers

Requests submitted 7/1/2020 – 3/29/2021



Public Records Requests Requiring Legal Review

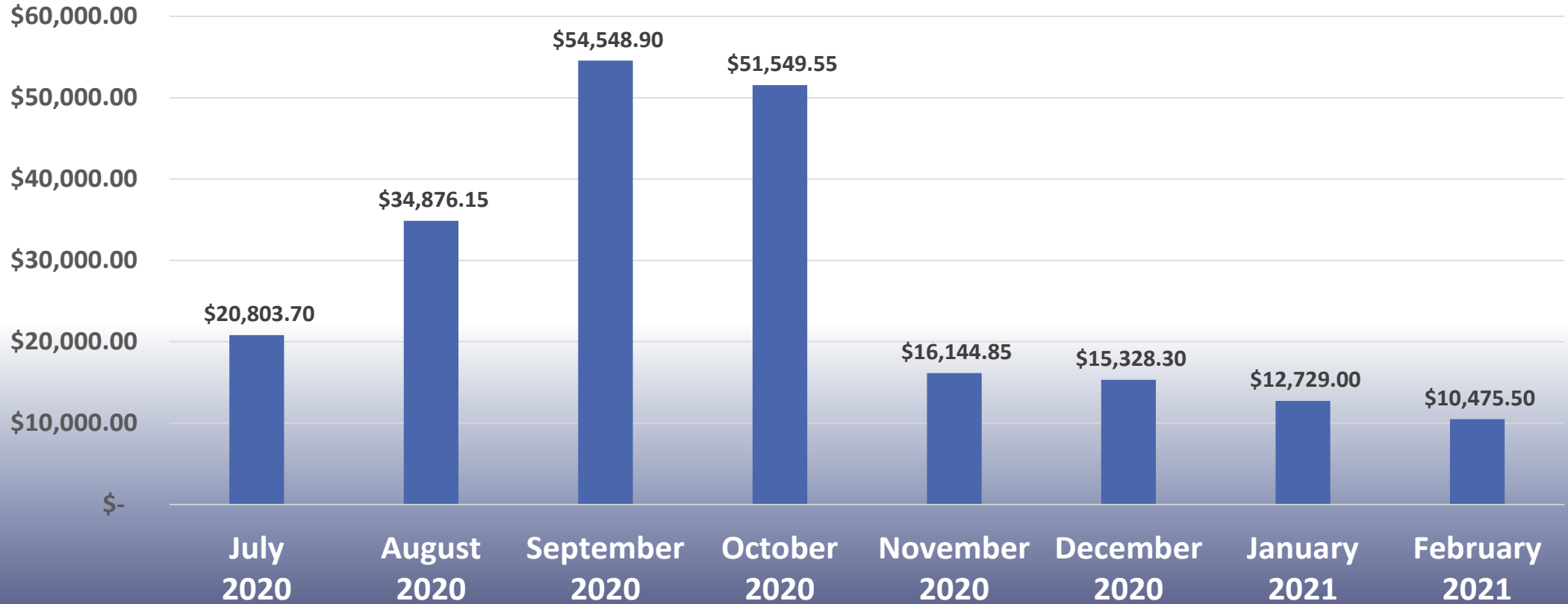
Requests submitted
7/1/2020 – 3/29/2021



- Current/Former Employees
- Local Media
- Media and Other Requestors

Public Records Request Legal Costs are Declining

Cost for PRR Legal Fees 7/2020 – 2/2021



2019 – 2020 and 2021 – 2022 - Budget vs. Actual Spend

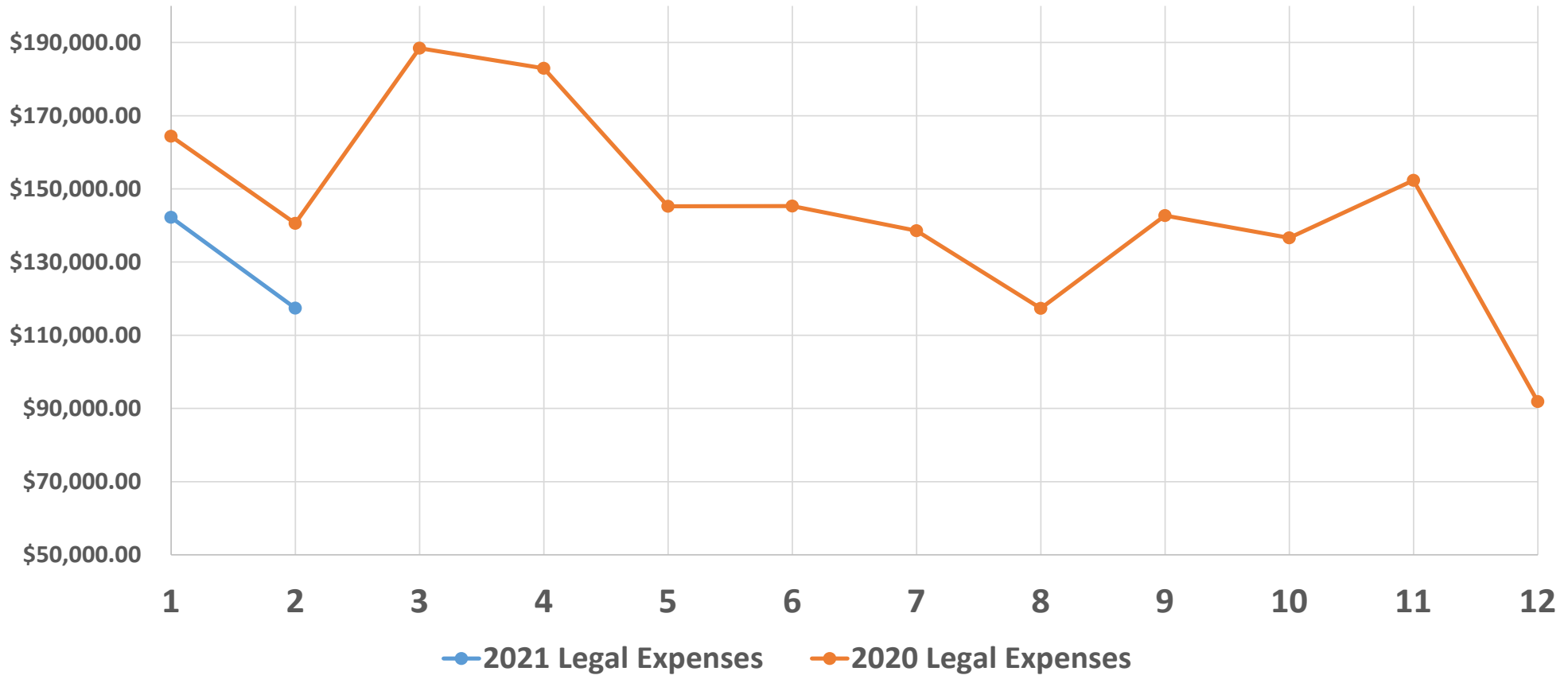
| | Amended Budget (approved 5/26/2020) | Ending Expenses |
|-------------------------|--|-----------------|
| Legal Services | \$1,824,424.00 | \$2,066,896.38 |
| Prosecutor | \$249,244.00 | \$243,181.86 |
| Indigent Defense | \$223,800.00 | \$201,710.00 |

| | 2021/2022 Budget | Expenses to Date |
|-------------------------|------------------|------------------|
| Legal Services | \$1,227,237.00 | \$259,220.70 |
| Prosecutor | \$225,467.00 | \$20,550.40 |
| Indigent Defense | \$227,259.00 | \$14,378.00 |

2020-21 Unanticipated Legal Needs

- Address governance, telework, contracting, and employee leave issues relating to COVID-19 pandemic
- July reorganization/layoffs, followed by bargaining and responding to union grievance over layoffs
- Defend against union's unfair labor practice complaint before Public Employment Relations Commission, including mediation and motion practice on merits of union's claim that City was required to bargain with union over reorganization of City positions
- Assisting in transition and hiring of major department leadership
- Significant increase in number and complexity of public records requests
- Negotiate to resolve potential claims associated with construction contracts affected by COVID-19
- Defend public records lawsuit

2020/2021 Legal Comparison



Cost Reduction Initiatives Undertaken to Reduce Litigation Risk

- Public records committee is reforming City's public records policy; staff training has been planned and scheduled
- First public records lawsuit was dismissed in City's favor; second one was consolidated with employment lawsuit covered by WA Cities Risk Pool, thereby eliminating City's direct responsibility for legal fees
- Human resources consulting firm (Asure) is on board
- Experienced labor relations consultant (Cabot Dow Associates) was retained to handle collective bargaining over expiring CBA's with two unions
 - Police Officers' Guild CBA was ratified
 - Ongoing bargaining with AFSCME union re CBA

**CITY OF MILL CREEK, WASHINGTON
ORDINANCE NO. 2021-__**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILL CREEK,
WASHINGTON, AMENDING CHAPTER 9.04 OF THE MUNICIPAL CODE
AND CRIMINALIZING THE POSSESSION OF A CONTROLLED
SUBSTANCE WITHOUT A PRESCRIPTION.**

WHEREAS, the use of controlled substances without a prescription and the supervision of a medical professional can result in physical injury or death; and

WHEREAS, the use of controlled substances without a prescription and the supervision of a medical professional often exacerbates mental health conditions; and

WHEREAS, using controlled substances can alter a person's brain or brain chemistry with negative health consequences; and

WHEREAS, persons using controlled substances can become addicted to such substances resulting in negative physical and mental health consequences and damage to family and personal relationships; and

WHEREAS, the use of controlled substances without a prescription or medical supervision is more likely to result in addiction; and

WHEREAS, the use of controlled substances without a prescription is positively correlated with criminal behavior; and

WHEREAS, public health officials in Snohomish County have linked an increase in opioid deaths and the use of naloxone to prevent overdoses with the continuing COVID-19 pandemic; and

WHEREAS, on February 25, 2021, the Washington State Supreme Court held in the case of State v. Blake, No. 96873-0, that RCW 69.50.4013(1) – the statute that criminalized the possession of a controlled substance without a prescription – exceeds the state's police power and violates the due process clauses of the state and federal constitutions; and

WHEREAS, the Supreme Court's ruling has the effect of eliminating any criminal penalties for the possession of a controlled substance without a prescription; and

WHEREAS, the Supreme Court's ruling also eliminates the authority of police officers to arrest persons possessing a controlled substance without a prescription or obtaining search warrants to search for controlled substances possessed without a prescription; and

132583.0004/8410043.1

WHEREAS, the lack of criminal penalties for the possession of controlled substances without a prescription will immediately result in an increase in the negative health and safety consequences associated with the use of controlled substances without a prescription; and

WHEREAS, the lack of enforcement authority of the police will interfere with the City's initiatives to address addiction and criminal activity associated with the use of controlled substances without a prescription by eliminating incentives for individuals to enter treatment or obtain necessary social services; and

WHEREAS, the effect of eliminating criminal penalties and police authority in regard to the possession and use of controlled substances without a prescription will have an immediate, direct, and negative impact on the health, safety, and welfare of the City's inhabitants; and

WHEREAS, this is a public emergency ordinance that includes "knowing possession" as an element of the crime, and is necessary for the protection of public health and public safety, and should be effective upon adoption.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILL CREEK , WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The Recitals set forth above are adopted as findings of fact in support of this emergency ordinance.

SECTION 2. Chapter 9.04 of the municipal code is amended as set forth in Exhibit A.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

SECTION 4. Upon approval by the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including scrivener's errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections.

SECTION 5. Effective Date. This ordinance is necessary for the protection of public health and public safety and is effective upon adoption.

PASSED by the City Council this _____ day of _____, 2021 by a vote of ___ yeas, ___ nays and ___ abstaining.

CITY OF MILL CREEK

By _____
BRIAN HOLTZCLAW, MAYOR

Attest:

By _____
NAOMI FAY, CITY CLERK

Approved as to form:

By _____
GRANT DEGGINGER, CITY ATTORNEY

Date of publication: _____

Effective Date: _____

132583.0004/8410043.1

EXHIBIT A

9.04.060 Statutes incorporated by reference.

The following statutes regarding controlled substances and drug paraphernalia are incorporated by reference:

RCW

- [9.47A.010](#) Definition.
- [9.47A.020](#) Unlawful inhalation – Exception.
- [9.47A.030](#) Possession of certain substances prohibited, when.
- [9.47A.040](#) Sale of certain substances prohibited, when.
- [9.47A.050](#) Penalty.

9.04.150 Statutes incorporated by reference.

The following statutes regarding controlled substances and drug paraphernalia are incorporated by reference:

- [69.41.010](#) Definitions of legend drugs.
- [69.41.030](#) Possession of a legend drug unlawful.
- [69.41.060](#) Search and seizure.
- [69.50.101](#) Definitions.
- [69.50.102](#) Definitions.
- [69.50.201](#) Authority to control.
- [69.50.202](#) Nomenclature.
- [69.50.204](#) Schedule I.
- [69.50.206](#) Schedule II.
- [69.50.208](#) Schedule III.
- [69.50.210](#) Schedule IV.
- [69.50.212](#) Schedule V.
- [69.50.214](#) [Controlled substance analog.](#)
- [69.50.360](#) [Marijuana retailers-employees of retail outlets-certain acts not criminal](#)
- [69.50.4014](#) Possession of forty grams or less of marijuana-penalty [69.50.412](#) Prohibited acts and penalties regarding drug paraphernalia.
- [69.50.425](#) Minimum imprisonment.
- [69.50.505](#) Forfeiture of controlled substances and drug paraphernalia, and equipment and vehicles associated therewith.

NEW SECTION. 9.04.375

(1) It is unlawful for any person to knowingly possess a controlled substance or to possess a controlled substance with intent to use it, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by chapter 69.50 RCW.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a gross misdemeanor punishable by up to 364 days in jail and a \$5,000 fine.

132583.0004/8410043.1

(3)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section or this chapter.

(b) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section or this chapter.

(c) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section or this chapter.

(d) It is unlawful for a person under twenty-one years of age to possess with intent to use marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization. Violation of this subsection is a misdemeanor punishable by up to 90 days in jail and a \$1,000 fine.

132583.0004/8410043.1

Proclamation

WHEREAS, on January 31, 2020, U.S. Department of Health and Human Services Secretary Alex Azar declared a public health emergency for COVID-19, beginning on January 27, 2020; and,

WHEREAS, on February 28, 2020, a student at Henry M. Jackson High School in Mill Creek was diagnosed with the COVID-19 virus; and,

WHEREAS, on February 29, 2020, Governor Jay Inslee issued Proclamation 20-05 proclaiming that a State of Emergency exists in all counties of the state of Washington due to the outbreak of the COVID-19 virus and directed that the plans and procedures of the Washington State Comprehensive Emergency Management Plan be implemented; and,

WHEREAS, the Governor directed state agencies and departments to utilize state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the outbreak; and,

WHEREAS, subsequently, the Governor issued additional Proclamations directed at protecting public health and safety including Proclamation 20-28, prohibiting public gatherings and requiring all public meetings to be held remotely; and

WHEREAS, on January 18, 2021, the Washington Legislature adopted Senate Concurrent Resolution 8402, providing for the continuation of 26 proclamations issued by the Governor until the termination of the Coronavirus Disease 2019 State of Emergency or until rescinded by gubernatorial or legislative action including Proclamation 20-28 and its subsequent versions; and

WHEREAS, currently Proclamation 20-28.14 continues to require that all public meetings must be held remotely; and

WHEREAS, RCW 38.52.010(9)(a) defines emergencies and disasters to include events or circumstances which demand action to preserve public health; and,

WHEREAS, RCW 38.52.070 grants political subdivisions of the state that have approved emergency management plans to conduct emergency management of incidents involving emergencies or disasters; and,

WHEREAS, the City of Mill Creek has adopted an emergency management plan set forth in Mill Creek Municipal Code (“MCMC”) Section 8.08.080; and,

WHEREAS, MCMC Section 8.08.040 defines an “emergency or disaster” as an event or set of circumstances which among other things “demand immediate action to preserve public health, protect life...or reaches such a dimension or degree of destructiveness as to warrant the city manager proclaiming the existence of a disaster or the Governor declaring a state of emergency with appropriate local and state statutes”; and,

132583.0003/8011706.2

WHEREAS, the City Manager is designated specific powers during an emergency, as set forth in MCMC 8.08.090; and

WHEREAS, MCMC 8.08.100 empowers the City Manager to proclaim the existence or threatened existence of a disaster and termination thereof, if the Mill Creek City Council is in session, or to issue such proclamation, if the Mill Creek City Council is not in session, subject to confirmation by the Mill Creek City Council at the earliest practicable time; and

WHEREAS, the City of Mill Creek's Comprehensive Management Plan specifically states that it is the responsibility of the City Manager to proclaim local emergencies; and,

WHEREAS, the City Manager for the City of Mill Creek proclaimed that effective February 29, 2020, consistent with Proclamation 20-05 issued by Governor Inslee, the outbreak of the COVID-19 virus constituted an emergency as defined by RCW 38.52.010(9)(a) and MCMC Section 8.08.040 and necessitated the utilization of emergency powers granted under RCW 38.52.070 and MCMC 8.08.100; and

FURTHER, in light of the Governor's and the Legislature's continuation of the emergency proclamations issued by the Governor limiting public gatherings and requiring all public meetings to be held remotely, and in light of the continued recommendations for social distancing issued by Centers for Disease Control, Washington Department of Health, and Snohomish Health District, the City of Mill Creek will continue to restrict access to City Hall to the general public in an effort to slow the spread of the COVID-19 virus. The closure is in effect through April 6, 2021 unless circumstance permit an earlier opening.

The City of Mill Creek will continue essential municipal government operations during this health crisis while prioritizing the safety of residents and employees.

Signed this 2 day of March 2021.



Michael Ciaravino, City Manager



Meeting Date: April 6, 2021

CITY COUNCIL AGENDA SUMMARY
City of Mill Creek, Washington

AGENDA ITEM: NEW BUSINESS

PROPOSED MOTION:

Request and recommend Council approval.

KEY FACTS AND INFORMATION SUMMARY:

The Mill Creek Police Department contracts with the Snohomish County Sheriff's Office (SCSO) to detain persons arrested or convicted of various crimes. The contract term runs from January 1, 2021 through December 31, 2023.


The costs for detaining a person in the SCSO Jail are as follows:

| <u>2021</u> | <u>2022</u> |
|---------------------------------|-------------|
| Booking fee: \$128.88 | \$134.70 |
| Daily maintenance fee: \$142.63 | \$187.46 |
| Video Court: \$207.96 | \$223.12 |

ATTACHMENTS:

- [Signatures SCSO Jail Contract Routing Sheet pg 1 of 2 3.31.21](#)
- [21 JAN 2021-2023 Jail ILA FINAL City Version-Signatures](#)
- [21 26FEB Contract Routing Sheet Page 2 of 2](#)
- [21 23MAR SCSO Jail ILA](#)

Respectfully Submitted:



City Manager

**INTERLOCAL AGREEMENT FOR JAIL SERVICES
BETWEEN SNOHOMISH COUNTY AND THE CITY OF MILL CREEK**

This INTERLOCAL AGREEMENT FOR JAIL SERVICES BETWEEN SNOHOMISH COUNTY AND THE CITY OF MILL CREEK (this "Agreement"), is made and entered into this 1st day of January, 2021, by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County"), and the CITY OF MILL CREEK, a municipal corporation of the State of Washington (the "City") pursuant to Chapter 39.34 RCW and Chapter 70.48 RCW (individually, a "Party" and collectively, the "Parties").

RECITALS

A. The County, through the Snohomish County Sheriff's Office Corrections Bureau ("Corrections") currently maintains and operates a correctional facility known as Snohomish County Jail (the "Jail"). In order to assist other jurisdictions, the County from time to time will enter into interlocal agreements to confine in the Jail persons from other jurisdictions.

B. The County and City each have the statutory power and authority to maintain and operate a correctional facility and to confine inmates therein.

C. The City from time to time desires to confine in the Jail persons who have been arrested, detained or convicted by the City of criminal offenses (the "City Inmates"), and the County is willing to furnish its Jail facilities and personnel in exchange for payment from the City of fees and costs, all as more fully described in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the City agree as follows:

1. Purpose of Agreement. This Agreement is authorized by and entered into pursuant to Chapter 39.34 RCW and Chapter 70.48 RCW. The purpose and intent of this Agreement is for the County and the City to work together efficiently and effectively in order that the County may provide the City with Jail Services (the "Services"), as defined in Section 4 below, based on the rules and conditions set forth in the Jail's policies, procedures, rules and regulations and in this Agreement and any attachments hereto.

2. Effective Date and Duration. This Agreement shall govern jail services beginning on January 1, 2021, through December 31, 2023, unless earlier terminated pursuant to the provisions of Section 12 below, PROVIDED HOWEVER, that the term of this Agreement may be extended or renewed for up to two (2) additional three (3) year terms by written notice from the County to the City, PROVIDED FURTHER that each Party's obligations after December 31, 2021, are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with applicable law.

This Agreement shall be either filed with the Snohomish County Auditor or listed on either Party’s website or other electronically retrievable public source, as provided by RCW 39.34.040 (“Effective Date”).

3. Administrators. Each Party to this Agreement shall designate an individual (an “Administrator”), who may be designated by title or position, to oversee and administer such Party’s participation in this Agreement. The Parties’ initial Administrators shall be the following individuals:

County’s Initial Administrator:

Jamie Kane, Corrections Bureau Chief
Snohomish County Sheriff’s Office
Corrections Bureau
3000 Rockefeller Avenue M/S 509
Everett, Washington 98201

City’s Initial Administrator:

Jeff Young, Chief of Police
Mill Creek Police Department
15728 Main Street
Mill Creek, WA 98012

Either Party may change its Administrator at any time by delivering written notice of such Party’s new Administrator to the other Party.

4. Scope of Services. As described in this Section 4 and subject to the conditions set forth in Section 5 below, the County will accept City Inmates for purposes of confinement, correction, punishment and/or rehabilitation, and hold such City Inmates until such time as they are lawfully discharged from custody pursuant to law, the terms of a judicial Order of Commitment, and/or returned to the custody of the City:

4.1 Effect of Ordinance, Policies, Procedures, Rules and Regulations. The Jail will be administered by the County in accordance with the ordinances, policies, procedures, rules and regulations of the County and in accordance with the rules and regulations of any agency of the State of Washington empowered to make rules governing the administration of county jails. The City and City Inmates shall be subject to the County’s ordinances, policies, procedures, rules and regulations relating to Jail operations, including any emergency security rules imposed by the County’s Administrator, PROVIDED, HOWEVER, that nothing in this Agreement shall be construed as creating, modifying, or expanding any duty on the part of the County except as specifically provided herein. Nothing in this Agreement shall be interpreted as a delegation by the City, or its judicial and law enforcement agencies, to the County of the duty to supervise City Inmates.

4.2 City Access to City Inmates. The City, its officers, employees, or agents, may interview City Inmates inside the confines of the Jail subject to necessary operational and security rules and regulations. Interview rooms will be made available on an equivalent basis to all jurisdictions with inmates confined in the Jail.

4.3 Transport of City Inmates. The City shall provide or arrange for transportation and security of its inmates to and from the Jail, including to and from City in-court appearances, except when (a) the County determines, in its sole discretion, that emergency

transportation is necessary in order to secure medical and/or psychiatric evaluation or treatment, or (b) the County determines, in its sole discretion, that transportation is required to support the orderly operation of the Jail. The City shall attempt to provide the County with at least twenty-four (24) hours' notice prior to transporting a City Inmate from the Jail.

4.4 Video Court. Upon request, and subject to availability and feasibility, the County will provide the City with use of the Jail's "Video Court" services, which include, by way of example but not by way of limitation, the following types of services: use of County video camera(s), audio technology, and the video courtroom facility; scheduling inmates for appearances by video; and transporting inmates to and from the video courtroom; PROVIDED, HOWEVER, that the County shall have no liability or obligation for the installation, operation, maintenance, inspection, repair or replacement of the Video Court equipment operated by the City on City property.

The County shall have discretion to set the date, time and duration of the City's Video Court. The County, in its sole discretion, will establish a maximum number of City Inmates for each video courtroom calendar based upon operational limitations. The County will provide the City with a Video Court Schedule no later than ten (10) days after execution of this Agreement. The County may change or cancel the City's Video Court Schedule by providing the City with at-least seven (7) days' written notice. The County will deliver the City's Inmate(s) to the video courtroom by at least thirty (30) minutes prior to the City Inmate(s) hearing time so that the City Inmate(s) may prepare for the hearing and meet with his or her respective legal counsel.

The City shall provide the County with all paperwork requiring the signature of City Inmate(s) at least thirty (30) minutes before the start of the City's scheduled Video Court time. In the event of a technical problem that the Parties are unable to repair in a timely manner, the Parties shall work together to reschedule the impacted hearings to be reheard as soon as practicable and at minimum, within two (2) judicial days.

4.5 Health Care of City Inmates. The County is hereby granted the authority to seek necessary medical, dental and mental health services for City Inmates without consulting with the City. The County shall notify the City prior to seeking treatment, unless immediate treatment is required, in which case, the County will notify the City as soon after the event as reasonably possible. During "Normal Business Hours", defined as Monday through Friday, from 8:00 a.m. to 5:00 p.m., the City's point of contact for City Inmate health issues will be as follows:

Ms. Ilia Heath, Administrator
Mill Creek Police Department
15728 Main Street, Mill Creek, WA 98012
iliah@cityofmillcreek.com/425-921-5716

Outside Normal Business Hours, the City's point of contact for City Inmate health issues will be as follows:

Mill Creek Police Department
15728 Main Street
Mill Creek, WA 98012
425-745-6175
425-407-3999

Any failure or error by the County to provide the City with proper notification of medical, dental and/or mental health services delivered to a City Inmate shall in no way excuse full, complete and timely payment by the City under Section 6 of this Agreement. The City and the County will comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and County policies and procedures regarding HIPAA.

4.6 Community Corrections. The County does not provide or oversee a Community Corrections Program or alternatives to confinement.

4.6.1 The term “Community Corrections Program” and “alternatives to confinement” includes but is not limited to: Electronic Home Detention, Work/Education Release, and Work Crew.

4.6.2 If the City wishes to provide a Community Corrections Program and/or “alternatives to confinement” options for City Inmates, the City shall not book such City Inmates into the Snohomish County Jail.

4.7 Administrative Booking. Upon request by the arresting officer or the City’s Administrator and when not otherwise prohibited by statute, court rule or court order, the County shall administratively book and immediately release a City Inmate. The County further reserves the right to administratively book and immediately release a City Inmate when, in the sole discretion of the County’s Administrator, the County is unable to accept the City’s Inmate for housing and when such action is not otherwise prohibited by statute, court rule or court order.

5. Conditions of Acceptance of City Inmates. The County shall provide Services to the City subject to the conditions set forth in this Section 5. Should the County, in its sole discretion, decline to accept or retain custody of a City Inmate for any of the reasons identified in this Section 5, the County shall notify the arresting officer in person or the City’s judicial or law enforcement agency of the non-acceptance and the reason for the non-acceptance.

Acceptance of a City Inmate into the Jail shall be conditioned upon the following:

5.1 Obligation to Abide by Policies and Procedures. The City, its officers, employees and agents shall follow all Jail policies and procedures.

5.2 Documentation for Legal Basis for Confinement. Absent proper documentation providing a legal basis for confining the City Inmate, the County will have no obligation to receive the City Inmate into custody. Proper documentation for purposes of this section means an arrest warrant, judicial Order of Commitment, other order of a court of competent jurisdiction, or a properly completed Notice of Arrest.

5.3 Health Care Clearance. The County will have no obligation to receive into custody or retain custody of a City Inmate absent a determination, on an ongoing basis, by Jail staff that the City Inmate (a) is medically and psychiatrically able to be housed in the Jail, and (b) does not need medical and/or psychiatric attention that would require treatment at a hospital or other type of health care facility. At all times, the County’s Administrator shall have final authority to determine whether a City Inmate is medically and/or psychiatrically fit for Jail.

5.4 Population Limits. The County shall have the right to return City Inmates to City custody if the Jail reaches the maximum allowable population level (the “MAPL”). The MAPL refers to the greatest number of inmates that can be held in the Jail in a safe, secure, and humane manner. The MAPL applies to the overall number of inmates, but may also be applied to specific populations of inmates (i.e. security level, medical need, mental health housing, etc.). The Snohomish County Sheriff, or his or her designee, shall determine, in his or her sole discretion, the MAPL. Every effort will be made to manage the MAPL, including booking restrictions. In the event that the MAPL is reached and the County determines that inmates must be removed from the Jail, priority for removal shall be as follows:

- (a) Inmates from out-of-county jurisdictions in reverse order from the date of execution of the respective jurisdictions’ interlocal agreements with the County; then
- (b) Inmates from in-county jurisdictions, including the City, in reverse order from the date of execution of the respective jurisdictions’ interlocal agreements with the County; then
- (c) Inmates confined on Snohomish County charges or commitments.

The County’s Administrator shall have final authority on MAPL reduction measures, and in the event the County determines that City Inmates shall be removed from the Jail according to this priority schedule, the County will provide the City fourteen (14) days’ notice to remove City Inmates.

5.5 Earned Early Release. The County will release City Inmates in accordance with applicable statutes governing the calculation of jail commitments, including with respect to earned release time pursuant to Chapter 9.94A.729 RCW and Chapter 9.92.151 RCW.

6. Payment by City.

6.1 Proportional Billing. The County employs proportional billing practices when invoicing jurisdictions for Services. Attached hereto as Exhibit A and incorporated herein by this reference is an explanation of the County’s proportional billing practices. Commensurate with these practices, the City shall be invoiced only its proportionate share of the applicable Fees and Costs, as defined in Section 6.2 below, for a City Inmate under either of the following circumstances:

6.1.1 The City Inmate (a) is being held on criminal misdemeanor or gross misdemeanor charge(s) (whether or not formally arraigned) or on a warrant or court order

issued by the City’s municipal court, (b) is not being held on any active County felony charge, and (c) cannot be removed by a Federal agency without regard to local charges; OR

6.1.2 The City Inmate is being held (a) on criminal misdemeanor or gross misdemeanor charge(s) (whether or not formally arraigned) or on a warrant or court order issued by the City’s municipal court, and (b) by the State of Washington for violation of the Offender Accountability Act, and the City has declined to transfer custody to the State of Washington.

6.2 Fees and Costs.

6.2.1 The County shall invoice the City a “Booking Fee” for each City Inmate for whom the County provides Services. For purposes of this Agreement, “Booking” means the act of registering, screening, and examining inmates for confinement in the Jail; Administrative Booking pursuant to Section 4.7; inventorying and safekeeping inmates’ personal property; maintaining all computerized records of arrest; performing warrant checks; and all other activities associated with processing an inmate for confinement. The Booking Fee is as follows:

| 2021 Booking Fee | 2022 Booking Fee |
|-------------------------|-------------------------|
| \$128.88 | \$134.70 |

6.2.2 The County shall invoice the City a per calendar day “Daily Maintenance Fee” for each City Inmate for whom the County provides Services. The Daily Maintenance Fee for all City Inmates is as follows:

| 2021 Daily Maintenance Fee | 2022 Daily Maintenance Fee |
|-----------------------------------|-----------------------------------|
| \$142.63 | \$187.46 |

Should the Parties renew this Agreement beyond December 31, 2023, additional annual increases shall be calculated pursuant to Section 6.2.3.

6.2.3 Beginning January 1, 2023, the Booking Fee and Daily Maintenance Fee listed in Sections 6.2.1 and 6.2.2 shall increase on January 1 of each calendar year during the term of this Agreement by three (3) percent. The County shall provide the City notice of the Booking Fee and Daily Maintenance Fee increase by September 1 of each year. In the event direct cost to the County to provide jail services increases or decreases by a rate that is more than one (1) percent over the amount of the applicable Booking Fee and Daily Maintenance Fee, the Parties agree that the costs for the remainder of the term shall be renegotiated based on actual direct costs.

6.2.4 The County shall invoice the City for all costs incurred for necessary medical, dental, or mental health services to City Inmates, including, but not limited to, all medication, durable medical equipment, ambulance fees, and medical, dental, and mental

health services provided outside the Jail (the “Medical Costs”). The Medical Costs do not include routine medical examinations, tests, procedures performed at the Jail by Jail staff or contractors. In addition, the Medical Costs do not include expenses covered by the City Inmate’s health insurance and/or public assistance for injuries suffered while in the custody of the County. The County will credit amounts received from the City Inmate’s own health insurance and applicable public assistance before billing the City.

6.2.5 The County shall invoice the City a “Video Court Fee” for each scheduled hour of Video Court time. The Video Court Fee per hour is as follows:

| 2021 Video Court Fee | 2022 Video Court Fee |
|-----------------------------|-----------------------------|
| \$207.96 | \$223.12 |

The County may increase the Video Court Fee upon thirty (30) days’ notice to the City.

6.3 Invoicing and Payment. The City shall remain liable for complete and timely payment of all amounts invoiced. Invoices may be sent monthly, quarterly or on any other schedule that is mutually convenient to the Parties. Where complete payment is not tendered within thirty (30) days of the invoice date, the County may charge interest on the outstanding balance at a rate equal to the interest rate on the monthly County investment earnings. Should the City wish to dispute the amount of a particular invoice, it will (a) make complete and timely payment on the outstanding balance, and (b) deliver written notice of the dispute to the County within thirty (30) days of the invoice date. Failure to properly notify the County of any disputed amounts within thirty (30) days of the invoice shall constitute an acceptance by the City of all charges contained therein. Within fifteen (15) days of timely receipt of payment and the City’s written notice of dispute, the County shall review the disputed invoice. Should the County resolve the dispute in favor of the City, the disputed amounts will be credited towards the City’s next billing cycle, PROVIDED, HOWEVER, that upon termination of this Agreement, the County shall pay out to the City any such credited amounts. Withholding payment of any amount billed, regardless of whether the City has provided timely written notice of a disputed invoice, will constitute a default under Section 11 of this Agreement.

6.4 Records. Each Party may examine the other Party’s books and records to verify charges. The County shall maintain accurate time and accounting records related to the Services for a period of three (3) years following final payment.

7. Indemnification/Hold Harmless.

7.1 City Held Harmless. The County shall indemnify and hold harmless the City and its officers, agents, and employees, or any of them from any and all claims, actions, suits, liabilities, losses, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any negligent act or omission of the County, its officers, agents, and employees, or any of them relating to or arising out of performing services pursuant to this Agreement. In the event that any such suit based upon such a claim, action, loss, or damages is brought against the City, the County shall defend the same at its sole cost and expense; provided that the City reserves the right to participate in said suit if any principle of governmental or public law is involved; and

if final judgment in said suit be rendered against the City, and its officers, agents, and employees, or any of them, or jointly against the City and the County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

7.2 County Held Harmless. The City shall indemnify and hold harmless the County and its officers, agents, and employees, or any of them from any and all claims, actions, suits, liabilities, losses, costs, expenses, and damages of any nature whatsoever, by any reason of or arising out of any negligent act or omission of the City, its officers, agents, and employees, or any of them relating to or arising out of performing services pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damages is brought against the County, the City shall defend the same at its sole cost and expense; provided that the County reserves the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the County, and its officers, agents, and employees, or any of them, or jointly against the County and the City and their respective officers, agents, and employees, or any of them, the City shall satisfy the same.

7.3 Waiver Under Washington Industrial Insurance Act. The foregoing indemnity is specifically intended to constitute a waiver of each Party's immunity under Washington's Industrial Insurance Act, Chapter 51 RCW, as respects the other Party only, and only to the extent necessary to provide the indemnified Party with a full and complete indemnity of claims made by the indemnitor's employees. The Parties acknowledge that these provisions were specifically negotiated and agreed upon by them.

8. Liability Related to City Ordinances, Policies, Rules and Regulations. In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, policies, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such City ordinance, policy, rule or regulation is at issue, the City shall defend the same at its sole expense and, if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and reasonable attorney's fees.

9. Insurance. Each Party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and/or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying part to the indemnified Party(s). Each Party shall provide the other with a certificate of insurance or letter of self-insurance annually as the case may be.

10. Compliance with Laws. In the performance of its obligations under this Agreement, each Party shall comply with all applicable federal, state, and local laws, rules and regulations.

11. Default and Remedies.

11.1 Default. If either the County or the City fails to perform any act or obligation required to be performed by it hereunder, the other Party shall deliver written notice of such failure to the non-performing Party. The non-performing Party shall have fifteen (15) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, after which time it shall be in default (“Default”) under this Agreement; provided, however, that if the non-performance is of a type that could not reasonably be cured within said fifteen (15) day period, then the non-performing Party shall not be in Default if it commences cure within said fifteen (15) day period and thereafter diligently pursues cure to completion.

11.2 Remedies. In the event of a Party’s Default under this Agreement, then after giving notice and an opportunity to cure pursuant to Section 11.1 above, the non-Defaulting Party shall have the right to exercise any or all rights and remedies available to it in law or equity. In addition, if the City fails to make payment on an outstanding invoice within the time to cure and the City has not disputed the invoice as provided in Section 6.3, the City shall have no further right under this Agreement to deliver custody to or otherwise house City Inmates at the Jail and shall, at the County’s request, remove all City Inmates from the Jail within fourteen (14) days of notice to do so. Thereafter, the County may, in its sole discretion, accept City Inmates to the Jail if all outstanding invoices are paid.

12. Early Termination.

12.1 Termination by the County. Except as provided in Section 12.3 below, the County may terminate this Agreement at any time, with or without cause, upon not less than ninety (90) days advance written notice to the City. The termination notice shall specify the date on which the Agreement shall terminate.

12.2 Termination by the City. The City may terminate this Agreement at any time, with or without cause, upon not less than ninety (90) days advance written notice to the County and the Washington State Office of Financial Management. The termination notice shall specify the date on which the Agreement shall terminate, the grounds for termination, and the specific plans for accommodating the affected jail population.

12.3 Lack of Funding. This Agreement is contingent upon governmental funding and local legislative appropriations. In the event that funding from any source is withdrawn, reduced, limited, or not appropriated after the effective date of this Agreement, this Agreement may be terminated by the County immediately by delivering written notice to the City. The termination notice shall specify the date on which the Agreement shall terminate.

12.4 Calculation of Costs Due Upon Early Termination. Upon early termination of this Agreement as provided in this Section 12, the City shall pay the County for all Services performed up to the date of termination. The County shall notify the City within thirty (30) days of the date of termination of all remaining costs. No payment shall be made by the City for any expense incurred or Services performed following the effective date of termination unless authorized in writing by the City.

13. Dispute Resolution. In the event differences between the Parties should arise over

the terms and conditions of this Agreement, the Parties shall use their best efforts to resolve those differences through their Administrators on an informal basis. If those differences cannot be resolved informally, the matter shall be referred for mediation to a mediator mutually selected by the Parties. If mediation is not successful, either of the Parties may institute legal action for specific performance of this Agreement or for damages. The prevailing Party in any legal action shall be entitled to a reasonable attorneys' fee and court costs.

14. Notices. All notices required to be given by any Party to the other Party under this Agreement shall be in writing and shall be delivered either in person, by United States mail, or by electronic mail (email) to the applicable Administrator or the Administrator's designee. Notice delivered in person shall be deemed given when accepted by the recipient. Notice by United States mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, and addressed to the Administrator, or their designee, at the addresses set forth in Section 3 of this Agreement. Notice delivered by email shall be deemed given as of the date and time received by the recipient.

15. Miscellaneous.

15.1 Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter contained herein. This Agreement may not be modified or amended in any manner except by a written document executed with the same formalities as required for this Agreement and signed by the Party against whom such modification is sought to be enforced.

15.2 Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

15.3 Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County or King County. In the event that a lawsuit is instituted to enforce any provision of this Agreement, the prevailing Party shall be entitled to recover all costs of such a lawsuit, including reasonable attorney's fees.

15.4 Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the Parties hereto. The captions and headings in this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

15.5 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.

15.6 No Waiver. A Party's forbearance or delay in exercising any right or remedy with respect to a Default by the other Party under this Agreement shall not constitute a waiver of the Default at issue. Nor shall a waiver by either Party of any particular Default constitute a waiver of any other Default or any similar future Default.

15.7 No Assignment. This Agreement shall not be assigned, either in whole or in part, by either Party without the express written consent of the other party, which may be granted or withheld in such Party's sole discretion. Any attempt to assign this Agreement in violation of the preceding sentence shall be null and void and shall constitute a Default under this Agreement.

15.8 Warranty of Authority. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign this Agreement.

15.9 Independent Contractor. The County will perform all Services under this Agreement as an independent contractor and not as an agent, employee, or servant of the City. The County shall be solely responsible for control, supervision, direction and discipline of its personnel, who shall be employees and agents of the County and not the City. The County has the express right to direct and control the County's activities in providing the Services in accordance with the specifications set out in this Agreement. The City shall only have the right to ensure performance.

15.10 No Joint Venture. Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the Parties.

15.11 No Separate Entity Necessary. The Parties agree that no separate legal or administrative entities are necessary to carry out this Agreement.

15.12 Ownership of Property. Except as expressly provided to the contrary in this Agreement, any real or personal property used or acquired by either Party in connection with its performance under this Agreement will remain the sole property of such Party, and the other Party shall have no interest therein.

15.13 No Third Party Beneficiaries. This Agreement and each and every provision hereof is for the sole benefit of the City and the County. No other persons or Parties shall be deemed to have any rights in, under or to this Agreement.

15.14 Force Majeure. In the event either Party's performance of any of the provisions of this Agreement become impossible due to circumstances beyond that Party's control,

including without limitation, force majeure, strikes, embargoes, shortages of labor or materials, governmental regulations, acts of God, war or other strife, that Party will be excused from performing such obligations until such time as the Force Majeure event has ended and all facilities and operations have been repaired and/or restored.

15.15 Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

COUNTY:

Snohomish County, a political subdivision of the State of Washington

By _____

Name: Dave Somers
Title: County Executive

CITY:

City of Mill Creek, a Washington municipal corporation


By _____

Name: Michael Ciaravino
Title: City Manager

Approved as to Form:

Deputy Prosecuting Attorney

Approved as to Form:



City Attorney

Approved as to Indemnification and Insurance:

Risk Management

EXHIBIT A

Proportionate Billing

The County uses a proportional billing process to calculate fees and charges for each inmate. As a result, if multiple jurisdictions have an open charge on an individual inmate, the jurisdictions will each share equally the fees and costs as long as an open charge persists for that jurisdiction. When a contracting jurisdiction's charge is closed, that jurisdiction drops from the proportional billing process, and the proportional billing is recalculated without that jurisdiction.

Each day the County shall examine the open charges for each active booking and apply uniform rules for determining billable charges and identifying the billable jurisdiction.

The procedure employed by the County for determining the billable charges and responsible jurisdictions is outlined below and references the County's internal billing system. The procedure continues in sequence through the outlined series of steps only so far as needed to isolate a billable charge and determine the jurisdiction responsible for payment.

1. Select "All Felony Charges."
 - a. If there is more than one felony charge or if there is one felony charge and a Washington State Department of Corrections (the "DOC") hold, go to Step 2.
 - b. If there is one felony charge but no DOC hold, do not invoice.
 - c. If there are no felony charges, go to Step 3.
2. Select "Arresting Agency DOC-Parole-Olympia."
 - a. If there are no other arresting agency charges and all felony charges are with DOC, invoice DOC.
 - b. If there is a DOC hold and additional local charges (that is, charges from jurisdictions that have an interlocal agreement for jail services with the County), do not invoice.
 - c. If there is a DOC hold and non-local additional charges (that is, charges from jurisdictions that do not have an interlocal agreement for jail services with the County), invoice DOC.
3. Select "All Misdemeanor Charges."
 - a. If there is only one misdemeanor charge, invoice the charging jurisdiction.
 - b. If there is more than one misdemeanor charge from more than one jurisdiction, invoice each jurisdiction in equal shares. If a jurisdiction has multiple open misdemeanor charges, the jurisdiction is only invoiced as one element of the proportional billing process. Snohomish County shall be invoiced its proportional share where applicable.

Example: If City A has one open misdemeanor and City B has two open misdemeanor charges, all at the same time, each city is billed for fifty percent (50%) of the Fees and Costs for that inmate.

4. Drop jurisdictions with closed charges.

Example: City X has one open misdemeanor charge, and City Y has one open misdemeanor charge. City Y's charge is closed. City X is billed for one hundred percent (100%) of the Fees and Costs for that inmate from then on.

DAN#: _____



MILL CREEK POLICE

SNOHOMISH COUNTY JAIL ILA

JEFF YOUNG, CHIEF OF POLICE

AGENDA ITEM #F.

SNOHOMISH COUNTY JAIL ILA

- THE MILL CREEK POLICE DEPARTMENT CONTRACTS WITH THE SNOHOMISH COUNTY SHERIFF'S OFFICE (SCSO) TO DETAIN PERSONS ARRESTED OR CONVICTED OF VARIOUS CRIMES
- ARRESTED PERSONS COULD BE DETAINED IN THE SCSO JAIL FOR MERE HOURS OR DAYS DEPENDING ON THE CRIME
- PERSONS WHO ARE SENTENCED BY A JUDGE COULD BE DETAINED FOR UP TO 364 DAYS

PREVIOUS SCSO JAIL RATES

2015-2017

| Housing Assignment | 2015 Daily Maintenance Fee | 2016 Daily Maintenance Fee | 2017 Daily Maintenance Fee |
|---------------------------|----------------------------|----------------------------|----------------------------|
| General Population | \$84.00 | \$88.50 | \$93.50 |
| Medical and Specialty | \$132.50 | \$140.00 | \$147.25 |
| Mental Health | \$201.00 | \$212.00 | \$223.25 |
| Work Release/Work Crew | \$50.00 | \$55.00 | \$60.00 |
| Electronic Home Detention | \$22.00 | \$27.00 | \$32.00 |

2020

| Snohomish County Jail Rates January 1, 2020 | | | |
|--|-----------|-----------------------------------|----------|
| | 2019 Fees | 2020 Fee with CPI (1.53% 2020) | Increase |
| Booking | | | |
| Booking Fee | \$125.06 | \$126.97 | \$1.91 |
| Housing Assignment | | | |
| General Population | \$101.69 | \$103.25 | \$1.56 |
| Medical and Specialty | \$160.13 | \$162.58 | \$2.45 |
| Mental Health | \$242.79 | \$246.50 | \$3.71 |
| Video Court Fee | | | |
| Video Court Fee | \$196.29 | \$199.29 | \$3.00 |

SCSO JAIL FEES

2021

- BOOKING FEE: \$128.88
- DAILY MAINTENANCE FEE: \$142.63
- VIDEO COURT: \$207.96

2022

- BOOKING FEE: **\$134.70**
- DAILY MAINTENANCE FEE: **\$187.46**
- VIDEO COURT: **\$223.12**
- **24% INCREASE**

SNOHOMISH COUNTY JAIL ILA

- DUE TO THE SIGNIFICANT INCREASE IN FEES, MCPD STAFF IS EXPLORING OPTIONS AND ALTERNATIVES IN AN EFFORT TO MITIGATE COSTS
- THIS WILL BE PARTICULARLY IMPORTANT FOR PERSONS SENTENCED FOR EXTENDED LENGTHS OF TIME
- WE WILL REPORT BACK WHEN FURTHER INFORMATION IS AVAILABLE



QUESTIONS?





Meeting Date: April 6, 2021

CITY COUNCIL AGENDA SUMMARY

City of Mill Creek, Washington

AGENDA ITEM: LETTER OF SUPPORT FOR COUNTY 164TH AND I-5 INTERCHANGE PROJECT

PROPOSED MOTION:

Authorize the Mayor to sign letters of support for Snohomish County's 164th and I-5 Interchange Project Funding Request on behalf of the City Council.

KEY FACTS AND INFORMATION SUMMARY:

Our U.S. Senators and Congressional Representatives are reaching out to the Cities and Counties about transportation projects that are shovel ready and appropriate for the Federal Funding recently announced in response to COVID. From a letter from Congressman Rick Larsen's office:

“Congressional “earmarks” are back in a limited fashion under a new initiative called Community Project Funding (CPF). This process is designed to be transparent and accountable, and to allow Members of Congress to direct federal resources to local projects that will make a real difference in people's lives. Therefore, Rep. Larsen wants to hear from you about potential projects that would benefit from federal funding—especially ones that enjoy broad local support and will significantly benefit your communities.”

Mill Creek does not have any applicable projects under this program but has long been a supporter and contributor to the Regional Transportation Priority List (attached). Snohomish County has selected some projects from that list to submit to the process; one of those, the 164th and I-5 Interchange Improvement Project, is in Congressman Larsen's District. As light rail comes to Ash Way in the longer term, and Bus Rapid Transit comes to 164th in 2024, the proposed improvements will be of great benefit to Mill Creek citizens and the broader south Snohomish County community to make cars, bikes, pedestrians, and transit all move more smoothly and safely.

Snohomish County is seeking \$10M to start the design of the project, setting themselves up for future construction funding cycles. We have the opportunity to offer our support for their grant proposal via a letter from Council. Their grant request package is due to the Congressman April 7. A proposed letter is attached.

It is likely that Senators Patty Murray and Maria Cantwell will have similar processes through their offices in the next few weeks. This same project is likely to also be proposed by Snohomish County should the Senators ask for proposals. It would be expedient if Council were to authorize the Mayor to sign substantially similar letters of support to those funding processes should that opportunity arise.

Congresswoman Suzan Del Bene has a similar process in progress. Snohomish County's proposed projects in her district (Mill Creek's district) are not as germane to Mill Creek, so no letter of support is requested or appropriate for those projects.

CITY MANAGER RECOMMENDATION:

Authorize the Mayor to sign letters of support to Congress for Snohomish County's 164th and I-5 Interchange Project Funding Request on behalf of the City Council.

ATTACHMENTS:

[I-5 164th Texas T Letter of Support Draft for Council consideration
SnoCoRegionalPriorityProjects1020_final](#)

Respectfully Submitted:



Michael Ciaravino, City Manager

April 6, 2021

The Honorable Rick Larsen
Member of Congress
2163 Rayburn House Office Building
Washington, DC 20515

Re: I-5 / 164th Street SW Texas T Project for the FY 2022 Member Designated Project Request

Dear Congressman Larsen:

We are writing with our strong support of Snohomish County's request for federal funding for the I-5/164th Street SW Texas T project under the Transportation and Infrastructure FY 2022 Member Designated Project Program.

This project provides both new eastbound/westbound transit and HOV access across I-5, and direct access from I-5 to Ash Way Park & Ride from the north, 164th St SW, and a future light rail station. With project improvements, the corridor could serve 72,000 trips per day and increase transit ridership along the corridor by up to 1,000 passengers a day. Additionally, it will offer Bus Rapid Transit and pedestrians/bicyclists with an alternative crossing to the congested interchange.

During the AM and PM peak hours, the I-5 freeway interchange with 164th Street creates a bottleneck and traffic congestion that extends in both directions along 164th Street. The traffic congestion is only expected to worsen as development intensifies along the corridor in response to the Swift Orange Line arriving in 2024 and light rail station coming in 2036. The traffic congestion degrades transit reliability and travel speeds along the corridor and will also degrade access to the light rail station. Traffic congestion is also a chronic issue for our citizens that use single occupant vehicles and carpools to access I-5 for work and school, so the improvements this interchange upgrade would bring are advantageous for all modes of transportation.

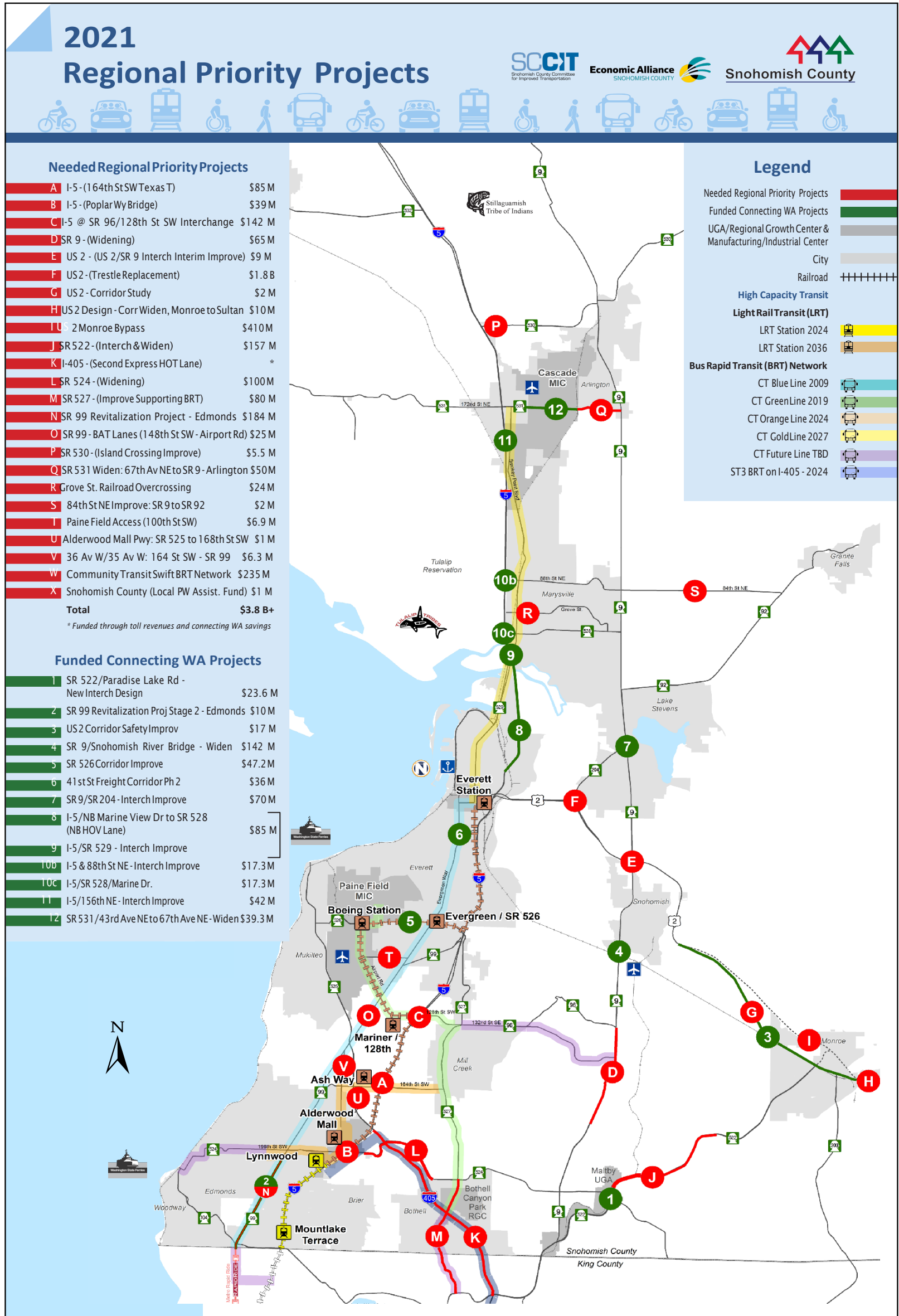
Again, we support Snohomish County's request for \$10 million in federal funding under the FY 2022 Member Designated Project Program to complete the preliminary engineering and a final design report for this important transportation infrastructure improvement project.

On behalf of the Mill Creek City Council,

<signed>

Brian Holtzelaw, Mayor

Cc: Mill Creek City Council
Kelly Snyder, Director, Snohomish County Public Works





Regional Priority Projects



Snohomish County

| | | | |
|--------------|--|-----------------|---|
| A | I-5 (164th Street SW Texas T) - Mill Creek | \$85 M | This project provides both new eastbound/westbound transit and HOV access across I-5, and direct access from I-5 to Ash Way Park & Ride from the north, 164th St SW, and a future light rail station. Additionally, it will offer Bus Rapid Transit and pedestrians/bicyclists with an alternative crossing to the congested interchange and provides a southbound direct access ramps to Ash Way Park & Ride. |
| B | I-5 (Poplar Way Bridge) - Lynnwood | \$39 M | The new Poplar Way Bridge is the most significant solution for congestion relief in Lynnwood's City Center along 196th Street S and around Alderwood Mall and Alderwood Mall Parkway. |
| C | I-5 @ SR 96/128th St SW Interchange Improvements - Everett | \$142 M | This will replace the existing I-5/128th Street SW bridge and ramps with a single-point urban interchange. The new interchange will reduce congestion on 128th St SW, improve access to and from I-5 and reduces backups onto I-5. The interchange will also improve safety for drivers and pedestrians. |
| D | SR 9 (Corridor Widening) - Clearview | \$65 M | This project completes the missing link between two previous SR 9 widening projects. It involves widening nearly three miles of SR 9 from a three-lane road to a four-lane divided highway from 176th Street SE in Clearview north to SR 96/Broadway Avenue. WSDOT data shows there are fewer collisions in the areas of SR 9 that have been widened. Anticipate construction to begin Fall 2021 |
| E | US 2 (US 2/SR 9 Interchange Interim Improvements) - Snohomish | \$9 M | SR 9 is a critical transportation link in Snohomish County that serves as the only major north-south alternative to I-5 for motorists moving between King County and areas north of Arlington. This project will improve operational safety, add capacity, and relieve congestion through restriping of existing pavement to creating new lanes. |
| F | US 2 (Trestle Replacement) - | \$1.8 B | Proposal is to replace the aging US 2 westbound trestle. First phase of this project provides SR 204, 20th Street SE, and US 2 with their own lanes onto the trestle, which relieves congestion by extending the merge over Ebey Slough with an estimate of \$350M. |
| G | US 2 Corridor Capacity Study- Sultan | \$2 M | Conduct a study to improve safety and relief congestion on US 2 between Everett and Leavenworth. The study will include alternatives for road widening and intersection improvements along the corridor. |
| H | US 2 Design - Corridor Widening - Monroe to Sultan | \$10 M | Complete design report and begin environmental work for the widening of US 2 from 2 to 4 lanes including appropriate median separation per the US 2 safety study. |
| I | US 2 Monroe Bypass – Phase 1 | \$410 M | This project will relieve congestion, decrease travel times and reduce collision on US 2 from the City of Snohomish through the City of Monroe by constructing a bypass route. |
| J | SR 522 (Interchange & Widening) - Maltby | \$157 M | The interchange will improve flow and decrease rear-end collisions during stop and go conditions, making the roadway safer for drivers. This interchange will have \$10M in design funding available from WSDOT beginning in 2025. The widening will double the number of lanes on SR 522 between Paradise Lake Road and the Snohomish River bridge from a two-lane highway to a four-lane, divided highway. The wider, separated highway will provide congestion relief as well as help reduce collisions that occur along this segment. This completes the gap between I-405 and Monroe. |
| K | I-405 (Second Express HOT Lane) - Bothell | * | Widening I-405 to create a dual-lane express toll lane system will support WSDOT's goal to maintain an average speed of 45 mph or greater at least 90% of the time during the morning and afternoon rush hour. WSDOT data indicates there has been a 40% increase in HOV use during the peak hour in the northbound toll lanes near SR 522. |
| L | SR 524 (Corridor Widening) - Lynnwood | \$100 M | This project would complete the missing link between the Bothell city limits and 24th Avenue W in Lynnwood. This project connects one of the fastest growing areas of the southwest urban growth area of the county to the Lynnwood Light Rail Station opening in 2024. |
| M | SR 527 (Improvements Supporting BRT) - Bothell | \$80 M | The SR 527 corridor is both a local and regional connection carrying more than 45,000 vehicles per day as it connects the three regional state highways (I-405, SR 522, and SR 524). A SWIFT Bus Rapid Transit route along SR 527 from Paine Field to Canyon Park is in operation, but improvements on SR 527/Bothell-Everett Hwy/Bothell Way NE are needed to facilitate future extension into downtown Bothell and the UW Bothell/Cascadia college campuses. |
| N | SR99 Revitalization Project - Edmonds | \$184 M | The project improves traffic flow and provides congestion relief along this regional corridor through capacity improvements at the key signalized intersections. In addition, the economic viability of the corridor will be enhanced through the installation of wider sidewalks, planter strips, street and pedestrian lights, bike facilities on cross streets, stormwater facilities, and modernization of utilities. |
| O | SR 99 BAT lanes: 148th St SW to Airport Rd - Everett | \$25 M | Construct 2.3 miles of 14 foot business access and transit (BAT) lanes in both directions on SR 99 from 148th St SW to Airport Rd. The completion of this project will fill in a missing section of BAT lanes that when completed will result in continuous BAT lanes on SR 99/Aurora Avenue/Evergreen Way from the Seattle/Shoreline city line to the city of Everett. Completion of the BAT lanes will accommodate Community Transit's Swift Bus Rapid Transit Blue Line, which is the highest ridership route in Snohomish County. |
| P | SR 530 (Island Crossing Improvement) - Arlington | \$5.5 M | SR-530 is one of two primary state highways for vehicles and freight heading to Arlington, Darrington, and other communities in NW Snohomish County. The level of service and safety issues at the SR-530 and Smokey Point Blvd intersection have become so severe that WSDOT has permitted the City of Arlington to install a temporary span-wire signal until a permanent solution (roundabout) can be installed. The City of Arlington, the Stillaguamish Tribe, Snohomish County and WSDOT have been jointly working on the roundabout design to be completed in mid-2021. This request is seeking construction and right-of way funding. |
| Q | SR 531 Widening: 67th Ave. NE to SR 9 – Arlington | \$50 M | The Cascade Manufacturing Industrial Center (CMIC) has seen extreme growth over the past several years. SR-531 is a primary link through the heart of the CMIC that connects Interstate 5 (I-5) to State Route 9 (SR 9). The 2015 Connecting Washington package funded the widening of SR 531 from a two lane roadway to a four lane roadway between 43rd Ave. NE and 67th Ave. NE. This project would continue the widening of SR 531 all the way to SR 9 providing congestion relief, improve access and increase freight mobility to the CMIC. |
| R | Grove St. Railroad Overcrossing - Marysville | \$24 M | The project proposes an overcrossing for the BNSF at-grade railway on Grove Street to improve safety, reduce congestion and improve emergency response time. The railway parallels I-5 and rail traffic significantly impedes east-west traffic mobility and the ability to access Interstate 5. |
| S | 84th Street NE (Getchell Rd) Corridor Improvements: SR 9 to SR 92 | \$2 M | 84th St. NE (Getchell Rd) is an important east-west connection between SR 9 and SR 92 leading into Granite Falls. In a 5-year period (2013-2017), the 4.7 mile corridor had over 160 collisions and over 100 injuries. The \$2 M would provide operation and safety improvements to 2 or 3 intersections along the corridor and may include adding left turn pockets, widening shoulders, adding traffic signals and illumination. |
| T | Paine Field Access (100th St. SW) - Everett | \$6.9 M | The 100th St SW project extends from just east of Airport Road at the Everett city limits and the end of the county widening to east of Evergreen Way. The configuration includes a three lane plus bike lanes and sidewalks both sides. |
| U | Alderwood Mall Parkway: SR 525 to 168th St SW | \$1 M | Alderwood Mall Parkway connects two rapidly growing areas of Snohomish County, linking the County's Urban Center with Lynnwood's Regional Growth Center. This project will widen the corridor to a continuous five lanes with bicycle and pedestrian facilities. These improvements will reduce congestion, improve transit efficiency, enhance non-motorized use of the corridor, and support regional transit by improving access to the West Alderwood Mall Sound Transit light rail station. |
| V | 36th Ave W/35th Ave W: 164th SW to SR 99 | \$6.3 M | The 36th/35th Avenue corridor is a critical connection between Lynnwood's Regional Growth Center and Snohomish County's urban center. This project will increase capacity, reduce congestion, and provide multimodal facilities with bicycle facilities, curb and sidewalks. |
| W | Community Transit Swift BRT Network | \$235M | Build out of the Community Transit Swift BRT Network. Swift Lines: Orange, Blue Expansion, Gold, Green Extension, Silver. |
| X | Snohomish County (Local PW Assistance Fund) | \$1 M | This fund provides low-interest loans to local agencies to assist in funding Public Works projects located wholly or partially within Snohomish County. Since 2016, the county has awarded over \$2 M to 5 local cities. |
| Total | | \$3.8 B+ | <i>* Funded through toll revenues and Connecting WA savings</i> |

12/10/2020 TES.88.1020



Meeting Date: April 6, 2021

CITY COUNCIL AGENDA SUMMARY

City of Mill Creek, Washington

AGENDA ITEM: Study Session No. 3 on the Governance Manual—Articles 7, 8 and 9.

KEY FACTS AND INFORMATION SUMMARY:

During the April 6, 2021 Study Session, Council will review Articles 7, 8 and 9 of the current Governance Manual. Accompanying this memorandum are the following:

- Mill Creek Governors Manual Power Point
- Mill Creek Revised– Proposed Revision to Articles 7,8 and 9
- A copy of the MRSC publication titled *Parliamentary Procedure: A Brief Guide to Robert’s Rules of Order*; and
- Governance Manual Complete

What follows is a brief summary of the changes contemplated for each Article.

Article 7

Article 7 is titled Preparation for Council Meeting. The subjects covered include preparation of the agenda, study sessions, preparation and adoption of ordinances and resolutions. The proposed changes focus on having the Manual conform to current practices. Section 7.1 is revised to reference the collaborative process used by the City Manager, the City Clerk, the Mayor and the Mayor Pro Tem in setting the meeting agenda. Also, language is added to reference both the “Tentative Council Meeting Agenda” feature added to the weekly Council packet and the process for “Proposed New Initiatives.”

An unused “Second Reading” procedure is deleted from Section 7.4.2 and the procedure for distributing the weekly agenda packet is updated in Section 7.5.

Article 8

Article 8 covers the procedural rules governing Council meetings. The more significant proposed changes include the following:

- In Section 8.1, it is proposed that Roberts Rules of Order (Newly Revised) be incorporated by reference and used to conduct Council meetings. The MRSC publication *Parliamentary Procedure: A Brief Guide to Robert’s Rules of Order*, provides an excellent summary of the most important procedural rules in an easy to read and concise three pages.
- Currently Section 8.1 states that the Council conducts its business using Resolution 1, a Resolution governing public hearings adopted on October 3, 1983. It is attached as

Exhibit A to the Manual. Resolution 1 purports to be a condensed version of Roberts Rules of Order but uses terminology that is much less concise than that found in the MRSC publication and it is not written in a gender-neutral manner. For these reasons, it is recommended that the references to Resolution 1 be deleted and that the Council consider rescinding Resolution 1.

- Section 8.2 is expanded to include additional explanations of motions, amendments, and motions directed at closing debate.
- Section 8.3 is expanded to update the voting process and to provide rules governing motions for reconsideration.
- Section 8.7 is revised to reflect the current conduct of Council meetings including the elements of the agenda.
- Section 8.10 is revised to reflect the fact that Council offers multiple opportunities to receive comments from the public at every meeting. A proposal to limit the maximum number of persons speaking on the same topic to three in a meeting that is not a public hearing is used by a number of cities and is suggested here. For legislative public hearings, Council may wish to adopt separate rules regulating the duration of the hearing and the amount of time each member of the public will be permitted to speak.

Article 9

Article 9 states that the Governance Manual is designed to provide guidance to the Council and City administration. The provisions in the Manual are not to be amendments or substitutes for ordinance or statutes. While the Manual's provision is to guide Councilmember conduct, actions which deviates from the provisions, but which otherwise is lawful does not invalidate any actions of the Council. Its provisions do not govern the conduct of citizens and create no rights of action.

Exhibit B

Exhibit B to the Manual is titled *Rules of Procedure for the Conduct of Public Hearings*.

The document appears to address rules for quasi-judicial proceedings before the Council. It is recommended that Exhibit B be deleted from the Manual and that Council consider adopting a Resolution governing the Conduct of quasi-judicial appeal hearings.

ATTACHMENTS:

Mill Creek GM Power Point

Mill Creek Revised– Proposed Revision to Articles 7,8 and 9

MRSC – Parliamentary Procedure A Brief Guide to Robert's Rules of Order

Governance Manual Complete

Respectfully Submitted:



Michael Ciaravino, City Manager

GOVERNANCE MANUAL

POTENTIAL REVISIONS

April 6, 2021



Governance Manual: Where We Are in the Process



Article 7—Preparation for Council Meetings

CITY COUNCIL AGENDA

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



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



April 6, 2021

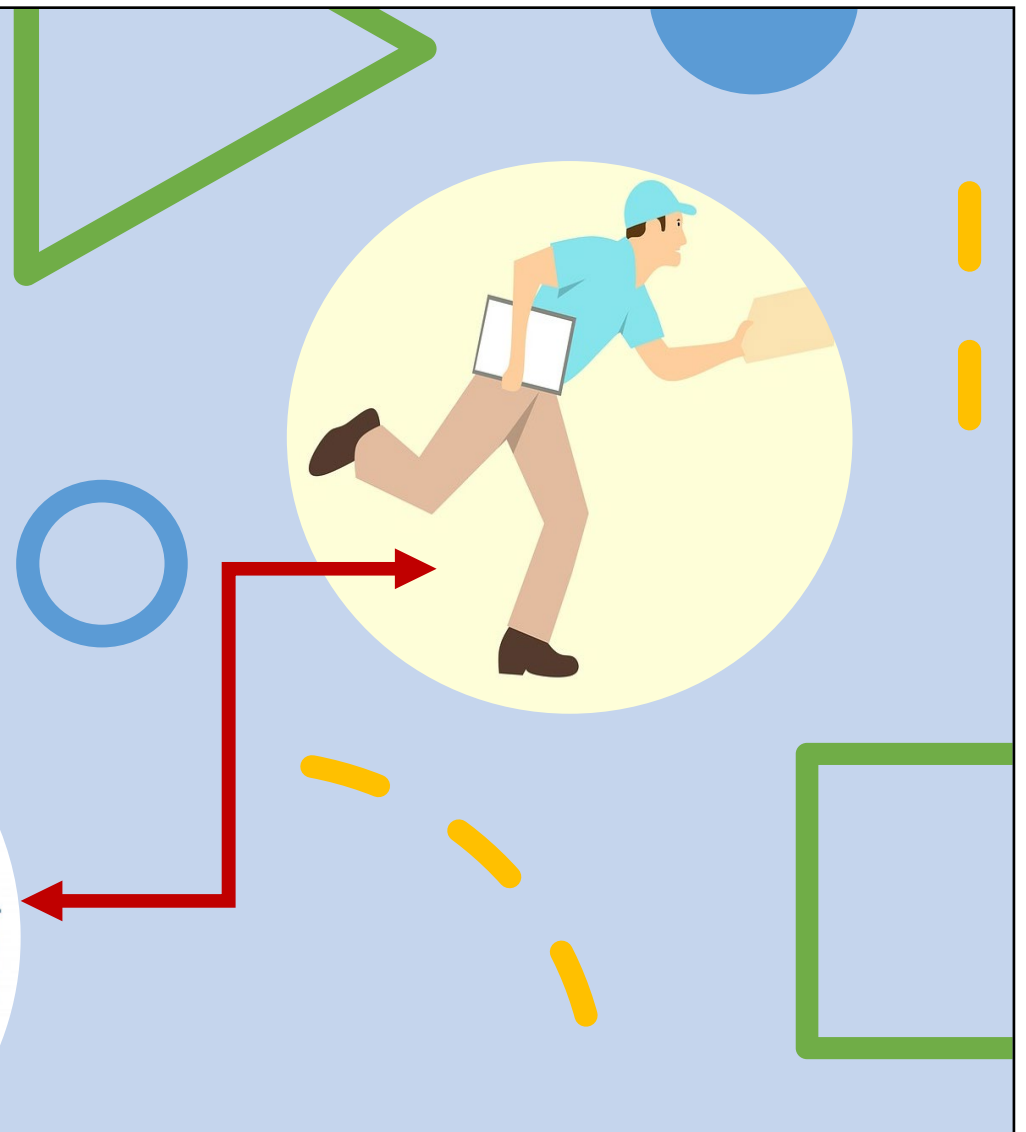
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Revisions to Section 7.1

- Recites roles of City Manager, City Clerk, Mayor and Mayor Pro Tem in setting the meeting agenda.
- Formalizes inclusion of Tentative Council Meeting Agenda list.
- Formalizes inclusion of Proposed New Initiatives Process
 - Confer with City Manager, Mayor and Mayor Pro Tem
 - Include New Initiatives Agenda Item
 - Obtain Council concurrence

7.5 Council Packets

- Council Packets are Delivered Electronically
- Printed packets available upon request to the City Clerk



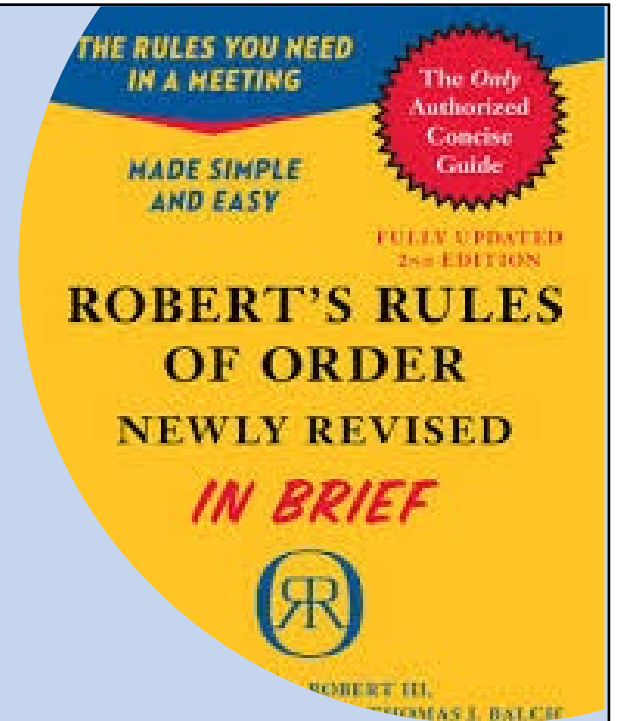
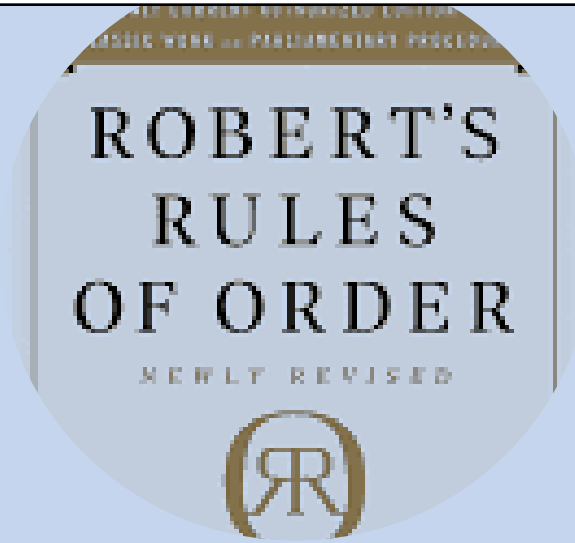
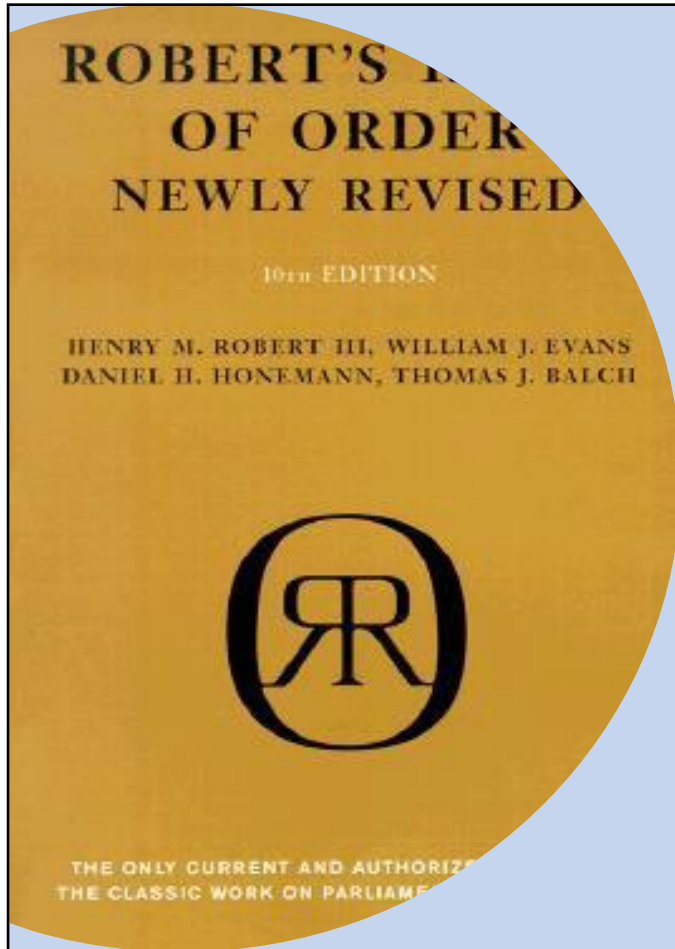
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Article 8— Rules of Order for Council Meetings





8.1-Parliamentary Procedure



Revisions to Section 8.1



- Incorporation of Roberts Rules of Order (Newly Revised) by reference
- Mayor as the Chair rules on all matters of order
- Mayor's rulings are subject to appeal if moved, seconded and majority vote
- Mayor cannot make a motion without temporarily relinquishing the chair
- Delete incorporation of and reliance on Resolution 1 (Exhibit A)

Additions to 8.2--Motions



- Motions must be seconded to be entertained and debated.
- Once a motion is seconded it cannot be withdrawn before action is taken without the consent of the Council.
- Amendments to motions must relate to the main motion and may not be written in a way that would defeat the main motion.
- Amendments must be seconded.
- Only two amendments may be on the floor at one time.
- Amendments are voted in the reverse order in which they are made.

Motions to Close Debate



- Sometimes referred to as “calling the question” or “moving the previous question”
- Purpose is to end debate on a pending motion
- A second is required
- The motion is not debatable
- The motion must pass by a two-thirds majority

Revisions to Section 8.3-- Voting



- Retains voice voting
- Permits any member to demand a “division”—a roll call vote by a show of hands or a roll call.
- Written ballots only used for election of mayor, mayor pro tem or council appointment
- A motion for reconsideration must be made by a person who voted on the prevailing side of the principal motion and must be made at the same or next succeeding meeting.

Motion to “Lay on the Table”



- Purpose is to postpone discussion until a time certain or until the majority votes to resume discussion.
- Halts consideration of the question immediately
- The motion requires a second, is non-debatable, not amendable
- Unless the original motion specifies a date for the motion to be brought back, a majority must pass a motion to take the motion from the table. The motion is non-debatable.
- Some Councils establish a minimum period of time before a tabled motion can be considered.

Revisions to 8.7-Conduct of Council Meetings

- Updates the agenda elements to include:
 - Public Comment
 - Summary Reports
 - Consent Agenda
 - Proposed New Initiatives
 - New Business
 - Old Business
 - Executive Sessions

Revisions to 8.10- Public Comment

- Recites that there will be two opportunities for public comment at each meeting.
- Gives the Mayor the opportunity to limit the amount of time allowed for public comment if necessary.
- Adds a maximum of three persons being permitted to speak on each side of any one topic during each public comment period.



8.11.3 Public Comment Rules for Legislative Hearings

- Requires Council to adopt rules that will govern the duration and time limits for public comment or testimony at the hearing.
- Allows the Council to adjust the time limits to fit within the allotted time and to organize public comments or testimony efficiently.
- Deletes the use of the Rules set forth in Exhibit B of the Manual.

Article 9– Use of the Manual and its Rules

- Re-affirms that the manual is a guidance document to assist the Council and City Administration in the operation of the Council’s business.
- No authority other than the Council may rely on or enforce the rules.
- Its provisions do not create substantive rules to be binding on or relied upon by members of the public.
- Council could include voting procedure for its leadership elections, rules for public comment at Council meetings and legislative public hearings in a separate resolution.

Remaining Tasks

- Rescind Resolution 1
- Consider New Resolution Governing Leadership Elections, Public Comment and Legislative Public Hearings
- Review Draft of Revised Governance Manual in May

Questions?

April 6, 2021



Article 7: Preparation for Council Meetings

7.1 Council Meeting Agendas

The City Manager or the City Manager’s designee shall confer with the Mayor and Mayor Pro Tem in setting the agenda for each meeting. The Proposed Agenda and all agenda materials 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.

The City Clerk shall include in each Agenda packet a “Tentative Council Meeting Agenda” list to advise Councilmembers and the public on topics that may come before the Council in future meetings.

“Proposed New Initiatives” shall be a standing agenda item during which Councilmembers may propose a specific topic to include on a future Council agenda. Councilmembers are encouraged to discuss the proposed topic in advance with the Mayor, Mayor Pro Tem and the City Manager. If a majority of Councilmembers support including the topic on a future agenda, the City Manager will confer with staff, the Mayor and Mayor Pro Tem in scheduling the topic on a future 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.).

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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”proposed”.

7.4.2 Preparation of Ordinances and Resolutions

The procedures for ordinances and resolutions are as follows:

(a) Proposing an Ordinance or Resolution

Following the procedures set forth in Section 7.1, a Councilmember may, 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 board or commission for consideration. staff, board or commisison shall report its findings to the Council. The City Manager, the City Attorney, or any of the citizen boards 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.

(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 access council agenda packets electronically. A printed copy of the agenda packet shall be made available to any Councilmember upon request to the City Clerk.

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 (Newly Revised (RRO) which are incorporated by reference. MRSC has prepared a useful tutorial *titled Parliamentary Procedure: A Brief Guide to Robert’s Rules of Order*, and is posted on its website.. The Mayor as Chair shall rule on all matters of order subject to the process of appeal from the decision of the chair by a motion moved, seconded and carried by a majority of the Council. The Chair at his or her discretion may call on the Mayor Pro Tem to temporarily assume the chair to enable the Mayor to make a motion.

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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.

8.2.1 Motions.

No motion shall be entertained or debated until seconded and announced by the Chair. The motion shall be recorded and, if requested by a Councilmember, it shall be read by the City Clerk before it is debated or voted on. A motion that has been seconded cannot be withdrawn before action is taken without the consent of the Council.

8.2.2 Amendments to a Motion.

An amendment must be related to the main motion and may not be written in a way that would defeat the main motion. Amendments require a second. Only two amendments may be on the floor at a time. Amendments are voted on in the reverse order in which they are made.

8.2.3 Motion to Close Debate.

A motion to close debate (sometimes referred to as either “calling for the previous question” or “call the question”, requires a second, is not debatable and requires a two-thirds majority vote.

8.3 Voting

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

- Council votes will be taken by voice. Any member may demand a roll call vote before or after any action is taken. The demand for a roll call vote does not require a second. Roll calls may be conducted by councilmembers raising their hands in support or in opposition to the motion or, alternatively by requesting the City Clerk to call the names of each Councilmember and to record each Councilmember’s vote. Written ballots will not be used,except for the biennial election of the Mayor and Mayor Pro Tem under the procedures set forth in Article 4
- 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.
- A motion to reconsider must be made by a person who voted on the prevailing side of the principal motion and must be made at the same or the next succeeding regular meeting.

8.4 All Councilmembers have Equal Rights to be Heard but the Will of the Majority Must Prevail

All Councilmembers wishing to be recognized shall be given an opportunity to speak on any motion where debate is permitted. Any Councilmember shall have the right to express support or dissent

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from or protest, orally or in writing, against any Motion, Resolution or Ordinance of the Council and have the reason therefore entered or captured in the minutes.

8.5 Citizen 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 response, as appropriate.

8.6 Prior Permission Required for Certain Elaborate Presentations

The Chair 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 Council 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

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 occurring in the executive session.

- **Summary Reports**

Short summary reports may be presented near the end of the meeting. Short summary reports may, for example, be presented by the Mayor, Mayor Pro Tem, Councilmembers, the City Manager, other City staff or the chair of a city board or commission.

- **Public Comment Period or Public Hearing**

The routine public comment period at a 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

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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.

- **Proposed New Initiatives**

The purpose of such a discussion is to offer Councilmembers an opportunity to propose topics for future Council subject to the process described in Section 7.1.

- **New Business**

The purpose of this section is to introduce items that have not previously appeared before the Council.

- **Old Business**

Updates on matters previously presented to the Council are included in this section of the Agenda.

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) Referral to Boards, Commissions or Other Public Process

At a Study Session, the Council may choose to refer an issue to a City board, commission or a new Ad Hoc Committee or Steering Group, or schedule some other public process 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.

8.10 Procedures for Public Comment at Council Meetings**8.10.1 In General**

The City Council desires to allow a maximum opportunity for public comment at various public forums and meetings. Opportunities for public comment are provided at the beginning and at the end of every meeting. However, at a Regular 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 on the time available for public comment as are necessary to progress through the agenda and/or to prevent disruption of other necessary business. A maximum of three persons are permitted to speak on each side of any one topic during each public comment period.

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, other stakeholders, etc.).

8.11.3 Rules for Legislative Public Hearings

Prior to any legislative public hearing, Council shall adopt special rules governing the duration and time limits for public comment or testimony at the hearing.

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 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

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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 Councilmembers in the conduct of their duties 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.



Parliamentary Procedure: A Brief Guide to Robert's Rules of Order

This page provides a brief overview of important aspects of Robert's Rules of Order as applied to parliamentary procedure for local governments in Washington State.

Overview

Parliamentary procedure provides the process for proposing, amending, approving and defeating legislative motions. Although following parliamentary procedure is not required, it can make council meetings more efficient and reduces the chances of council actions being declared illegal or challenged for procedural deficiencies.

A city may adopt, by ordinance or resolution, its own set of rules governing the conduct of council meetings, or it may adopt by reference formalized rules such as Robert's Rules of Order. Many Washington cities have adopted Robert's Rules, supplementing those rules with additional rules on issues such as voting abstentions and motions for reconsideration.

Basic Rules

- **Only one subject may be before a group at one time.** Each item to be considered is proposed as a motion which usually requires a "second" before being put to a vote. Once a motion is made and seconded, the chair places the question before the council by restating the motion.
- **"Negative" motions are generally not permitted.** To dispose of a business item, the motion should be phrased as a positive action to take, and then, if the group desires not to take this action, the motion should be voted down. The exception to this rule is when a governing body is asked to take action on a request and wishes to create a record as to why the denial is justified.
- **Only one person may speak at any given time.** When a motion is on the floor, an order of speaking is prescribed by Robert's Rules, allowing the mover of a motion to speak first, so that the group understands the basic premise of the motion. The mover is also the last to speak, so that the group has an opportunity to consider rebuttals to any arguments opposing the motion.
- **All members have equal rights.** Each speaker must be recognized by the moderator prior to speaking. Each speaker should make clear his or her intent by stating, "I wish to speak for/against the motion" prior to stating arguments.
- **Each item presented for consideration is entitled to a full and free debate.** Each person speaks once, until everyone else has had an opportunity to speak.

- **The rights of the minority must be protected, but the will of the majority must prevail.** Persons who don't share the point of view of the majority have a right to have their ideas presented for consideration, but ultimately the majority will determine what the council will or will not do. Use parliamentary procedure as a tool, not a bludgeon.

Motions

Business is brought before the council by motions, a formal procedure for taking actions. To make a motion, a councilmember must first be recognized by the mayor. After the councilmember has made a motion (and after the motion is seconded if required), the chair must then restate it or rule it out of order, then call for discussion. Most motions require a second, although there are a few exceptions.

Exact wording of motions and amendments is important for clarity and recording in the minutes. If it's a complex motion, the motion should be written down for the chair to read.

Robert's Rules of Order provides for four general types of motions: main motions, subsidiary motions, incidental motions, and renewal motions.

Main Motions

The most important are main motions, which bring before the council, for its action, any particular subject. Main motions cannot be made when any other motions are before the group.

Subsidiary Motions

Subsidiary motions are motions which direct or change how a main motion is handled. These motions include:

- **Tabling.** Used to postpone discussion until the group decides by majority vote to resume discussion. By adopting the motion to "lay on the table", a majority has the power to halt consideration of the question immediately without debate. Requires a second, non-debatable, not amendable.
- **Previous question or close debate.** Used to bring the body to an immediate vote. It closes debate and stops further amendment. Contrary to some misconceptions, the majority decides when enough discussion has occurred, not the moderator. The formal motion is to "call for the question" or "call for the previous question," or simply, "I move to close debate." The motion requires a second, is not debatable and requires a two-thirds majority.
- **Limit/extend debate.** May be desired if the group has adopted a rule limiting the amount of time that will be spent on a topic, or if the group desires to impose a time limitation.
- **Postpone to a definite time.** Similar to tabling, except that the motion directs that the matter will be taken up again at some specific date and time.
- **Refer to committee.** Directs that some other body will study the matter and report back.
- **Amendment.** Used to "fine tune" a motion to make it more acceptable to the group. The amendment must be related to the main motion's intent and cannot be phrased in a way that would defeat the main motion. Two amendments may be on the floor at one time: the first amendment modifies the main motion, and the second amendment must relate to the first amendment. When an amendment is on the floor, only the amendment may be debated. The amendments are voted on in the reverse order in which they were made, as each amendment changes to some degree the intent of the main motion. As each amendment is voted on, an additional primary or secondary amendment may be introduced. Requires a second, debatable, majority vote.

- **Postpone indefinitely.** This motion effectively kills a motion, because, if adopted, a two-thirds vote is subsequently required to take the matter up again.

Incidental Motions

Incidental motions are housekeeping motions which are in order at any time, taking precedence over main motions and subsidiary motions. These motions include:

- **Point of order.** To bring to the group's attention that the rules are being violated. You don't need to be recognized prior to making a point of order. This is not really a motion, but requires the moderator to make a ruling as to whether or not immediate consideration is proper.
- **Appeal from the decision of the chair.** The group can overrule the chair on any decision. While the motion must be seconded, it cannot be amended. When this motion is moved and seconded, the moderator immediately states the question, "Shall the decision of the chair stand as the judgment of the council?" If there is a tie vote, the chair's decision is upheld. The motion is not debatable when it applies to a matter of improper use of authority or when it is made while there is a pending motion to close debate. However, the motion can be debated at other times. Each person may speak once, and the moderator may also state the basis for the decision.
- **Parliamentary inquiry.** Not a motion, but a question as to whether an action would be in order.
- **Point of information.** A person may rise to offer information that is considered necessary for the group. This provision is not used to offer debate.
- **Division of assembly.** To require a more precise method of counting votes than by a voice vote, such as having persons raise hands, or stand. No second, not debatable, no vote required.
- **Request to withdraw a motion.** Contrary to popular misconception, a motion cannot be withdrawn by its mover. This request requires majority approval.
- **Suspension of the rules.** When matters are to be taken out of order, or a particular task can be better handled without formal rules in place, this motion can be approved by a two-thirds vote of the group. However, until the rules are restored, only discussion can occur; no decisions can be made. Second required, not debatable, not amendable.
- **Object to consideration of a question.** When a motion is so outrageous, intended to distract the group from resolving legitimate business. The motion can be objected to and ruled out of order without debate. However, if the chair does not rule the motion out of order, a two-thirds vote of the group can block further consideration.

Renewal Motions

Once the group has taken action, renewal motions require the group to further discuss or dispose of a motion. The motions include:

- **Reconsider.** When the group needs to discuss further a motion that has already been defeated at the same meeting. A majority of the council must approve taking additional time to debate the motion again. The motion can be made only by a person who voted on the prevailing side earlier on the question. Contrary to another popular misconception, the motion may be brought up again at a subsequent meeting. If the moderator believes that there is no indication that the group's wishes have changed, however, the motion can be ruled out of order, subject to an appeal from the decision of the chair.

- **Take from the table.** Unless the original motion to table directed that the motion be brought back at a specific date and time, a majority of the group must pass a motion to take from the table. Such a motion is non-debatable.
- **Rescind.** When the group wishes to annul some action, a motion to rescind is in order at any time. If prior notice has been given to the group that this action will be considered, the motion to rescind can pass with a simple majority vote; however, if no prior notice has been given, the vote requires a two-thirds majority.

Questions of Privilege

Finally, there are a few questions of privilege that are in order at any time and must be disposed of prior to resuming discussion on the matter at hand:

- **Fix the time for next meeting.** This is in order at any time, including when a motion to adjourn is pending. Second required, not debatable, amendable.
- **Adjourn.** To bring the meeting to a halt. Second required, not debatable, not amendable. Alternatively, instead of a motion, the chair can ask if there is any further business. If there is no response, the chair can say, "since there is no further business, the meeting is adjourned."
- **Recess.** A temporary break in the meeting; should state a time at which the meeting will resume. Second required, not debatable, not amendable.
- **Point of privilege.** A matter that concerns the welfare of the group. Can be raised even when another person is speaking. No second, not debatable, no vote required. Call for the orders of the day. A demand that the group return to the agenda. Can be taken when another person is speaking, no second required, not debatable, no vote required.

Recommended Resources

- [The Official Robert's Rules of Order Website](#) – Includes a short history of Robert's Rules, how an organization can adopt it, the basics of parliamentary procedure, a question and answer forum, and an "Ask the Authors" feature.
- [Georgia Municipal Association: Parliamentary Procedure: A Guide for City Officials \(2007\)](#)
- [Jurassic Parliament](#) – Guidance and resources from Ann MacFarlane, a Professional Registered Parliamentarian and one of MRSC's [Council/Commission Advisors](#).
- [Citizen's Guide to Effective Conduct of Public Meetings Using Parliamentary Procedure and Robert's Rules of Order in Washington State \(2017\)](#) – The Guide explains the respective roles of mayor or chair, members of the body, and the public, and discusses the right way to run public meetings.
- [National Association of Parliamentarians \(NAP\)](#).
- [American Institute of Parliamentarians \(AIP\)](#).

Last Modified: September 26, 2019



*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.

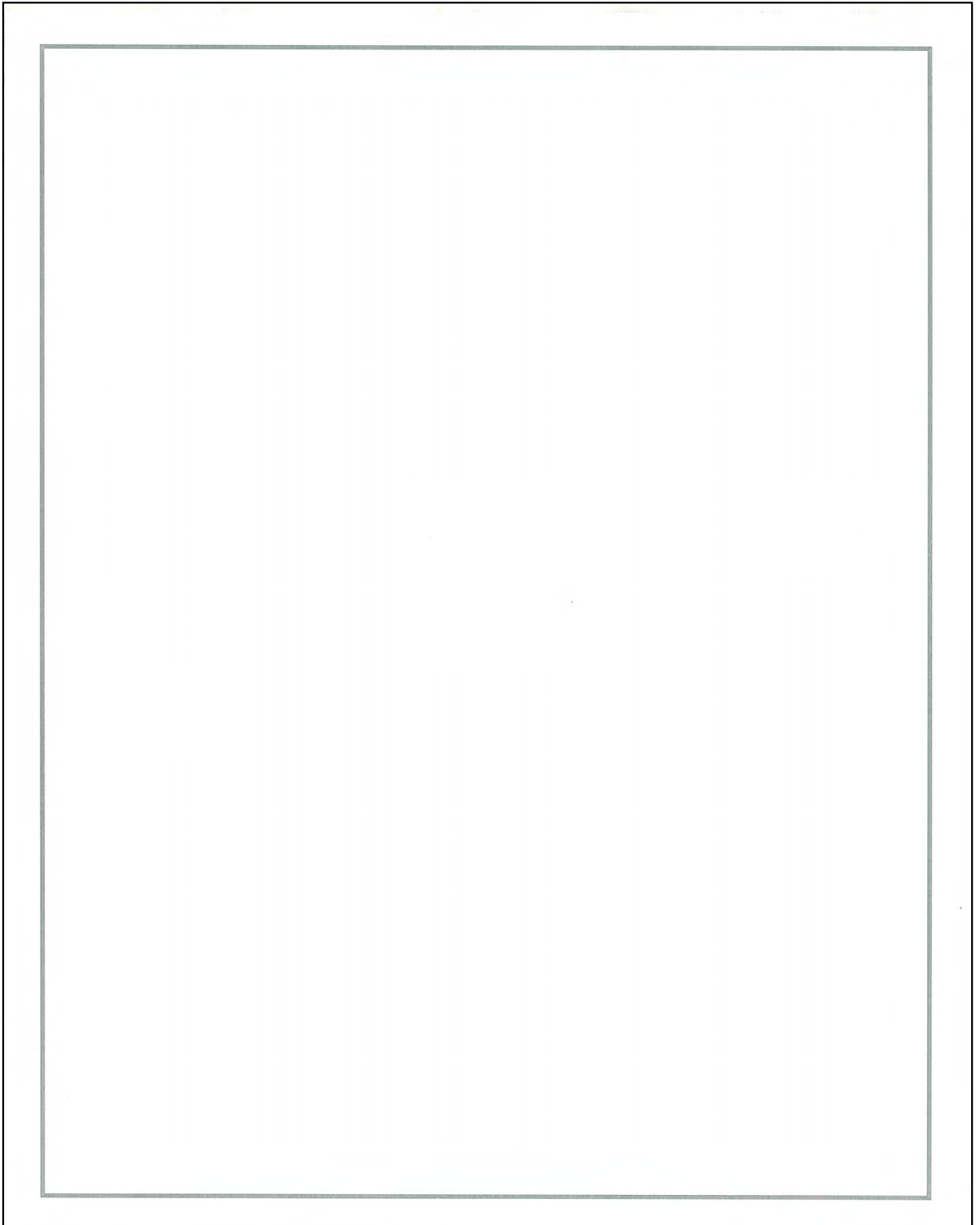
These rules should not be construed to invalidate any action of the City Council or City Manager that is otherwise in compliance with applicable law.

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:

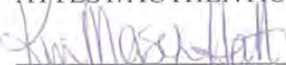
Section 1. There is hereby adopted by reference, "City of Mill Creek Manual Of City Governance Policies, Procedures and Guidelines" dated July 5, 2011, which is attached hereto as Exhibit "A".

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

**[RETYPED 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

EXHIBIT B

-3-

681052.1/014455.00001

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.

EXHIBIT B

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681052.1/014455.00001

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.

EXHIBIT B

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681052.1/014455.00001

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.

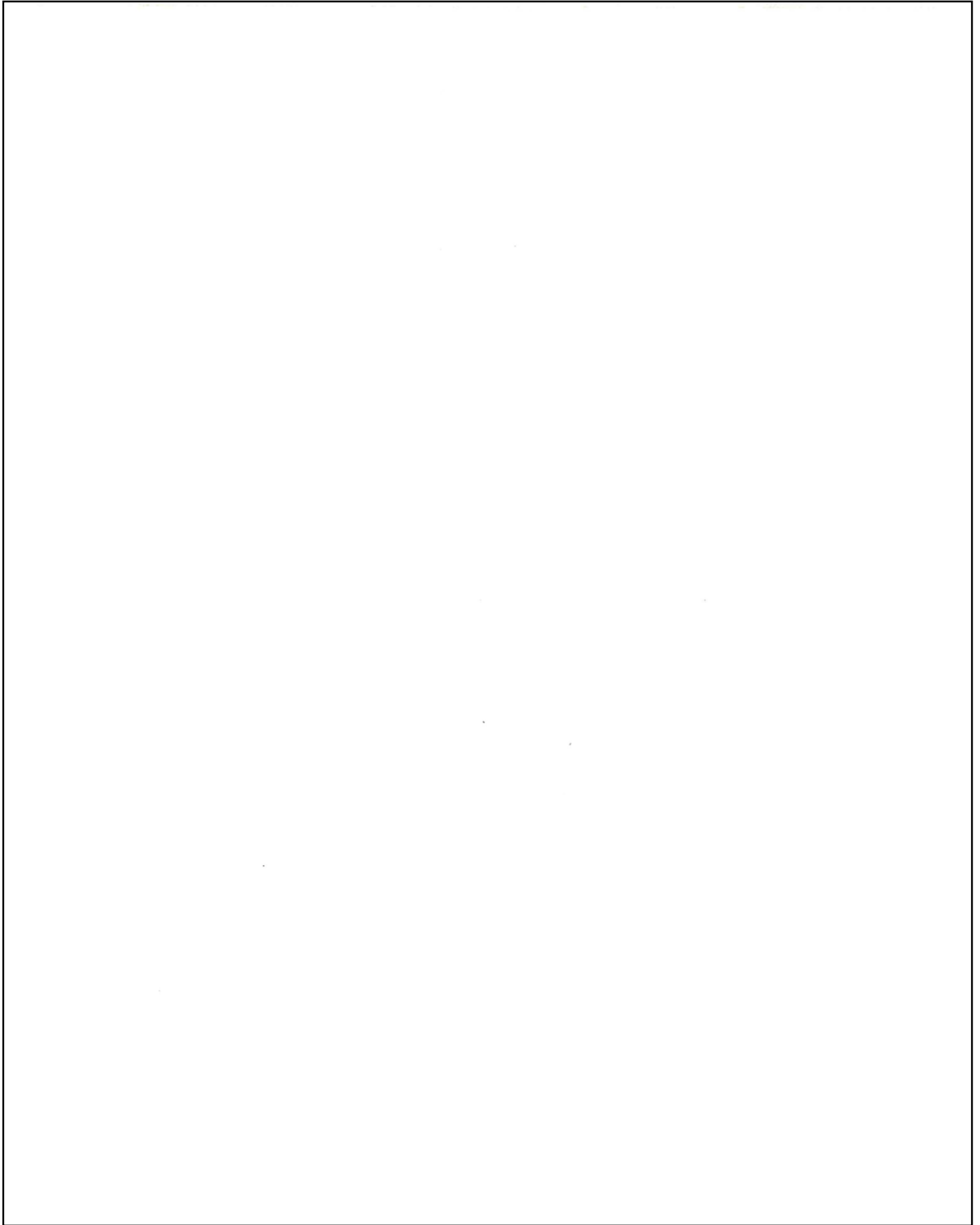
Appointment

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.

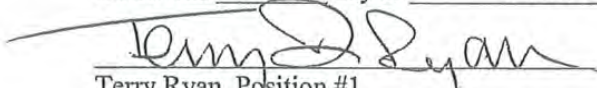
To implement these values, the City Council shall adopt the following rules of conduct to be practiced when representing the City:

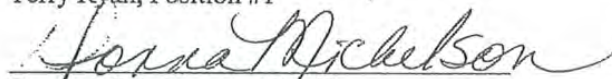
1. Be prepared for meetings by familiarity with the materials and having notified City staff and/or the Mayor of concerns or problems in advance of the meeting, when possible.

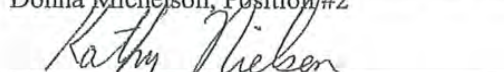
Page 2

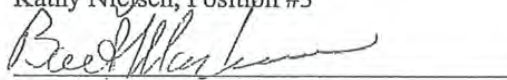
2. The Mayor will open a matter for discussion. Councilmembers may debate the merits of the issues with the intent to inform fellow members of opinions and concerns in a concise manner. All Councilmembers shall listen to all points of view, be respectful and professional, and vote based on the objective 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.

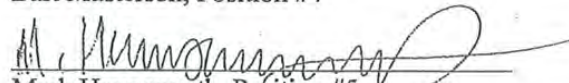
Dated this 2nd day of February, 2010.

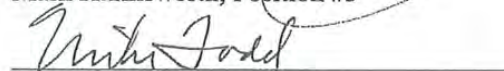

Terry Ryan, Position #1

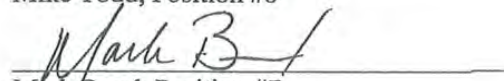

Donna Michelson, Position #2


Kathy Nielsen, Position #3


Bart Masterson, Position #4


Mark Harmsworth, Position #5


Mike Todd, Position #6


Mark Bond, Position #7

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MINUTES
City Council Regular Meeting

6:00 PM - Tuesday, March 23, 2021
Virtual and Audio Meeting Format during COVID-19 Pandemic

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

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

VIRTUAL MEETING INFO

- A.**
Join Zoom Meeting
<https://zoom.us/j/97956758599>

Meeting ID: 979 5675 8599
One tap mobile
[+12532158782](tel:+12532158782).,[97956758599](tel:+12532158782)# US (Tacoma)
[+16699006833](tel:+16699006833).,[97956758599](tel:+16699006833)# US (San Jose)

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Councilmember Cavaleri.

ROLL CALL

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

AUDIENCE COMMUNICATION

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

March 23, 2021 CITY COUNCIL REGULAR MEETING MINUTES

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

PRESENTATIONS

C. Legislative Representatives John Lovick and April Berg

Mayor Pro Tem Vignal welcomed and introduced District 44 Legislators Representative John Lovick and Representative April Berg to Members of Council, the City Manager, and the Citizens of Mill Creek. Representative Lovick and Berg, both residents of Mill Creek, addressed City Council and the Public with opening remarks and invited a dialogue through a question-and-answer format.

Representative Lovick, Representative Berg and Members of Council engaged in discussion and Q & A on the following topics:

- The State v. Blake Case
- The safety of students reentering schools.
- Potential stimulus money
- Spending mandates and gubernatorial overreach
- Use of lobbyists by cities.
- Status of COVID-19 vaccines for children

NEW BUSINESS

D. Extend the Expiration Date for Professional Services Contract 2019-1527, EGUV Spine Road West Connection (Phase 1) Right-of-Way Project *(Mike Todd, Public Works and Development Services Director)*

Public Works and Development Services Director Mike Todd provided Members of Council with an overview of Amendment No. 1 for Professional Services Contract 2019-1527 with Gray and Osborne, extending the expiration date to 12/31/2022 at no change to the total contract amount due to the suspension of the project as a result of the COVID - 19 pandemic.

Councilmember Cavaleri made a motion to adopt a Resolution authorizing the City Manager to execute Amendment No. 1 to Professional Services Contract 2019-1527 with Gray and Osborne, extending the expiration date to 12/31/2022 at no change to the total contract amount. Mayor Pro Tem Vignal seconded the motion. The motion passed unanimously.

[Contract 2019-1527 Extension Amendment - Pdf](#)

OLD BUSINESS

E. Update on DRCC (Dobson Remillard Church Cook) Property *(Michael Ciaravino, City Manager & Karen Reed, Consultant)*

City Manager Michael Ciaravino and Consultant Karen Reed provided Members of Council with an update on the DRCC property initiative and an overview.

March 23, 2021 CITY COUNCIL REGULAR MEETING MINUTES

The following items were discussed:

- The public survey has been launched and received 906 responses to date. The survey is open until 3/31/21. The following
- Overview of Planning Calendar included:
 - February 2021 - Guiding Principles - Completed
 - March 2021 - Community survey and tours of the property for Councilmembers and staff.
 - April 2021 - Survey Results – presentation/discussion facilities study and needs assessment scoping.
 - May-June 2021 - Present facilities study.
 - June-August 2021 - Recreational expert panel discussion.
 - September 2021 - Present needs assessment., additional outreach and Initial site capacity analysis.
 - October 2021 -Council discussion to refine project scope and 2023 budget implications.

Council engaged in discussion and Q&A.

[DRCC Properties Phase I - Exploration](#)

PROPOSED NEW INITIATIVES

- F.** Ordinance Criminalizing Possession of a Controlled Substance Without a Prescription
(Councilmember Cavaleri)

Councilmember Cavaleri proposed a new initiative regarding the Supreme Court ruling on the State of Washington vs. Blake case. The supreme court ruled that the state's felony drug possession law criminalizing simple possession of drugs is unconstitutional. Councilmember Cavaleri proposed to make drug possession a misdemeanor and introduced the topic to Members of Council.

Council engaged in discussion and Q&A.

With no objection the item will be included on the agenda at the next City Council meeting for continued discussion and/or possible action.

[ORD. for new drug law](#)

CONSENT AGENDA

- G.** Approval of Checks #63155 through #63212 and ACH Wire Transfers in the Amount of \$1,289,791.74
(Audit Committee: Mayor Holtzclaw and Councilmember Morgan)
[03-23-21 AP Voucher](#)
- H.** Payroll and Benefit ACH Payments in the Amount of \$256,555.35
(Audit Committee: Mayor Holtzclaw and Councilmember Morgan)
[03-23-21 Payroll Voucher](#)
- I.** City Council Meeting Minutes of March 9, 2021
[City Council Regular Meeting - 09 Mar 2021 - Minutes](#)

March 23, 2021 CITY COUNCIL REGULAR MEETING MINUTES

Councilmember Steckler made a motion to approve the consent agenda. Councilmember Briles seconded the motion. The motion passed unanimously.

REPORTS

J. Mayor/Council

Mayor Holtzclaw reported on the following:

- The March 16, 2021 Mayor and Mayor Pro Tem Coffee Chat.
- The March 22, 2021 Mayor's meeting. Items discussed included:
 - The Recovery Act and how it affects Mill Creek.
 - Phase 3 and the impacts of the Open Public Meetings Act (OPMA) and the restrictions in place for in person meetings
 - House Bill 1362 which eliminates the 1% property tax cap basing the allowable property tax increase on inflation and population with a maximum increase of 3% per year. Everett's Mayor Franklin is drafting a letter of support for HB 1362 and has asked other Mayors to sign on.

Council engaged in discussion.

Mayor Pro Tem Vignal reported on the following:

- The Coffee Talk and stated that it was a great success and is looking forward to the next one.
- Senator Hobbs' transportation bill including unfunded mandates for culverts that allow for fish passage, and the concerns of the Mill Creek City Council
- Requested an update on the status of the crosswalk project at Jackson High School and the hiring of engineering positions.
- She will not be present at the April 6, 2021 City Council meeting and asked that the proposed ordinance from Councilmember Cavaleri not be on the April 6th agenda.

Councilmember Steckler reported on the following:

- The electronics recycling opportunity on May 2, 202.
- Requested that Council meeting minutes include specific requests from Councilmembers.
- Received information from Finance Director Laurel Gimzo as per his request regarding budgetary items and requested a copy of budget.
- Requested to discuss Communications and Marketing Department regarding its structure and staffing.
- Requested a development of criteria for the next round of stimulus money.
- Requested an update on the plans to reopen City Hall including passport operations as well as plans for the Preschool Pals program.

Councilmember Morgan reported on the following:

- Attendance at the WRIA 8 meeting last week where they discussed ecology bills in the Legislature that could impact Mill Creek projects including riparian efforts.
- Attendance at the most recent Planning Commission meeting where

March 23, 2021 CITY COUNCIL REGULAR MEETING MINUTES

recently passed SB 6617 regarding accessory dwelling units (ADU's) and stated that the bill increased the maximum square footage and removed parking requirements for units located near transit facilities.

K. City Manager

Michael Ciaravino

- Follow Up regarding Coffee Talk on March 16, 2021

City Manager Michael Ciaravino addressed questions that arose from the March 16, 2021 Mayor and Mayor Pro Tem Coffee Chat.

The following items were addressed:

- Issues with the City's website and plans to address them including search capabilities, areas of vulnerability, and utilizing existing software to its full extent.
- An update on the stormwater engineer position and stated that the job will be posted at the end of the week.
- Current budgetary concerns related to the COVID - 19 pandemic regarding the Communications & Marketing Department staffing.
- Additional stimulus money will be discussed by Finance Director Laurel Gimzo during staff reports.
- Plans for reopening passport operations at City Hall is underway. Safety measures are being put in place such as:
 - Passport operations will be by appointment only to limit the number of people in City Hall at any one time.
 - Partitions are being installed to ensure the safety of both staff and citizens.
 - The HVAC system has been modified to hospital grade quality.
 - Vaccination availability to staff.
- The Preschool Pals program is still under analysis and that safeguarding the health of children and staff is the primary concern.
- Retired Navy Captain Mike Kidd has contacted the leadership of the USS Ralph Johnson.
- Budget books will be discussed with the Mayor and Mayor Pro Tem at the weekly meeting with the City Manager. The City is looking at ways to reduce costs.

[Council Planning Schedule 03.18.21](#)

L. Staff

- American Rescue Plan Act (ARPA)
(Laurel Gimzo, Finance Director)
- Traffic Enforcement Update
(Jeff Young, Chief of Police)

March 23, 2021 CITY COUNCIL REGULAR MEETING MINUTES

City Manager Michael Ciaravino introduced Finance Director Laurel Gimzo who spoke about the American Rescue Plan Act (ARPA). Director Gimzo provided Council with an update on the latest stimulus package signed into law on March 11, 2021.

Highlights include:

- ARPA is providing much needed stimulus money across the nation.
- Mill Creek is a non-entitled City based on the population of <50,000.
- Because Mill Creek is a non-entitled City, funds will first pass through the State.
- The current funding amount is estimated to be \$4,550,847.
- Funds will be distributed in two phases. The first half of the funds will be delivered within the next couple of months and the second half of the funds will arrive 12 months later.
- Funds will be available through 12/31/2024 and any unexpended funds must be returned to the U.S. Treasury Department.
- Allowable uses for funds.
- Staff seek Council to determine use of funds.

Councilmember Cavaleri made a motion to extend the regular meeting to 9:30. Councilmember Briles seconded the motion. The motion passed unanimously.

City Manager Ciaravino introduced Police Chief Jeff Young who provided Council with an update on traffic enforcement. Chief Young stated that along with the City Manager, he has received inquiries from citizens regarding speeding and potential for increased collisions. Comprehensive emphasis patrols have been implemented in high volume areas and the Police Department continues to evaluate traffic safety concerns. Chief Young provided a [presentation](#) on traffic statistics and department goals to address all traffic safety and citizen education issues.

Council engaged in discussion and Q&A.

[21_23MAR Traffic Matters MCPD](#)

AUDIENCE COMMUNICATION

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

Barb Heidel, a Mill Creek resident, commented on:

- Thanked Matthew Combs and the Public Works Department for removing the senior center sign on Mill Creek Boulevard.
- Thanked Mayor Holtzclaw and Mayor Pro Tem Vignal for hosting the Coffee Chat on March 16, 2021 and would like to see these happen on a monthly basis and stated that she prefers not to submit questions in advance to the Mayor and Mayor Pro Tem during these events.

Wil Nelson, a Mill Creek resident, commented on the following topics:

March 23, 2021 CITY COUNCIL REGULAR MEETING MINUTES

- The DRCC survey
- Traffic enforcement
- The status of the COVID - 19 pandemic and the phasing approach.

Melissa Duque, a Mill Creek resident, commented on the following:

- Appreciation for the Coffee Chat event and the City Manager's prompt response to the questions raised during the event.
- Outreach efforts to fill an opening on the Park and Recreation Board resulted in 10 applications.
- Her appreciation for Community Engagement Coordinator Kristen Rasmussen's hard work with the Park and Recreation Board.

RECESS TO EXECUTIVE SESSION

(Confidential Session of the Council)

- N.**
- Council recessed into Executive Session to discuss potential/pending litigation pursuant to RCW 42.30.110(1)(i) for 22 minutes. No action will be taken.

At 8:53 PM with no objection, executive session was extended to 9:09 PM.

At 9:08 PM Council reconvened the regular meeting.

ADJOURNMENT

With no objection, Mayor Holtzclaw adjourned the meeting at 9:09 PM

Brian Holtzclaw, Mayor

Naomi Fay, City Clerk

March 23, 2021 CITY COUNCIL REGULAR MEETING MINUTES



MINUTES

City Council Regular Meeting

6:00 PM - Wednesday, March 31, 2021

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 City Council.

A recording of this City Council meeting can be found [here](#):

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

VIRTUAL MEETING INFO

A.

Join Zoom Meeting

<https://zoom.us/j/92704935201>

Meeting ID: 927 0493 5201

One tap mobile

[+12532158782](tel:+12532158782).,92704935201# US (Tacoma)

+16699006833,,92704935201# US (San Jose)

CALL TO ORDER

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

ROLL CALL

Councilmembers Present:

Brian Holtzclaw, Mayor

Stephanie Vignal, Mayor Pro Tem

Vince Cavaleri, Councilmember

Mark Bond, Councilmember

Benjamin Briles, Councilmember

Adam Morgan, Councilmember

Councilmembers Absent:

John Steckler, Councilmember

Councilmember Cavaleri motioned to excuse Councilmember Steckler for being absent due to a prior commitment. Councilmember Bond seconded the motion. The motion passed unanimously.

RECESS TO EXECUTIVE SESSION

(Confidential Session of the Council)

- B.** The Council recessed to Executive Session at 6:02 p.m. for 30 minutes to discuss an item of pending litigation, an item of potential litigation pursuant to RCW 42.30.110(1)(i) and a labor negotiation pursuant to RCW 42.30.140(4). No action will be taken after the conclusion of the executive session.

March 31, 2021 SPECIAL COUNCIL MEETING MINUTES

At 6:30 p.m. Council extended executive session for 30 minutes.

Council reconvened the special meeting at 7:02 p.m.

ADJOURNMENT

With no objection, Mayor Holtzclaw adjourned the meeting at 7:02 p.m.

Brian Holtzclaw, Mayor

Naomi Fay, City Clerk

March 31, 2021 SPECIAL COUNCIL MEETING MINUTES

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

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

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

Tentative Council Meeting Agendas
Subject to change without notice

Last updated: April 1, 2021

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

April 13th, 2021

- Study Session: DRCC Properties
- Audit Committee: Councilmember Morgan & Councilmember Bond
- Planning Commission Appointments 2 Vacancies
- **New Business:** Appointment for Park and Recreation Board (Interview Committee: CM Cavaleri, MPT Vignal and one other Councilmember)
- **New Business:** Ordinance Criminalizing Possession of a Controlled Substance without a Prescription (tentative)

April 27, 2021

- **Presentation** Upgrades to Public Access Portal
- **Presentation** Development Projects Update
- **New Business:** Ordinance Criminalizing Possession of a Controlled Substance without a Prescription (tentative)

May 4, 2021

- Review of draft Revision to the Manual based upon input received from Council.
- Proclamation: Music4Life
- Audit Committee: Councilmember Bond & Mayor Pro Tem Vignal

Future Agenda Items

- Update from Snohomish County Health Board
- New Business - Snohomish County 911 Lease Agreement
- New Business Amendment to Public Records Policy Ordinance
- Presentation - Council Chambers Virtual Meeting Format
- Proposed New Initiatives: Potential Farmer's Market.
- Update on Development projects and permit activity.
- Update on Public Works projects and program activity.
- Update on Surface Water Utility
- Body Worn Camera Update
- Victim Coordination Services Agreement
- Police Department Reorganization