



City of Sunnyvale

Meeting Minutes - Draft Council Subcommittee on Board and Commission Bylaws Amendments

Monday, November 14, 2016

5:30 PM

West Conference Room, City Hall, 456 W.
Olive Ave., Sunnyvale, CA 94086

CALL TO ORDER

Chair Hendricks called the meeting to order at 5:39 p.m.

ROLL CALL

Present: 3 - Chair Glenn Hendricks
Member Jim Griffith
Member Gustav Larsson

CONSENT CALENDAR

- 1 [16-0193](#) Approve the Council Subcommittee on Board and Commission
Bylaws Amendments Meeting Minutes of June 2, 2014

Member Larsson stated he would abstain as he was not at the meeting.

MOTION: Member Griffith moved and Member Hendricks seconded the motion to approve the Council Subcommittee on Board and Commission Bylaws Amendments Meeting Minutes of June 2, 2014 as submitted.

The motion carried by the following vote:

Yes: 2 - Chair Hendricks
Member Griffith

No: 0

Abstain: 1 - Member Larsson

ORAL COMMUNICATIONS

None.

PUBLIC HEARING/GENERAL BUSINESS

- 2 [16-1073](#) Review of the City's Practices and Policies Relative to Boards

and Commissions to Ensure Their Continued Effectiveness

Chair Hendricks and City Manager Deanna Santana provided brief opening remarks.

Public comment opened at 5:40 p.m.

Kevin Jackson stated that these issues are being talked about because they are causing problems now, and that per the proposed work plan, it could take a year and a half or longer to work through any proposed modifications. Jackson stated his recommendation is to consider asking the full Council to suspend the recent changes to long-standing practices that are causing the problems because those were imposed without deliberation and they have worked very well for many years. Jackson stated he is speaking about the study issue procedure that differs from Council in terms of sponsorship and deferral. Jackson also stated BPAC had a long-standing Chair and Staff Liaison coordination practice that worked well, but that now there is no coordination, as the Chair doesn't see the agenda until it gets published, and then it is too late. Jackson also made reference to the communication issue.

Public comment closed 5:44 p.m.

Senior Management Analyst Yvette Blackford provided information regarding Option A and B in the report and responded to subcommittee member questions.

Chair Hendricks suggested a faster timeline, but if an item requires more time, to decide at that time what to break out and address it without holding up the entire process.

Member Larsson suggested topic A. Interaction with City Council, Public, Staff, and other Board and Commission Members might require more time.

City Attorney John Nagel stated a memo could be prepared for a January timeline.

A. Interaction with City Council, Public, Staff, and other Board and Commission Members

Chair Hendricks stated the importance of determining the vision of what board and commission interaction with the public should be. Chair Hendricks stated it is

important that board and commission members ensure they are not taking positions in advance, that they are keeping an open mind, and that they are careful about how they respond to members of the public.

City Manager Santana stated staff would like to look at how other cities are handling the issue, and report back to Council.

Member Larsson stated the importance of keeping in mind the distinction of quasi-judicial versus legislative responsibilities.

City Attorney Nagel stated that the distinction regarding the quasi-judicial responsibilities is made clear in the training given to Planning Commissioners and that perhaps there could be a dual training track going forward.

Chair Hendricks stated he has seen the line getting blurred at board and commission meetings between what is City policy versus advocating for a new City policy.

Member Larsson provided comments regarding sending operational emails to commissioners and expressed concern that it could create the appearance or expectation that commissioners are in an oversight role over operational matters.

Chair Hendricks spoke regarding the role of the Council Liaison.

Member Larsson stated the current policy is clear on the role of Council Liaisons.

Member Griffith stated he wrote the section regarding Council Liaisons, and Council Liaisons should be listening for the most part, and only providing information on request.

Chair Hendricks stated the attendance by Council Liaisons is optional.

Member Griffith spoke regarding attendance by Council Liaisons being optional.

Senior Management Analyst Yvette Blackford spoke regarding the potential to swap assigned Council Liaison responsibilities with another Councilmember should the board/commission meeting date conflict with an Intergovernmental Relations Committee assignment.

Members discussed the issue of networking opportunities for board and commission members to network outside of their board or commission business.

Senior Management Analyst Yvette Blackford stated there was a board and commission member networking event before the 2016 State of the City event.

Chair Hendricks stated that as part of the new website it could be an option to sign up to receive agendas for other boards and commissions in addition to the ability to sign up to receive City Council and Planning Commission meeting agendas.

Member Larsson stated he did not think networking opportunities needed to be part of the policy.

Senior Management Analyst Yvette Blackford stated it may just be a matter of keeping networking opportunities in mind.

Chair Hendricks stated the importance of having board and commission applicants attend a board or commission meeting before they apply.

B. Work Plans & Agendas

Mayor Hendricks stated with regard to agenda development, he is looking for language to clarify how the Chair works with staff, but staff is responsible for setting the agenda. Hendricks stated there can be commentary from the Chair but he does not believe it is a 50/50 involvement.

Member Larsson concurred, and stated the word “coordinate” is probably too strong; that perhaps language such as “staff can consult with the Chair,” but that it is the staff responsibility to develop the agenda. Larsson stated regarding who can add items to the agenda not currently on the approved work plan, he is reluctant to open it up for adding too many items, being mindful of staff time. Larsson stated the suggestion regarding consideration of a rolling update to the work plan may be a better opportunity to get something added to an approved work plan instead of waiting to the next year.

Chair Hendricks stated the issue implies that something is not working between staff and the board or commission; a symptom of some other underlying issue. Hendricks

stated the Chair could bring the issue to the Council Liaison, Mayor or city manager, and perhaps language regarding other avenues to manage the issue could be added.

City Manager Santana stated the Planning Commission proposed the issue of agenda publishing timelines as a study issue and staff removed it as a study issue because it is not in the purview of the Planning Commission, but is more of a governance issue Citywide.

Chair Hendricks stated he does not see a reason to publish board and commission agendas 10 days in advance if Council agendas are not.

Member Larsson stated that for very large Planning Commission issues he is sympathetic to the request. Larsson stated as a Councilmember he can access those reports when it goes to Planning Commission, but for Planning Commissioners to get it on Friday before a Monday meeting, it is a short time. Larsson stated that he is fine with the current practice for other boards and commissions and stated 10 days in advance would cause scheduling issues, but for certain very controversial or very complex items, receiving the items earlier would be helpful. Larsson stated he does not want a blanket change.

Chair Hendricks stated some items are available early. Hendricks stated that perhaps there could be an aspirational statement regarding larger items to publish in advance, but not a hard and fast rule.

Member Griffith stated at the very least the Planning Commission should be getting the same number of week day hours for review as Council. Griffith stated there are other cities that do 10 days or two weeks in advance. Griffith stated some larger items have been published early and staff needs to look at the scope of a project and be willing to provide more time for the benefit of the board or commission and the public.

City Manager Santana expressed concern regarding agenda production for Planning Commission and City Council in the same timeframe. Santana stated it does not mean it's not possible, but staff needs more time to look into it and bring some options or solutions back to the subcommittee.

Chair Hendricks requested staff come back with more information.

Senior Management Analyst Blackford provided background information regarding the annual budget review sub-topic.

Subcommittee Member Larsson stated there are a handful of commissioners who like to dive into the details of the budget and appreciated when staff came to a board or commission meeting to present the budget information. He stated that if it's just a pro forma review, it's not worth it.

Member Griffith stated Council has the responsibility to commissions to focus on their area of expertise. Griffith stated there are certain commissions where a budget review is more relevant, but there is a pro forma element in some cases. Griffith stated it may be wise to set expectations of contributions on a commission by commission basis.

Chair Hendricks stated it would be appropriate to send the budget transmittal to each of the boards and commissions at minimum.

Member Griffith stated he thinks we would want each board and commission to have a high-level overview, and certain commissions to have a subset or no review in some cases.

Regarding work plans and agendas, Member Griffith stated work plans are reviewed and approved by Council, and agendas are not. Griffith expressed concern that anything that appears on a commission agenda is a public hearing held by the City. Griffith noted cases in which boards or commissions have created hearings on topics Council may not have requested, and the general public may not differentiate between a Council meeting, Study Session or a commission meeting. Griffith stated he likes the notion of giving boards and commissions more direct control over their work plan because Council can review it and make changes as appropriate, but Council does not review agendas. Griffith stated that we want to be very careful about commissions creating a public hearing item as a few commissioners were representing the City and doing site tours unbeknownst to staff or City Council. Griffith stated the policy needs to hope for the best and plan for the worst.

Chair Hendricks stated he agrees it is the staff responsibility to set the agenda and provide oversight.

Member Griffith reiterated that caution needs to be exercised when creating board and commission agendas as the public may misinterpret what they see on an agenda and its significance. Griffith stated the Council wants boards and commissions to come up with new ideas, but it should be done in a way that does not convey that it is the intent of the City to take action.

Chair Hendricks stated this issue goes back to how board and commission members communicate with the public and the need for awareness as to how the public can interpret their comments.

City Attorney Nagel stated it is important Council understands that the Non-Agenda Items and Comments portion of the agenda is not for discussion or taking action, it is a discussion of whether something is going to be agendaized for a future meeting. Nagel stated the Brown Act requires a posted agenda that gives members of the public a reasonable understanding of what is going to be discussed so they can appear and support or oppose the item. Nagel stated it is a two-step process to put an item on the next agenda.

Member Larsson inquired as to who is authorized to put an item on the agenda.

Chair Hendricks stated that there needs to be training for board and commission members and staff regarding navigating how items brought up in the Non-Agenda Items and Comments portion of the agenda are handled. Chair Hendricks requested staff bring back language for review, and added it could be handled as it is at Council meetings, where staff is asked to bring back information on how to handle the item as necessary. Chair Hendricks stated that in general the Mayor can add anything to a Council agenda, but it is different for a board or commission Chair. Chair Hendricks stated the Mayor would not add something to an agenda without consultation with staff.

Member Griffith stated that an important distinction is that the Non-Agenda Items and Comments section on a Council agenda takes 5-10 minutes but on a board or commission agenda it can take up to an hour.

Chair Hendricks stated the importance of training for staff and boards and commissions on the purpose of the Non-Agenda Items and Comments portion of the agenda.

Member Larsson stated the Non-Agenda Items and Comments section is not for discussion.

C. Study Issues Process

Senior Management Analyst Blackford stated current Council Policy and practice regarding study issues is that it takes two Councilmembers to sponsor a study issue. Blackford stated a board or commission sponsored study issue requires a motion and a majority vote to approve sponsorship. Regarding deferrals of study issues, Blackford stated that Council policy states if Council defers a study issue, it will automatically come back the following year. Blackford stated that if a board or commission decides at their November ranking meeting to pull from consideration an item that has not yet gone to Council, staff has required the next year an action by the board or commission to decide if it is to remain pulled from consideration or if it is to move forward.

Chair Hendricks stated he has heard there are issues regarding the write-up by staff and whether it is brought back to the commission in a timely manner.

Senior Management Analyst Blackford stated the issues are interrelated. Blackford stated some commissions used to do a list of ideas for study issues which they would add to throughout the year as commissioners had study issue ideas, and they would look at the comprehensive list in the fall. Blackford stated that was their way of reducing the list if it was long. Blackford stated other commissions required sponsorships for any study, with no list of potential items. Blackford stated the board/commission agenda template currently has a standing agenda item regarding potential study issues, but the City Attorney has concern as to whether the language gives the public enough information about what will be discussed. Blackford stated one option might be that at meeting one, a study issue is proposed, and at the next meeting it is added to the agenda for discussion. Blackford stated another option would be to have an ideas list in which any member can add to the ideas list, but the study issue isn't officially sponsored until the majority takes action. Blackford stated staff is looking for direction on the route for board and commission sponsorship of study issues.

Chair Hendricks stated he thought the concerns were around study issues being sponsored by a board or commission and the study issue paper didn't come back in

a timely manner and the essence of the sponsored study issue was not captured by staff in the study issue paper. Chair Hendricks stated he is looking for a definition of the review process for study issue papers so that the board or commission can see the item and discuss whether it is capturing the essence of what the board or commission was trying to communicate. Chair Hendricks stated he is not looking for group editing of the study issue paper, but as long as it is not proposed at the last minute in November, an opportunity for the language to be reviewed as to whether it captures the essence of what the board or commission proposed. Hendricks spoke regarding the process when he was on the Planning Commission.

City Manager Santana noted the importance of a discussion of the workload impact as a whole. Santana stated it is important to look at the board and commission recommendation for topics similar to the way we look at Council and the role of the administration. Santana stated it would be inappropriate from a governance standpoint for Council to try to inform the administration as to what it would like to see in a report that goes to Council for policy decision making. Santana stated staff's role is to provide a professional assessment, analysis and expertise in supporting the policy making body. Santana expressed concern with some of the comments regarding authorship beginning to deviate from the city manager, because it begins to degrade the governance structure and the role of providing policy analysis from a neutral perspective. Santana stated it is important that board and commission members find that their voices are included or are part of the process and that what is important to the board or commission is carried through in a way that does not impact the write-up; the authorship, which constitutes her recommendation, needs to remain with the administration, while at the same time advances that key voice from the board or commission.

Member Griffith stated he is sensitive to commissions tending to have an attitude that proposing a study issue is cheap and free, and it is not. Griffith stated a simple write-up can be staff intensive. Griffith stated he has seen commissions sponsor 10 or 15 study issues and in the end they only support five. Griffith stated striking a balance between getting the commissions to propose interesting ideas and "throwing everything against the wall and seeing what sticks," is the challenge.

Chair Hendricks stated he is not trying to take away authorship, but wants to ensure it is capturing the intent of the board or commission. Hendricks stated an item to discuss at the strategic session is striking a balance between what it takes to run the City and strategic priorities. Hendricks stated the study issues idea, when there

were not strategic planning sessions, was a way to bring up strategic ideas. Hendricks stated that to a certain extent, the annual strategic planning sessions fills part of the role of the study issue process, but there are other things that get brought up in the study issues process that he would not want to lose. Hendricks spoke regarding striking a balance between what needs to be done to run the City and the broader view.

City Manager Santana stated that if the Council subcommittee meets before the upcoming operational and policy priority sessions, it may want to discuss more details so that the messages from the subcommittee that are delivered to the full Council are better coordinated. Santana stated the number of study issues staff works on each year is large and difficult to absorb. City Manager Santana stated that given the transition of new Councilmembers, a clear message from the subcommittee would be useful.

Member Larsson stated that in regard to deferrals at the commission level, he liked the “pull back” language to make it clear that it is different than a Council deferral. Larsson stated that some of the confusion or concern regarding items automatically coming back the following year for Council deferrals and not for board or commission deferrals is that the same language is being used for two different processes.

Senior Management Analyst Blackford stated staff can clarify the language if that is still an acceptable process. Blackford stated that similar to sponsorship, if it is still acceptable to the Subcommittee that it takes a motion and majority vote by a board or commission in order to sponsor a study issue to trigger the drafting of a study issue paper, then staff can clarify the language and bring back recommendations to the Subcommittee.

Member Larsson stated he is in support of that.

Chair Hendricks requested an accelerated path for the process.

Chair Hendricks stated it is important Council and boards and commissions do not get involved in operational matters. Hendricks stated there is a difference between what is an operational item versus what might be something that will become a broader policy change that a Councilmember wants to advocate for.

Regarding Staff Liaisons, Senior Management Analyst Blackford stated Council Policy asks the city manager to appoint staff resources to each board and commission. Blackford stated that in accordance with the direction that Council takes on the Council Policy, staff will update the corresponding Administrative Policies.

City Manager Santana stated that with the input received at the Study Session with Chairs and Vice Chairs, staff pulled out the operational issues and brought forward the policy issues to the subcommittee. Santana stated that some operational issues can be changed in response to the input received, and others require more time to talk through workload. Santana stated staff can then bring forward a memo to the subcommittee.

Regarding an Annual Satisfaction Survey, Senior Management Analyst Blackford stated staff will come back to the subcommittee with more information.

Chair Hendricks stated that if an annual satisfaction survey will be given, there should be a free form text box. Hendricks stated if boards and commissions members have a concern, they should reach out to the Chair, staff liaison, City Council Liaison, Mayor or City Manager.

Member Larsson stated the recent study session was more effective than a survey, and if Council continues to have regular study sessions, we may not need to have an annual survey.

Chair Hendricks stated the regular study sessions needs to get on the calendar.

Member Griffith stated he is not sure he agrees that a study session could replace a survey; there are morale issues on a couple of the commissions.

Chair Hendricks inquired as to who should handle issues brought to the Mayor by board and commission members.

Regarding Agenda Notification Options for all Commission Meetings, Chair Hendricks provided comments regarding agenda notification options, and inquired if there is a broader question regarding how easy the agendas are to understand. Hendricks stated the agenda templates for boards and commissions should be consistent.

Senior Management Analyst Blackford stated there is a template in use and the agendas were reviewed by the Clerk's office for consistency.

Regarding Live-Streaming of All Commission Meetings, City Manager Santana stated staff needs to look at the issue to determine what, if anything, can be done to be responsive.

Senior Management Analyst confirmed City Council meeting are closed-captioned.

Public Comment continued:

Kevin Jackson stated with regard to networking, that perhaps Sustainability Commission and BPAC could work together on some items, or joint sponsorship of study issues. Regarding agenda preparation, the staff liaison takes primary responsibility for preparing the agenda, but it would be helpful if the Chair was notified a couple of days prior to the agenda being posted, so that if there is something that was not included, there would be an opportunity to correct it. Jackson stated an opportunity for a quick review would be helpful.

Jackson stated he thought the 10-day agenda notification timeline suggested by the Planning Commission was generous, but if that's impractical, five days would be optimal. Jackson stated the full packet download option has been hit or miss for the Bicycle and Pedestrian Advisory Commission. Regarding study issues, Jackson restated the earlier discussion and stated the extra delay would have an impact. Jackson stated the staff recommendation in a study issues write-up is where there are often misunderstandings, and that is not often seen until the end. Jackson cited an example of a recent study issue proposal.

Jackson stated the deferral process is defined for City Council, but not for boards and commissions.

Jackson stated notification of operational issues is vital to keep the commission apprised of what is going on in the community, such as signals that don't work, curb cuts or hazards.

Jackson stated regarding the satisfaction survey that he believes it's a good idea, and a way of prompting feedback from commissioners.

Public Comment closed.

ADJOURNMENT

Senior Management Analyst Blackford stated that if the Subcommittee is open to a January meeting, staff can begin polling the subcommittee for their availability.

Chair Hendricks provided closing comments. Chair Hendricks adjourned the meeting at 7:09 p.m.