

MEMORANDUM

DATE: October 4, 2010
TO: Langley City Council and Mayor
FROM: The Council Process Committee (Abel and Gilman)
RE: Council Committees

THE ISSUE AND ITS CONTEXT

The Council Process Committee was created because the Council feels that it is not doing its work as efficiently, effectively, and with the level of quality that we would like to see.

What is the council's work? State law refers to the council as the "legislative body" of the city and gives it the task of creating the policies that organize city government and regulate the community. The Council thus has the responsibility to both develop and enact various plans and codes that express the city's policies. It can, and often does, delegate parts of this work, but the responsibility still remains with the Council.

This memo focuses on only part of the larger question of how to improve the Council's policy work. It is a preliminary report describing the Council Process Committee's work on this question so far. It focuses on "council committees" and the question of what changes, if any, should the council make in our existing framework and procedures concerning council committees. As we explore this specific question it will be helpful to keep in mind that these organizational changes, if we choose to make them, are simply a means to an end. The larger goal is to create a Council that serves as a more effective legislative body, and thereby better able to both partner with the Administration and serve the community.

Council committees are committees created and directed by the Council to assist with the Council's policy work. At this time the Council Process Committee is the only council committee. The existing boards and commissions (Planning Advisory Board, Parks and Open Space Commission, etc.), whose members are appointed by the Mayor and operate under the guidance of staff, are not what we mean by council committees.

"Council committees" nevertheless turns out to be a rather broad category that includes many different forms and functions. For example, [Bainbridge Island](#) lists the following bodies that could all be considered as types of council committees: council standing committees, council ad hoc committees, steering groups, and small task groups. Yet whatever the form, their purpose is to assist the council in its work.

While only part of the solution, an improved set of frameworks and procedures for council committees could be an important step towards a council that better serves the community.

STATE LEGAL FRAMEWORK

Langley is organized as a noncharter code city under [Title 35A](#) of the Revised Code of Washington (RCW). The council has very broad power to regulate the affairs of the city, including how the council organizes its own work. The legal foundation for this is RCW 35A.11.020, key portions of which are as follows:

RCW 35A.11.020

Powers vested in legislative bodies of noncharter and charter code cities.

The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; ...

The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. ...

In addition and not in limitation, the legislative body of each code city shall have any authority ever given to any class of municipality or to all municipalities of this state before or after the enactment of this title, such authority to be exercised in the manner provided, if any, by the granting statute, when not in conflict with this title. ...

In addition, [RCW 35A.12.120](#) includes:

The council shall determine its own rules and order of business, and may establish rules for the conduct of council meetings and the maintenance of order.

There are, however, restrictions on the degree of decision-making that the council can delegate to bodies other than the full council, including council committees. The Washington State Supreme Court, in [Bowen v Kruegel](#) (1965), decided that the city council of Richmond did not have the power to delegate its legislative authority (over an annexation) to a referendum, and in [Lutz v Longview](#) (1974), the Court decided that the city council of Longview did not have the power to delegate its legislative authority (over zoning change) to the planning agency. The implication here is that council's final decision-making authority, as granted by state law, must stay with the council.

The council can, however, establish other bodies to make recommendations to the council, to conduct hearings, and in various other ways act on behalf of the council in preparation for some final decision. Such other bodies may be subject to the [Open Public Meetings Act](#). In particular, if the Council can only act after it has received the advice from such a body, that body is considered to be exercising de facto decision-making power and is subject to the OPMA.

A council committee, in particular, [will be subject to the OPMA](#):

- when it exercises actual or de facto decision-making power
- when it conducts hearings, or
- when it takes testimony or public comment.

DESIRED OUTCOMES

The list of desired outcomes need to be developed by the Council as a whole. We do, however, have some starting suggestions. Whether we continue with what we have now or develop new frameworks and procedures, our system of council committees should:

- enable more effective and efficient policy development
- enable higher quality policy development
- not increase the minimum time expectation for council members
- allow each council member to flexibly adjust the amount of time he or she is devoting to policy development
- get good input from staff while requiring less staff time
- better utilize the knowledge and talent within the community
- be part of a clearer, more easily understood system for policy development
- establish a clear distinction between legislative and administrative decision making
- provide a clear scope of work and task description for each committee
- make efficient use of everyone's time and skills
- keep the real decision-making at Council meetings
- set clear and realistic expectations for all participants

CURRENT CONDITION

The sections of the Langley Municipal Code (LMC) that govern council committees are 2.06.160 and 2.06.170. The first section is very broad, saying (in part):

2.06.160 Creation of committees, boards and commissions.

The council may create committees, boards and commissions to assist in the conduct of the operation of the city government with such duties as the council may specify not inconsistent with this code and the Revised Code of Washington.

A. Membership and Selection. Membership and selection of members shall be as provided by the council if not specified by this code. Any committee, board or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the council. No committee so appointed shall have powers other than advisory to the council or to the mayor except as otherwise specified by the Revised Code of Washington or this code.

The second section describes a set of Legislative Review standing committees dealing with:

- A. Streets, Utilities, Transportation, City Buildings and Property, Parking and Grounds Maintenance

- B. Public Safety
- C. Finance and Personnel
- D. Parks, Harbor and Dock, Recreation and Library
- E. Community Affairs

These standing committees are to have at least two councilmembers, appointed by the Mayor, and to meet regularly with relevant staff representatives according to a schedule set at the beginning of the year.

This section also has a provision for ad hoc committees (here "presiding officer" = mayor):

The presiding officer may establish such ad hoc committees as may be appropriate to consider special matters that do not readily fit the committee structure or that require special approach or emphasis. The presiding officer shall appoint a council member to all ad hoc committees and any intergovernmental councils as the need arises. This is not to be construed as a limitation or infringement upon the executive powers of the mayor. The committees shall consider all matters referred to them. The committee chairperson shall report to the council the findings and/or the recommendations of the committee.

In practice, for at least the last 6 years, no use has been made of the Legislative Review standing committees, there have been relatively few council committees of any kind, and those that have been formed have been ad hoc committees organized under Section 2.06.160.

OTHER OPTIONS

Based on other cities

The Municipal Research Service Center (MRSC) provides helpful information on [Council Rules of Procedure](#) and [Council Committees](#). This includes links to procedure manuals from a number of Washington cities. Our main take-away from this information is that most cities employ some combination of standing and ad hoc committees, and each city does it somewhat differently.

On paper Langley also has this combination but in practice we are only using ad hoc committees. Thus one alternative to the status quo would be to develop and make use of standing committees, either as they currently exist in the code or perhaps with new definitions for their scope.

Standard topic areas and research committees

We have also been exploring a third option that makes use of "standard topics" rather than "standing committees" and citizen-involved research committees as a major form of ad hoc council committees.

Our current code for standing committees takes the topics that city government deals with and groups them into five broad areas (see above). The idea of "standard topics" similarly looks at what city government does and groups the various activities. Our current working list of topics is: Administration, Building,

Capital Facilities, Community Development, Council, Finance, Land Use, Parks & Open Space, Public Safety, Transportation, Utilities, Waterfront. This draft list was developed by looking at the major areas in the Comprehensive Plan, the LMC, city departments, boards and commissions, and the old standing committees, and making sure that the full scope of city activity was adequately covered. If the Council decides to explore this option further then the whole Council needs to get involved in developing and refining that list. However, for the purposes of this memo, just assume that we have some agreed-upon list of standard topics so that we can explore how that list would be used.

The first use of the list of standard topics would be for each council member to choose those topics they felt most interested in and thereby create their own individual portfolio of topics. By choosing a topic, a council member would be indicating a willingness to gain more depth of understanding about that topic and to potentially serve on ad hoc council committees that dealt with an issue related to that topic. In our current thinking, each council member would need to choose at least one topic area but there would be no upper limit on the number of topics. Thus each council member could decide his or her own level of engagement and time commitment.

The second use of the list of standard topics would be for the citizens who were willing to be part of research committees. In our current thinking, these ad hoc research committees would normally be made up of one or two council members plus two to four citizen-researchers. The Council would identify a policy issue it wanted to address (e.g. noise) and create a research committee to explore and report back on a variety of options for addressing that issue. The Council would then provide direction for next steps by being able to choose among those options or create its own variant on those options.

In order to be able to form these research committees quickly and efficiently, it will be helpful to establish a pool of interested citizen-researchers and provide them with some basic training in municipal policy making. As part of joining this pool, interested citizens would use the list of standard topics to identify their particular areas of interest and/or expertise.

OPTIONS COMPARED/PROS AND CONS

We have described three options:

- the status quo of occasional ad hoc committees based on very simple code language
- a more developed but still traditional combination of standing committees and ad hoc committees
- a system of standard topics, a pool of citizen-researchers, and as-needed research committees

These three are not mutually exclusive; we do not see them as the only possible options; and the details of how each might be implemented could make a major difference in how effective each might be. We do not feel we have reached a

point that it would be appropriate for the Council to yet choose one of these, but we do want the whole Council to discuss which of these feels worthy of further exploration.

Given this preliminary state, we do nevertheless see some pros and cons for each option:

Status quo

Pros -- familiar, simple, flexible

Cons -- too much of the work falls to council members, no standardized or easy way to involve citizens, no benefit from a division of labor among council members

Traditional combination of standing committees and ad hoc committees

Pros -- can draw on the experience from other cities, standing committees provide benefits of division of labor

Cons -- the rigid format for standing committees make poor use of everyone's time, no standardized or easy way to involve citizens, increases the minimum time requirement for councilmembers

Standard topic areas and research committees

Pros -- provides the desired outcomes listed above, provides the benefits of division of labor without the rigid format of standing committees, gives the council flexibility in researching a topic, involves citizens more fully in topic-specific research

Cons -- not the traditional way

These are just initial lists of pros and cons. We look forward to expanding these with the whole Council.