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DATE: March 21, 2022
TO: Mayor and City Council
CC: Eric Holmes, City Manager
FROM: Jonathan Young, City Attorney 
RE: City Council Policy Updates

MEMORANDUM

Mayor, City Council:

On March 21, 2022, we have reserved a 2-hour block of time for a Workshop regarding your [City Council Policies](#). To aid in your discussion, I have outlined a few topics below that were either carried forward from your last City Council Policy Workshop ([November 15, 2021](#)), or have surfaced in conversations since then. Of course, the following is not intended to be an exhaustive list of topics for your discussion. As always, the upcoming workshop time belongs to you. I will be prepared to guide your discussion to the extent you deem it helpful, but I would emphasize that this is ultimately your opportunity to provide direction to City Staff on any policies you might wish to modify or update.

Procedurally, I will use your comments at the March 21st Workshop to prepare suggested revisions to your City Council Policies using the “track changes” function so you can review the substance of all proposed revisions. These changes will then be presented to you as a Consent Agenda item at an upcoming City Council meeting for formal adoption.

[Policy 100-06 Council appointment of Community Members to Boards, Commissions, Advisory Committees and Task Forces](#)

1. Recruitment/Selection/Appointment Process.

Aaron Lande, the City’s Programs and Policy Development Coordinator, has recently worked to refine a process for recruiting, selecting and appointing members to the Strategic Plan Advisory Committee (SPAC). A copy of the new SPAC recruitment manual accompanies this memorandum for convenience. Council may wish to integrate some (or all) of the elements of the new SPAC recruitment process into City Council Policy 100-06 to supplement (or replace) the steps currently found in Sections 4.3 – 4.6.

2. Allow for periodic revisions of a minor, technical nature. The City's Boards & Commissions Coordinator has identified a short list of additional updates, including updating the list of Boards and Commissions to include PDX Community Advisory Committee. Staff would suggest bringing Council any proposed updates to the list of Community Boards, Commissions, Advisory Committees or Task Forces on a periodic basis as Consent Agenda items. (No formal action is required to accomplish this change, but Staff would appreciate confirming that this practice is acceptable to Council.)

100-32 City Council Meetings

1. Community Communication Forum. Policy 100-32 Section 10.11 provides an opportunity for community members to speak to the City Council on topics related to City business. There is no legal requirement to host a community communication forum, therefore there is broad latitude to change and improve the opportunities for Councilmembers to connect with, and listen to, the community members we serve. City Council may wish to consider whether this process could be improved by one or more of the following:
 - A. Receptions and/or Breakout Groups: Consider adding a community reception before in-person meetings of the Vancouver City Council and/or increased opportunities for sub-quorum meetings with community members.
 - B. Use "Manager Communications" as a feedback loop: Consider asking Staff to respond to selected Community questions at future meetings under Manager Communications.
 - C. Empanel a Sub-Quorum Group to Discuss and Report Back: In lieu of making a final decision at the March 21st Workshop, Council could simply empanel a small (sub-quorum) group of Councilmembers to work with Staff to explore other options. If Council chooses this option, the work of the sub-quorum group could be reported out under Manager Communications at a future meeting.
2. Dinner Hour / Fifth Mondays: At City Council's February 26 Retreat, Councilmembers expressed interest in being more intentional about scheduling additional working time together. Options that might further this interest include:
 - A. Expanding Dinner Break: when City Council returns to in-person meetings, it would be permissible to extend the dinner period from 30 minutes to 1 hour.
 - B. Programming Work Sessions on Fifth Mondays: Currently there are no Council meetings on the fifth Monday of the month. Council could consider using fifth

Mondays on an as-needed basis for in depth policy exploration or capacity building in a retreat format.

3. Mayor Pro Tempore Selection Process: Section 4.1 of City Council Policy 100-32 provides that the Mayor Pro Tem shall be chosen according to Section 2.04 of the Vancouver City Charter and Roberts Rules of Order. If desired, more specific procedures could be established.

100-36 City Council Code of Ethics and Conduct

1. City Council Evaluation of Prima Facie Case: Currently, Policy 100-36, Section 9.0 requires that City Council perform a 'gatekeeper function,' evaluating and determining whether allegations against a sitting City Councilmember should be referred to a Hearings Examiner for investigation. Multiple Councilmembers have observed that, depending on the nature of the allegations, this function can require a nuanced legal analysis. Options for revision of this process include:
 - A. Empaneling an ethics board comprised of community members, and/or
 - B. Referring all complaints to a Hearings Examiner upon determination by the City Attorney that, if true, the facts alleged in the complaint would substantiate a violation of the City Council Code of Ethics.
2. Standing: There are currently no limits on standing (i.e., who may bring an ethics complaint against a sitting City Councilmember). In theory, this means that someone with no material ties to the City of Vancouver whatsoever could initiate an ethics complaint. If the City Council were interested in limiting standing, it would be legally permissible to limit standing to:
 - A. Current residents of the City of Vancouver; or
 - B. Current residents and any organization whose membership includes or is likely to include a resident of the City of Vancouver.

100-38 Filling City Council Vacancies

Councilmembers have previously expressed interest in refining the process for filling vacancies on the City Council. Previous discussions have observed that refinements to this process could:

- Better ensure a City Council composition that represents the community we serve;

- Avoid creating circumstances in which the Council is forced to fill a vacancy in periods where doing so would be impracticable or heavily influence the outcome of a pending election.

In exploring this topic, it is helpful to keep in mind that there are applicable legal boundaries that include:

[Vancouver City Charter, Section 2.08](#) provides:

- Council vacancies shall be filled by a majority vote of the remaining Councilmembers.
- The appointee shall only hold office until the next regular general election. (This means the maximum duration of any appointee is approximately 18 months.¹ Once a qualified candidate is elected and sworn into office, the newly elected Councilmember then holds office for the unexpired balance of the four-year term.)
- The City Council policies are to include provisions for public notice of such vacancy and public interviews of the applicants selected for interview.
- The City Charter allows to appointment of Councilmembers Pro Tempore.

[State Law](#)², [RCW 29A.52.240](#) provides that:

- A special election held to fill a Council vacancy must coincide with the next general election (i.e., it must be held in November).
- First-class cities can amend their charters to provide greater flexibility (e.g., this may open opportunities specify periods during which vacancies should be left unfilled.)

Options that City Council may wish to consider in view of the legal limitations outlined above could include one (or more) of the following:

1. Amend City Council Policy 100-38: while City Charter requires the City Council fill vacancies, Council may modify its protocols for advertising, interviewing and appointing candidates, including:

¹ **Example:** Filing week for the 2021 general election ended on May 21, 2021. If a Council vacancy had occurred immediately after filing week, and appointee was promptly seated, the appointee would hold office until a qualified candidate is elected in the November 2022 Election and sworn into office in late December 2022.

² It also warrants mentioning that the Clark County Council has the authority to fill vacancies on boards and councils of special purpose districts, towns and second-class cities. (See e.g., [Battle Ground decries 'egregious' move to fill open council seat - The Columbian](#).) However, the Clark County Council lacks the requisite legal authority to fill vacancies on councils of first-class charter cities such as Vancouver. [RCW 42.12.070](#).

- A. Declining to make an appointment within a specified period (e.g. 60 days) before the end of filing week.
 - B. Declining to interview or appoint candidates who have declared their candidacy for election to a vacant seat.
2. Refer a proposed Charter Amendment to the Charter Review Commission. A proposed Charter amendment could:
- A. Establish one or more 'freeze periods' during which City Council vacancies would remain open and unfilled pending the next election.
 - B. Call for an election to be held at the earliest opportunity after a Council seat is vacated.
3. Direct Staff to explore additional options. Staff initiated activity could include:
- A. Developing an implementation strategy to create new opportunities for a diverse pool of community members to increase their knowledge, skill and qualifications for elected leadership through service opportunities on the City's boards and commissions. Such strategies may include implementation of one or more of the [Final Recommendations](#) of the Community Task Force on Council Representation.
 - B. Exploring the possibility of establishing a slate of prospective Councilmember-appointees who would serve on the condition of not seeking election in the next general election.

City Council Compact

Discussion pending wrap-up of 2022 City Council retreat. (No immediate action recommended at this time.)

Questions / Comments:

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Attachment:

Strategic Plan Advisory Committee (SPAC)
Application Review Process and Guidelines

Advisory Committee Review Process

Thank you for serving on a panel to evaluate applicants. The City of Vancouver is committed to meaningful involvement and equitable and inclusive engagement. Ensuring the City appoints members of committees who represent the diverse and full range of experiences and expertise across our communities is a vital part of this commitment. In preparation for your evaluation, please review this document. Guidance for specific evaluation is at the end of the document.

Background and Current State

The City of Vancouver is at a crossroads. Rapid growth and demographic shifts have galvanized leadership around the core values of safety, equity and climate action. The core values guide a vision for the City both externally, with how the city engages and informs the public, and internally, with an opportunity to reimagine City structures, practices and policies.

Many of the City's advisory bodies, boards and commission reflect traditional engagement patterns and approaches. Demographically, participants are higher income, less racially diverse, and above the City's median age. As the City of Vancouver's demographics shift, and as commitments and best practices around equity are realized, there is a unique opportunity to create bodies whose structure and makeup align with those shifts and values.

Key Concepts and Frameworks

The concepts and frameworks below reflect intentional consideration of practices that are critical to effective, equitable and inclusive public involvement.

Accountability: Accountability refers to the ways in which individuals and communities hold themselves to their goals and actions and acknowledge the values and groups to which they are responsible. Any committee formed by the City is an opportunity to build credibility and trust with community stakeholders. Accountability in these structures is a foundational element of equitable engagement.

Meaningful involvement: Meaningful involvement reflects stakeholders' opportunity to participate in decisions about activities that may affect them. It ensures that the public can influence decisions, that their concerns will be considered throughout processes, and that decision-makers intentionally seek out and facilitate the involvement of those most negatively impacted by disparities in outcomes and decisions.

Diverse Representation: The makeup of committees convened by the City should reflect the demographic diversity of the city across race/ethnicity, gender, socioeconomic status, geography and areas of expertise. When conducting outreach to solicit interest from the community as prospective committee members, the City should specifically focus on communities that have historically been excluded from public decision-making processes. These include "underserved communities" which can be defined in many ways, but typically include populations that have experienced systemic and institutional barriers resulting in disparate outcomes (in health, education, housing, employment, etc.). These populations may include communities of color,

LGBTQ+ communities, low-income communities, people with disabilities, and those who are unhoused.

Equity: Broadly, equity can be defined by concepts of fairness or justice in the way people are treated. It ensures that all communities have the resources and support they need to reach their full potential. In the context of stakeholder involvement, equitable approaches center the voices of those most impacted, identify and analyze the unique needs of specific populations in relationship to an issue or decision, and ensure that identity (e.g., race or ethnicity) is not a predictor of outcomes.

Bias and Evaluation of Applicants

One of the biggest challenges in evaluating an application is the potential to make a biased decision, even unconsciously. Unconscious biases are a fact of life; everyone has them, and we take them into our workplace. While the City of Vancouver does not specifically evaluate based on protected class (race, income, ethnicity, national origin, gender, age, disability etc.) the application materials may reveal information that make it difficult to remove our biases. This is true even for those of us who know prejudice and discrimination are wrong and, unfortunately, bias can lead us to make the wrong decision about an applicant.

Common biases that may affect the review process include:

- Similarity or Affinity Bias: We tend to favor those who are like ourselves.
- Perception Bias: We tend to form stereotypes and assumptions about certain groups that make objective judgment difficult.
- Confirmation Bias: We tend to see “facts” in a way that confirms initial beliefs while ignoring any contradictory information.

To mitigate opportunities for these biases to show up:

- Slow down: Bias is more likely to happen when you’re moving too quickly. Give yourself ample time to review the entire application fairly and completely, and consciously minimize unnecessary information such as name or gender.
- Review in light most favorable to applicant: When reviewing an application with experience and education that differs from your own or from dominant cultural norms, be open to this diverse background and give the applicant the benefit of the doubt in rating.
- Question feelings: If you find yourself drawn to someone when reviewing their materials, question those feelings to determine whether they are based on substance and whether they relate to the knowledge, skills and experiences aligning with the needs of the committee or board. Refer to the description or criteria to ensure all candidates are evaluated fairly and consistently.

- Be conscious of stereotypes: Be deliberate about setting aside any stereotypes you may have based on the application information and stop yourself anytime you determine that an applicant may not be the “right fit.”

Diverse Representation

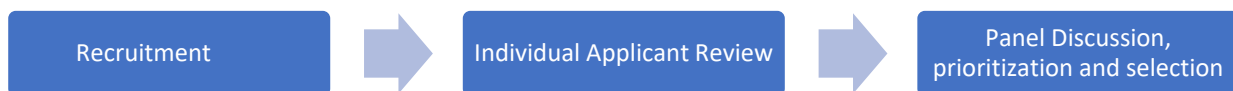
To best serve the interests of the City of Vancouver and reflect the perspectives of a full range of Vancouver experiences, ensuring diversity across committees, boards and commissions is an important aspect of our recruitment and appointment process.

This diversity can show up in a variety of ways, and there are several ways that applicants may reflect the types of lived experiences and professional expertise that can benefit City bodies. Applicants may reflect:

- Working for, volunteering or being served by culturally specific organizations, typically organizations with a majority of members/clients from a particular community of color, and specifically organizations whose mission statements are aligned with the needs of the communities being served and based on the community’s lived experience
- Working for, volunteering or being served by organizations that are aligned with and whose missions are related to other marginalized communities, including: LGBTQ, people with disabilities, faith-based communities, youth and seniors
- Applicants who bring a diversity of skills and background that benefit the work

Evaluation of Applicants

The applicant and evaluation process includes multiple steps:



Applicants will be evaluated based on four key criteria:

- Knowledge, experiences, skills, perspectives and values
- Ability to help the city connect with diverse community voices
- History of formal or informal community involvement
- Willingness to commit to at least one meeting per month between February and June 2022 (meetings are currently being held online, pending changes to local public health protocols)

It is the intention that evaluators are analyzing applicants through a “whole person” analysis. While recognizing that some evaluators may weigh certain knowledge, skills and experience differently than another, evaluators will consider the individual applicants, and assess through an overall analysis of knowledge, skills and expertise that will provide the City with an advisory committee that can best inform the City as it develops an update to its Strategic Plan.

Assessment of four criteria:

Evaluators will apply an analysis of these four criteria and prioritize applicants through a full examination and consideration of their skills, expertise, and experience.

- *Knowledge, experiences, skills, perspectives, and values:* A successful applicant may describe formal education or professional experience that demonstrate expertise. Applicants may also describe “informal” experiences, including social and environmental backgrounds that also demonstrate important skills and expertise. For example, houseless or formerly unhoused people may bring both the expertise from understanding the experiences and challenges of these populations, but also the ingenuity, creativity, perseverance, and social skills necessary day to day.
- *Ability to help the city connect with diverse community voices:* Communities connect and stay connected in many ways, and looking for both traditional examples, like volunteer management, leadership in faith communities, or outreach and organizing experience (with a community-based organization, or around a particular issue of concern) may demonstrate existing relationships beneficial to ensuring the committee is reaching many audiences. For many communities, connections also occur outside of these structures and activities as well, including in spaces like multifamily housing where resources may be shared, or the barbershop or hair salon, or coffee shop where community comes together. This may also include communities where elders serve as vital connections.
- *History of formal or informal community involvement:* A highly prioritized applicant may describe expertise and involvement with formal structures, like Parent Teacher Associations, neighborhood or business associations, or history with volunteering, for example, in their faith community. There are also trusted community members who may be sources of connection because they support other needs in community, including community-based childcare systems, coach their children’s teams, or engage in activism around community-identified issues.
- *Willingness to commit to at least one meeting per month between February and June 2022 (meetings are currently being held online, pending changes to local public health protocols):* It is the hope that applicants considered their capacity when applying. Any concerns should be raised during the collaborative analysis and prioritization as a panel.

Review Guidelines:

For this process, candidates won’t be scored, but panelists should take notes and reflect on the descriptions above.

1. Review all applicants, taking notes based on the four criteria. Notes should list strengths and weaknesses to the best ability possible. Remember that your notes may become public record, so avoid making any comments that could reflect adversely on the integrity of the

selection process or the City. Refrain from engaging in any analysis that is based on a protected class. For example, a Black/African American applicant should not be prioritized simply because of their racial identity, but may be better situated than other applicants to contribute to the work ahead based upon their specific, demonstrated knowledge and experience. It is permissible to base selection decisions on the *knowledge and experience of applicants – particularly where* that knowledge and experience assists the City in understanding the needs of our community.

2. Once you have reviewed applicants, use the prioritization matrix created by the City to prioritize candidates. This will help ensure both that applicants demonstrate skills, but also reflect the broader diversity necessary for an effective and functional committee. This includes geographic, racial, gender, age, disability, LGBTQ, and experience.
3. The panel will meet on January 31 to discuss the prioritization. The group will come to consensus by comparing notes, analyzing the overall makeup for representation of diverse communities, and finalize selection.