



POLICY AND SERVICES COMMITTEE MINUTES

Special Meeting
Tuesday, December 16, 2014

Chairperson Price called the meeting to order at 6:0 P.M. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Klein (arrived at 6:13), Price (Chair), Scharff, Schmid

Absent:

ORAL COMMUNICATIONS

None

AGENDA ITEMS

1. Discussion of Possible Changes to the Board and Commission Recruitment Program.

Beth Minor, Acting City Clerk, clarified the recruitment process had undergone some changes because of Council recommended input. The recruitment changed to twice a year with applications being accepted all year long. Staff was seeking the following changes to the process; 1) allow Board and Commission applicants to participate in their interview remotely, 2) move the selection of appointments to after the election on City Council election years, and 3) limiting applicants the ability to apply for one Board or Commission per recruitment. She provided background to explain the issues; 1) the remote access for City Council Members was set on an emergency basis, and 2) during the 2014 recruitment an applicant had applied for City Council and Commission at the same time. Staff was suggesting changing the selection process of the recruitment on election years to after the close of the election or change the recruitment for the October cycle to the end of November. A consistent issue over the years was applicants applying for multiple seats simultaneously.

Council Member Scharff did not support applicants participating remotely. He recommended changing the end of term date to December 15th rather than November 30th. He supported limiting the applicants ability to apply to one Board or Commission during each recruitment.

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Chair Price asked what the December 15th date was in reference to.

Council Member Scharff stated changing the term of the commissioner to December 15 from October 31st. With the date change they could attend the final Council meeting of the year as a commissioner.

Chair Price confirmed the term would end on December 15th but the recruitment process would begin earlier.

Council Member Scharff agreed the incoming commissioners could be appointed but would not take position until after December 15th.

Ms. Minor stated that was part of the current process to avoid overlap of seated members.

Council Member Schmid agreed with Council Member Scharff on the matter of remote interviews. He requested to announce the scheduled interview dates as early as possible to avoid the need for the applicants to remote in.

Ms. Minor said Staff began the recruitment process six weeks in advance of the term end date. Scheduling the dates of interviews was dependent upon Council's schedule. She recommended reviewing the tentative agenda farther out to project the possible dates for interviews.

Council Member Schmid asked how the recruitment for October 31st was set when the Historic Resources Board (HRB) just selected four new members but their recruitment was not until the Fall.

Ms. Minor explained during the transition of biennial recruitments there was a lagging Commission that needed to be moved to accommodate the change in cycle.

Council Member Schmid asked if the HRB was in October or had been moved to April.

Ms. Minor said she would review the dates but believed the full HRB Commission recruitment was October 31st.

Council Member Schmid had concern with 80 percent of the Commission being termed out on a single recruitment cycle.

Ms. Minor explained in a normal recruitment the terms were staggered the same as Council.

Council Member Schmid asked Staff to review the HRB schedule and verify the staggering of the terms.

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Ms. Minor agreed.

Council Member Schmid did not have an issue with moving the term date to December 15th. He was in favor of limiting applicants to applying for one position per recruitment.

Ms. Minor stated Staff would reiterate to the applicants Council had determined one application per seat per recruitment. Staff would change the recruitment process to be clear.

Chair Price felt there should be an option for remote interviews because there were individuals in the community with demanding schedules. She believed if it was a technical issue there were ways to overcome them. She agreed to changing the term date and limiting the application to one Commission.

Council Member Klein stated there should be language in the recruitment protocols to discourage applicants from remotely interviewing. If there was to be a remote interview there should be verification the applicant is out of town or has a medical reason.

Ms. Minor agreed to change the language.

Council Member Scharff stated if there was a remote interview it would be acceptable if there was a Skype or a visual type technology utilized.

Ms. Minor noted the change of remote interviewing to Skype or similar technology.

MOTION: Council Member Scharff moved, seconded by Council Member Klein that the Policy & Services Committee approve the following changes to the Board and Commission recruitment process:

1. allow Board and Commission applicants to participate in the interview process remotely as long as they were available through Skype or similar technology and they need to be out of town;
2. change the term expiration date from October 31st to December 15th and;
3. limit applicants to apply for one Board or Commission during each recruitment.

Council Member Schmid requested Staff review the HRB for term expiration dates.

MOTION PASSED: 4-0

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Ms. Minor noted Staff would bring the item before Council under the Consent Calendar later in 2015.

2. Discussion of the Cost of Various Forms of City Council and Standing Committee Minutes.

Beth Minor, Acting City Clerk, said on September 23, 2014 the Policy & Services Committee (Committee) requested Staff return with the breakdown costs of City Council and Standing Committee minutes in verbatim, sense, and action. At the present time and for the past three years the City Clerk's department held a transcription contract for typing minutes; the contract was \$24,000 annually. She continued, the standard hourly rate of the transcriptionist was \$32 and for rush transcription the cost was \$36 per hour; a rush request was turned around in three days' time. The contract called for the service to supply two transcriptionists dedicated to the City Clerk's minute requests. The current Municipal Code stated the minutes produced were to be sense minutes. She noted if there was a change requested by Council there would need to be a change to the Ordinance. Staff compiled research from other cities within California; 35 out of the 72 responses used action minutes and relied heavily on the video of the meeting as the record of the meeting. The action minutes consisted of the item title and the Motion. There were 30 cities that used sense or summary minutes while none of the 72 agencies used verbatim minutes. Sense minutes provided the general discussion although verbatim minutes included incomplete sentences and the thoughts spoken by the speaker. She noted verbatim minutes were not cleaned or adjusted by Staff.

Herb Borock was opposed to action minutes because there should be a historic memory of why a specific decision was made. He noted in the 1980's the sense minutes were more intense, closer to verbatim minutes.

Council Member Schmid wanted to plea for verbatim minutes. The production cost of the current minutes was \$24,000 and the verbatim might be a third higher. He felt it was worth the additional funds.

Ms. Minor stated the current contract was for \$24,000 per year but the total amount allotted may or may not be used.

Council Member Schmid found the verbatim minutes from the Planning and Transportation Commission (P&TC) to be valuable. The Utilities Advisory Commission (UAC) minutes were in a sense type format and there was not enough information to decipher what had happened. If the goal was to provide an accurate account of what happened at a meeting sense minutes were not the way. He agreed the video was available but the ratio of time

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between watching the meeting and reading a set of verbatim minutes was 6 to 1. He felt verbatim minutes were worth the cost of approximately \$32,000 annually.

Council Member Klein agreed with Council Member Schmid on the aspect of historical record; there was not sufficient weight given on the video reordered meetings. The sense minutes had become dangerous because the minutes were being typed by an outside person or Staff and the comments made during the meeting could be misinterpreted. As the City Attorney pointed out there could be legal complications. His first choice was action minutes and then verbatim minutes with the video.

Council Member Scharff did not believe sense minutes were an option. He felt the action minutes were simple to read and you see the action taken. He thought Staff produced the action minutes during the Council meeting.

Ms. Minor stated the body of the action minutes was typed at the meeting and Staff reviewed the video during the following week to verify the accuracy.

Council Member Scharff stated there should be action minutes no matter what final decision was made and if there needed to be more information. He was satisfied with verbatim minutes as needed. He asked if there were action and verbatim minutes which would be the official minutes of record.

Felicia Gross, Assistant City Attorney, stated as long as both types of minutes were completed, both types could be designated as the official record.

Council Member Scharff said when it was indicated by the City Attorney a set of sense minutes were contradicted by the video he felt the official record should be the video.

Chair Price concurred with Council Member Klein that action minutes were appropriate. There was the option for verbatim minutes at a later date if necessary.

Ms. Minor acknowledged there had been times when verbatim minutes were necessary for legal matters.

Chair Price felt the ability to fall back on the video to produce a set of verbatim minutes was a safe guard. She believed the video and action minutes were a sufficient record.

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Council Member Scharff sensed the verbatim minutes were a tool for Council and the public to verify what happened at a meeting they may not have been able to attend without spending the time reviewing the video.

Council Member Klein asked if the videos could be more searchable for the viewers.

Ms. Minor stated the Midpeninsula Media Center had a limited ability of making them searchable. The Clerk's department used a system for processing agendas which had the ability to view the videos. Staff uploaded the videos. The goal was for the Minute Traq system to be incorporated into the media room once the construction was complete. The video could be essentially book marked while it was being recorded.

Chair Price clarified it was feasible with the software programs currently available to do preliminary marking of the recording to some degree.

Ms. Minor stated that was correct; although, it was not yet available in the videotaping booth in the Council Chambers.

Council Member Schmid asked where Chair Price sat on the sense minutes.

Chair Price felt the sense minutes tended to be more problematic and she preferred action minutes.

Council Member Schmid stated the Committee seemed to be in agreement; sense minutes were not as effective, action minutes were appropriate, although without verbatim minutes there would be elements of the discussion lost. The cost was so low that from a practical sense until Council could see the tracking technology on the video to proceed with verbatim minutes was an interim step.

Chair Price asked if there was a basis for the demand or interest for verbatim minutes.

Ms. Minor said no.

Council Member Scharff recommended the Policy & Services Committee drop sense minutes and immediately move to action minutes and recommend Council decide on whether they want to move forward with verbatim as well.

Council Member Schmid said the suggested Motion was an interim solution but the goal was for a Code change. He confirmed the Motion was to change the Code to drop sense minutes.

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Council Member Scharff stated yes, his Motion would be to change the code to complete action minutes. If Council decided to move forward with verbatim minutes he did not feel they should be part of the Code. The action minutes and the video would be the formal record of the City.

James Keene, City Manager, asked if the process itself, with the intent of the Motion, was to ask Staff to bring the recommendation from the Committee to the Council with the change to the Code at the time of the Council meeting. Therefore, if the Council chose to accept the Motion they could enact the change at the time.

Council Member Scharff suggested Staff draft the Ordinance working with the City Attorney's office but the formal minutes would be action and the video. He recommended bringing forward the draft Ordinance as an Consent Item during the second Council meeting of 2015 and sometime during the month of January bring forward to Council whether or not they wanted verbatim minutes.

MOTION: Council Member Scharff moved, seconded by Council Member Klein that the Policy & Services Committee immediately move to action minutes and the video as the formal record of the City and recommend Council determine whether verbatim minutes were necessary.

Council Member Schmid noted the current code section 2.04.160 (b) read: *"The minutes shall include a record of all business discussed at regular or special meetings of the council. The minutes shall be sense minutes and need not be a verbatim transcript of the proceedings. Sense minutes include all actions taken and a short synopsis of the remarks of such council members, staff and members of the public as speak upon a particular matter under discussion. A record shall be made of the names and addresses of persons addressing the council, together with a brief summary of their remarks indicating whether they spoke in support of or in opposition to such matter. Nothing in this section shall be construed to compel registration as a condition to attendance at a meeting."* He asked if the Motion was to drop that code section and replace it the "minutes shall be action minutes."

Council Member Scharff stated yes.

Council Member Klein concurred.

Council Member Scharff was leaving the language to be determined by the City Attorney because he believed most City Clerk's offices considered the video the formal record.

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Council Member Schmid was opposed to the Motion because it was a reduction to the amount of materials available to the public.

Council Member Scharff did not understand how it was a reduction.

Council Member Schmid stated currently there were action minutes, sense minutes and the videotape. The Motion was to eliminate the sense minutes.

Council Member Scharff clarified the third item would be the verbatim minutes which was recommended to go before the full Council for them to make a final decision. He believed the verbatim minutes were a tool for Council and they were worth the cost. He asked for a commitment from the City Manager to bring forth the verbatim minutes discussion to the full Council within 45 days.

Mr. Keene stated that could be done; although, the unification of the Committee was while sense minutes provided more detail they were potentially less accurate as a historical record. He believed if enough City Council Members felt action minutes alone were not sufficient it would be a natural impulse for verbatim minutes. Three Council Members could pull the item from Consent into Action for a discussion during the meeting.

Chair Price acknowledged any recommendation brought forward had the potential to be changed completely by a majority.

Mr. Keene suggested producing action minutes for a couple of Council Meetings to give Council an idea of what to expect in order for them to make a final decision.

MOTION PASSED: 3-1 Schmid no

Mr. Keene clarified the Motion was to place the Committee recommendation on the Consent Calendar.

Council Member Klein stated yes.

3. Update Municipal Percent for Art Policy, Including Proposed Ordinance and Revised Procedures.

Elise DeMarzo, Sr. Program Manager Public Art, recapped that when the Percent for Art in private development Ordinance was passed in 2013 Staff pledged to return to Council with a revised municipal policy to ensure the City was in parity with what was being asked of private developers. The existing municipal policy had been in place since 2005 with amendments

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made in 2011 in an effort to tighten some of the vague language. There were several issues with the existing policy: It took a great amount of Staff time determining which projects applied and which did not. A secondary issue was that the funds remained with the Project Budget and were tied to the site rather than transferred to Public Art which lessened the control of funds by Public Art. The existing municipal policy did not address the pooling of funds. Additionally, when there was a pursuit of grant funds, public art was not part of the funds request – resulting in no public art budget for large impactful projects. Staff has consulted with the Office of Management and Budget (OMB), Planning and Community Environment, Public Works and legal in the drafting of the Ordinance along with the edits to applicable policy. The main changes brought about by the draft Ordinance and the applicable policy would be: it applies to all Capital Improvement Program (CIP) projects; less the list of exemptions. It would also allow for the pooling of funds and the funds would transfer to Public Art at the beginning of the fiscal year.

Council Member Schmid asked for clarification if this draft Ordinance was specific to municipal projects and not private development.

Ms. DeMarzo stated it was only addressing municipal projects.

Council Member Schmid noted in 2013 the program received \$30,000 of a \$25 million contract. He noted in the staff report that the Percent for Art could have received up to \$90,000 by following the drafted Ordinance. He asked for examples of projects Staff felt could have contributed toward the \$90,000.

Ms. DeMarzo noted there were a number of landscaping, parks rehabilitations and large transportation corridors. For example the Charleston Arastradero Corridor Project did not have a Percent for Art project; although it was a project that had a large visual impact. The idea of the Percent for Art was to capture projects where there was an opportunity for the integration of art.

Council Member Schmid asked if there were any controversies about the 13 exemption categories Staff had identified although he felt they were fairly straight forward.

Ms. DeMarzo agreed the exemptions were straight forward. Staff studied a number of other cities policies, reviewed previous years with OMB and asked numerous questions on the smallest of details in an effort to be thorough in the investigation and clear with the proposed language.

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Council Member Schmid said when the City asked for outside funding, would the request for additional funds for the inclusion of art be a detriment to the grant's success.

Ms. DeMarzo stated actually she had found through researcher colleagues, that the proposals were more compelling because there was a creative element. Such as an opportunity in a transportation project to have something that was noteworthy. Art can bring attention to infrastructure projects that might otherwise pass unnoticed. Other cities were finding greater opportunities by incorporating public art in their request as it brings greater attention to the project.

Council Member Scharff felt utilities projects should include public art; such as the small green boxes that cover electrical wiring.

Ms. DeMarzo clarified that some of the green boxes were utilities but some were transportation as well.

Council Member Klein noted some were to cover cable television wiring.

Council Member Scharff understood they belonged to multiple areas; although, his thought process was they did not need to be green. They could have murals on them. He asked why not include utilities projects when there was a clear funding source.

Ms. DeMarzo explained the Municipal Percent for Art program would allow the City to address those projects by pooling the funds.

Council Member Scharff understood one of the 13 exemptions was with utilities. He asked if there was a legal reason why that exemption could not be eliminated.

Ms. DeMarzo stated that she was not aware of a legal reason for the exemption. She believed the idea was the utility projects could be quite pricey so that could possibly be a different ball park as far as funding.

Council Member Klein said exemption number 9 stated it clearly: Utilities projects, unless there is a building construction or reconstruction involved.

Council Member Scharff agreed with the exemption; however, his thought was strictly for the green boxes. Utilities projects could provide a substantial amount of funding for public art.

Chair Price wanted to be certain the City was not precluding themselves from the opportunity to address some of these kinds of art opportunities.

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Ms. DeMarzo stated no.

Chair Price clarified the draft language allowed for that to happen.

Ms. DeMarzo stated yes, because of the Funds ability to be pooled it allowed Staff to address all different types of public art opportunities.

James Keene, City Manager, understood the pooling of the funds would allow for the application of art to be placed onto a utility box; although, it would not allow a utility box or other type of similar project to contribute to the art. He noted when the pump station was built at the creek there was a public art component built into the project.

Chair Price believed it was prudent to add language that allowed some exceptions to the exemptions. There may be projects that were not covered by the language that may be perfectly suited to the public art arena. She had previously discussed with Staff the ability to have as much flexibility as possible without losing the ability to manage the program.

Ms. DeMarzo stated that was correct and with the pooling of funds that did not preclude the City from incorporating public art into those utility projects or the boxes.

Mr. Keene asked legal counsel whether there was a Proposition 218 or Proposition 26 issue.

Molly Stump, City Attorney, clarified there was not an issue with either of those Propositions. Language could be added that would explicitly say the Council could authorize additional projects to be a source of funds for public art. The Ordinance was not limiting, rather it set up a process where the practice would be done as a regular course in preparation of the CIP. It did not prevent the City Manager from proposing a CIP budget that added art at a higher level than 1 percent.

Chair Price asked for clarification that the language of the Ordinance did not need to be specified because it was understood there was such flexibility.

Ms. Stump stated the Ordinance spoke to how the City was organizing itself rather than being instruction to a third party nor did it create any rights or obligations. Council sets the budget on an annual basis. There could be language placed in the Ordinance that clarified that Council had ultimate budgeting authority.

MOTION: Council Member Klein moved, seconded by Council Member Scharff that the Policy & Services Committee recommend Council adopt the

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Ordinance updating and codifying the City's percent for art policy that applies to City capital improvement projects with the incorporation of the clarifying language regarding Council's role in approving or adjusting the final municipal art allocation as part of their regular budget approval process.

MOTION PASSED: 4-0

4. Recommendations for 2015 City Council Priority Setting Process.

James Keene, City Manager, stated a number of years ago the Council had requested tightening of the priority setting process; how to define a priority, limit the number of priorities and more specifically to collect new Council Member elects suggestions for priorities by the beginning of December each year. Once the data was gathered it was to go before the Policy & Service Committee (Committee) for a recommendation to the Council for approval. He recalled when he first began with the City the priorities were unorganized, ungrouped and there was a sticker selection process. The goal was to define the definition of the priority and move to reduce the priorities to no more than three. He asked the Committee for specific direction. He asked if the Committee desired to complete any pre-grouping of the existing Council priority recommendations in advance of the retreat.

Chair Price asked if Staff anticipated any problem areas with the changing of the process.

Mr. Keene noted in reviewing the suggested changes there was a great deal of overlap. He understood there was a desire to collect the recommendations in advance although that did not preclude a Council Member during the meeting to decide on a different direction or priority.

Council Member Klein believed the process was moving along smoothly; although, he was distressed over the number of non-Council Members who felt airplane noise should be a priority. The public needed a better understanding of the difference between a problem and a priority. He suggested directing the City Manager to compile the priorities in a manner to assist the Council in being able to begin the selection process earlier.

Council Member Scharff clarified the two choices were whether or not the Committee was to complete a synthesis process or allow the City Manager to compile the results and present them to the Council for review. He agreed to

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authorize the City Manager to compile the data. He wanted to confirm that included the suggested priority with only one vote.

Mr. Keene felt comfortable compiling the data and would bring forth to the Council each of the comments made by all nine Council Members. The Council would also receive and have access to all public comment. The goal would be to identify headings and categorize specific comments to be placed under said headings. To the extent an item did not fit under a specified category with underlying groupings they would be offset.

Council Member Klein stated that was the process in 2014.

Mr. Keene agreed and mentioned the process was clear and more efficient for the Council. The objective of the retreat was a full discussion on the priorities rather than attempting to understand them.

Council Member Scharff concurred, the process worked well. He recommended once the priorities were listed each Council Member had the opportunity to speak to three items.

Council Member Schmid stated in reviewing the recommended priorities to date it was obvious the land use and transportation matters were overwhelming. The Comprehensive Plan, healthy communities and infrastructure were a close second.

Mr. Keene agreed with Council Member Scharff in that the invitation to speak on the items was limited to three.

Council Member Schmid asked if Staff was seeking input on the process.

Council Member Scharff stated the process from 2014 flowed well and allowed for clear and concise discussion and workflow. He stated the definition of a priority was "a topic of unusual and significant attention during the year", with that being said, was the Comprehensive Plan a priority. The Comprehensive Plan fit under a number of categories, Land Use for example.

Council Member Klein stated the update of the Comprehensive Plan fit because the contrast "it was difficult to imagine the budget as a priority". The budget was an annual process whereas the Comprehensive Plan was updated on a 15 to 20 year timeframe.

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Mr. Keene stated the process of 2014 was efficient and freed time for other business because once the priorities were set it allowed for Council to get into a deeper discussion of what that specific priority meant to the City. The priorities were populated into a workplan to present to the full Council within a month after the retreat.

Council Member Klein asked for a discussion on definitions of priorities. The Staff Report listed Council's recommendations of priorities but some were not clear.

Chair Price said it was important for everyone to understand how a priority impacted the workplan and how the work was organized for completion. There was the consideration of the impact in terms of policy. She noted a number of the items recommended were currently under way in the update of the Comprehensive Plan. She noted it was important not to over study or over analyze issues.

Mr. Keene stated the recommended priorities were coming from work the Council was already working on. The Council's definition of priority was set to distinguish between the budget and a three-year horizon for completion.

Chair Price asked if the priorities were for a one, two or three year cycle.

Council Member Klein stated that decision was up to the Council.

Chair Price mentioned there were new incoming Council Members and they may not know what was accomplished in the recent past or how the process worked.

Council Member Klein stated it was not a given there needed to be priorities in Palo Alto. He felt context of why and when Palo Alto started having priorities would be helpful to new and incoming Council Members. Palo Alto did not always have priorities and it was his understanding the City of Sunnyvale did not have priorities. Sunnyvale chose a wildcard from a list of desires.

Chair Price stated Sunnyvale ranked all of the issues and chose the highest ranking one to work on that year.

Mr. Keene stated Palo Alto was more dedicated and focused on adopting priorities than any of his prior employers. During his interview process it was

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a factor for him the Council had priorities. He wanted the Council Retreat to accomplish more than set priorities for the coming year.

Chair Price stated the challenge had been; once the priorities were selected, having a working statement which described what the core of the priority was and what it was to accomplish for the City.

Council Member Schmid believed the goal of the Committee was to assist in the preparation for the Council Retreat. He wanted to confirm there would be a check-in with the Council in early January 2015.

Mr. Keene said he felt there could be an item on Consent summarizing where the Committee was with the process and ask the Council to endorse any changes.

Council Member Schmid confirmed the Staff would prepare any background material necessary.

Mr. Keene stated that was correct.

Council Member Schmid asked if the Council would receive the information a week to 10 days prior to the session.

Mr. Keene stated that was correct, beginning 2015 the new packet release date was 11 days prior to the meeting.

Council Member Schmid said the tentative date for the Council Retreat was January 31st.

Mr. Keene stated yes, the date had been set aside from 8:30 AM to 3:00 PM and the retreat would begin at 9:00 AM at the Mitchell Park Community Center. Since the Community Center was newly opened it was difficult to reserve the room so if Council desired a different date that room may not be available.

Council Member Schmid asked if there was a tentative agenda for the retreat and where on it the priority setting would fall.

Mr. Keene noted Staff worked with the Mayor and Vice Mayor on setting the agenda topics and placement. Reviewing the Council Policy and Procedures

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was part of the retreat and for the most part there had not been ample time for a well-deserved discussion.

Council Member Schmid asked if there were any matters from the Committee that might feed into the retreat agenda items.

Mr. Keene was not certain on the Council as a whole; although, he felt with new Council Members a discussion on how the Council wished to conduct themselves as far as governance issues, how the Staff was able to complete the work requested by the Council, how the committees worked, and what the role of Staff would be a helpful conversation.

Council Member Schmid felt those issues should be mentioned in the pre-materials sent to Council to allow them time to consider the discussion.

Chair Price clarified Staff was suggesting a cliff notes type of key points be available to acclimate the incoming Council Members.

Mr. Keene stated yes and Council had discussions in prior retreats on time management and climate control. The retreat was a time for Council to set the customs or rules as to how they wished to work together and accomplish the goals set by the retreat. There also needed to be clear processes for how the Staff was to meet those goals as well.

FUTURE MEETINGS AND AGENDAS

February 10, 2015

ADJOURNMENT: Meeting was adjourned at 7:37 P.M.