

Worksession

Agenda Item #	3
Meeting Date	October 20, 2008
Prepared By	Jessie Carpenter City Clerk
Approved By	Barbara B. Matthews City Manager

Discussion Item	Discussion of City Committees - Process for Review of Applications, Overview of Committee Comments
Background	<p>The City Council has held a series of worksessions related to City boards, commissions and committees. The discussions led to the development of a draft document setting forth the Council's policies. The draft was sent out to all committee chairpersons for review and comment. Copies of the comments are attached for review. The Council may wish to hold a brief discussion about the comments and determine how to proceed.</p> <p>The Council also initiated a new process for review of applications for appointment. Instead of interviewing applicants, Councilmembers agreed to review applications forwarded by the City Clerk. The ward Councilmember was to make contact with the applicant and then make a recommendation to the full Council on the appointment. Recommendations from the board, commission or committee were also to be taken into consideration. In light of its experience with the new process and the comments from boards, commissions and committees, the Council may wish to discuss improvements or alternatives to this process.</p>
Policy	<ul style="list-style-type: none"> • City Charter, Section 401 General Powers. "(b) The legislative powers of the Council shall include but are not limited to the following: 1. Administrative Agencies and Procedures. To establish any administrative agencies, boards and commissions that may be deemed necessary to further the purposes of the City, and to provide for administrative procedures, including rule making and quasi judicial decision-making by such agencies." • Takoma Park Code Chapter 2.16, Article 1 • Administrative Regulation 95-1 (Citizens Committees – Open Meetings Act) • Maryland Open Meetings Act
Fiscal Impact	N/A
Attachments	<ul style="list-style-type: none"> • Comments received to date.
Recommendation	Staff recommends that the City Council discuss the application review process and next steps in the overall review of board, commission and committee policies. More feedback from committees is expected. Staff recommends that a worksession be scheduled to discuss remaining issues with interested members of boards, commissions and committees.
Special Consideration	

COMMENTS ON DRAFT COMMITTEE DOCUMENT

The members of the Ethics Commission have reviewed the draft and we have no objections. We agree that having a coherent and defined policy regarding the operations of the City's committees, commission and boards will be helpful and we have no problem with the draft policy.

– Emily Schabacker, Chair, Takoma Park Ethics Commission

Expressed support for the suggestion to have Council liaisons.

– Wolfgang Mergner

Bulleted below are comments from individual members of the City of Takoma Park Personnel Appeal Board on the City Council's "Relationship of the City Council, Committees, and City Staff" draft document.

- Page 4: Evaluation of Applications
Carefully evaluate the clause "diversity of committee membership" for all possible definitions and potential discrimination.
- Page 6: Committee Vacancies
Consider a more efficient method to reappoint Committee Members whose terms are expiring.

– Anand Parikh, Chair, City of Takoma Park Personnel Appeal Board

The consensus of the Tree Commission is that this is an excellent document. We appreciate the efforts of the City Council to formalize the procedures and functions of the various City committees and boards, rather than operating on an ad hoc basis as we have in the past. We plan to draw up specific bylaws of governance for the Tree Commission (attendance, selection of chair, vice-chair, secretary, minutes, etc.) at our next scheduled meeting on Oct 14.

We had just a couple of general comments regarding the document.

(1) We recognize the importance of maintaining transparency of government and are very much in favor of compliance with the Open Meetings Act. On the other hand, because of limited formal meeting time, we have often found it necessary to resort to email to discuss issues that have arisen in the course of hearings or meetings. We suggest that these two apparently conflicting needs can be reconciled in one of two ways: (a) summarizing any email discussions in the next regular meeting and incorporating them into the minutes of the meeting; or (b) cc'ing

the staff liaison or other City employee in any email discussion and thereby establishing a City email record of our discussion. The latter has the advantage of establishing a complete record of all discussions, but we suggest it in ignorance of the City's system for archiving email records, so if the City does not keep permanent records of email, it may not be useful for this purpose. We raise it as a suggestion for the City Council to consider.

(2) On page 8, under 'Bylaws/Rules of Procedure', the last item states simply that any committee's bylaws should include 'process for setting the meeting agenda.' Speaking for myself, I would like to see that item spelled out in a little more detail; it is unclear to me exactly what the City Council wants.

Thank you for soliciting our advice and considering our comments.

– Carol Hotton (for the Takoma Park Tree Commission: Melanie Fosnaught, Carol Hotton, Pat Howell, Nicolien van Schouwen)

At their September 23, 2008 meeting, the Façade Advisory Board reviewed recent Council discussion materials regarding City Council appointed committees, boards, and commissions. They appreciate this opportunity to comment on the ongoing discussion and to advise the Council as you consider this issue.

The Board concluded that it was not supportive of Councilmembers being appointed as liaisons to or serving on committees. The Board also did not support a ward councilmember interviewing and serving as the sole arbitrator of qualifications of the applicant or of the composition of the committee. The Board concluded that it is important that the appointment candidate review and appointment process be collaborative and transparent.

– Ilona Blanchard reporting for the Façade Advisory Board

Thank you very much for the opportunity to comment on the draft codification of City committee operations, policies and procedures. I have served on various committees over a dozen years by now. Please note that the comments below are the direct consequence of personal experience with every single one of the items I bring to your attention.

Relationship of the City Council, Committees, and City Staff

This document makes the point repeatedly that committees “... do not direct ...” City staff members. The converse must also be pointed out, that City staff does not direct committee members, agenda and activities. *(I have encountered several such attempts on different committees. It required the intervention of the City Manager or the Department head to remedy these situations.)*

Residency

Here I believe that the draft document is going in the opposite direction from where it should. Some committees need the presence of members regardless of residency to bring key connections or expertise to a committee. This is specifically important when we consider the need to connect particular committees with the business community (e.g. OTBA, Main Street), or the various apartment building managers, as well as resident institutions (e.g. CUC, Adventist Hospital) and those external to the City (e.g. MCFRS). Representation on the appropriate committees from such venues should be actively sought irrespective of residency, instead of accommodating the need only “by exception”.

Application and Evaluation of Applications

Having the right people on a committee is the key to assuring that a committee is useful and productive. It must not continue to be a matter of “body temperature”, and filling out an application to get on a committee. As a minimum, applicants should attend at least two consecutive meetings of the committee before they apply. This will allow for a reality check for the applicant, and it will later allow the interview to explore pointed questions about mutual compatibility with the work of the committee and explore potential conflict of interest issues (see below). Furthermore, an applicant should be accepted only on “probation” for a period before being confirmed in an appointment. Applicants should also assure the City that they expect to do committee work in addition to attending meetings. *(I had the experience with a half dozen or more newly appointed members to various committees over the years, who stopped coming after attending two or three meetings. There was even one person who never showed up after having been appointed. PSCAC had two new members stop coming this year, without any notice or explanation.)*

Ethics and Conflicts of Interest

While it is expected that members bring and apply their experience, background, interests and motivation to the business of a committee, it must be made clear in this paragraph, that promoting personal and local interests over that of the City in its entirety, is a conflict of interest. This paragraph should explicitly state this in so many words, it does not do so now. *(There are many instances of people signing on to a committee with the explicit purpose of advocating for a specific local condition or need (e.g. getting a speed bump), or a favorite project. They usually insist, without any evidence, or in deed contrary to evidence, that what is in their personal interest is also in the interest of the City.)*

– Andy Kelemen

Comments on Draft Document on Boards, Commissions, Committees

In general, I find this to be a clearly articulated, comprehensive statement of policy that will most certainly promote the efficacy of boards, commissions and committees. I expect that once it is fully instituted, it will result in a measurable improvement in the overall quality of committee work. My concerns are only two, as follows:

1. **Evaluation of Applications** (p. 4, ¶ 6) – the criterion of “diversity of committee membership” raises a red flag because if it means discriminating on the basis of race, ethnicity, gender, religion or marital status, it violates the law. Incidentally I also don’t know how certain other criteria could be justified unless they are expressly required in the code section establishing the body. For example, a commission defined in the code as having two members from each ward, or a board defined as being constituted of Takoma Park residents, etc. Failure to establish such criteria at the outset leaves the Council open to claims of favoritism or bias in the selection of members to serve on such bodies.
2. **Council Interviews** (p. 4, ¶ 7) – Having the Council liaison or ward Councilmember conduct interviews and make determinative decisions about the appointment or reappointment of an applicant raises the possibility of conflicts of interest and preferential treatment. This is particularly problematic for the Ethics Commission, Board of Elections, and Personnel Appeal Board (for obvious reasons), but may even be a problem in cases where a Council liaison for COLTA is involved (or has the potential for involvement) in a landlord-tenant dispute. Furthermore, an individual who sought appointment on an advisory body would think twice before taking some action in opposition to the relevant Council liaison or their ward Councilmember, regardless of how justified such opposition may be. Having the entire Council conduct applicant interviews and approve or disapprove appointments dilutes the potential for conflict of interest and the “silencing” effect of an applicant having to depend on the goodwill of a given elected official. Finally, while this section allows the Council, at its discretion, to interview an applicant, there is no guidance in this document as to how such discretion would be triggered – either sua sponte, or on the basis of an applicant petition – nor the basis for a determination.

Lastly, on a more mundane note, the document throughout uses the term “committee” to signify all three types of administratively established bodies. This is indicated in the cover letter requesting feedback, but is not indicated in the draft of the official document. This should be corrected.

Thank you for taking up this important matter and for giving us an opportunity to review and submit comments.

– Jillian Aldebron