



MEMORANDUM

To: Kirkland Planning Commission

From: Jeremy McMahan, Planning and Building Deputy Director

Date: August 18, 2020

Subject: Public Involvement Discussion

Staff Recommendation

The Planning Commission should begin discussions on ways to improve public engagement on planning initiatives and identify next steps and any additional information that would help with future discussions. Staff has invited Kellie Stickney, the City's Communications Program Manager, to join in the conversation and discuss opportunities available using the City's various communication platforms.

Background

The Commission advocated for this topic to be advanced in the adopted Planning Work Program because it encompasses a number of critical current issues, including:

- With the "new normal" of virtual meetings, ensuring that the community participates and understands the value of their participation.
- With the current spotlight on pervasive and systemic racism and exclusion, adapting our processes and outcomes to be more equitable and inclusive.
- Considering the current "forced trial" of Zoom digital community engagement as an opportunity for better public engagement in the long-term.

Commissioner Rutherford has succinctly articulated some conceptual goals for these efforts, which I include below (without permission) to stimulate Commission discussion:

- Maximize visibility: people should be able to easily discover topics of interest
- Minimize noise: people shouldn't be bugged about topics they don't care about
- Maximize reach: number of people engaged
- Maximize engagement: depth of conversation
- Maximize convenience: available when/where people are available
- Nurture collaborative development of ideas between staff, commissioners, and public
- Effectively mitigate destructive participation
- Minimize cost: monetary and time
- Minimize delay created by the outreach process
- Be publicly viewable in near real-time

- Be available to people of all means and abilities. Not all methods will work for everyone, but everyone should have adequate methods for becoming informed and participating
- Be more available to people of all forms of connectivity: low-bandwidth, phone-only

City Staff Outreach

The City has basic legal requirements for community engagement that may include mailings to property owners and residents, posting public notice signs, and publishing in the Seattle Times. Beyond those basic requirements, staff employs tools such as project webpages, electronic newsletter subscription lists for project updates, public open houses, presentations at KAN and neighborhood meetings, stations at community events, produced video content, and use of City social media platforms.

More recently, the City is working toward more intentional equity and inclusion strategies where we mindfully consider the equity profile of groups impacted by projects so we can address barriers to participation and outcomes that positively impact equity and inclusion. This has been a neglected part of our City and Department mission, and we have a lot to learn. Staff will continue to engage the Commission as part of this Planning Work Program Task.

The City is also in the process of updating its website and staff are discussing ways to help the community quickly see all of the City initiatives that are underway and more easily self-select topic of interest.

Commissioner Outreach

Commissioners have discussed how they can take a more active role in the community to promote involvement in Commission business. Ideas include authoring content in the local paper and engagement in social media platforms. As active members of the community, individual Commissioners do have a role in promoting the work of the Commission and that happens informally on a regular basis. As the Commission discusses an expanded role or formalizing practices, staff would encourage the Commission to:

- Agree on rules of the road to protect working relationships necessary for an effective Commission.
- Update the Commission Rules of Procedure to reflect any formal decisions.
- Consider the sustainability of any initiatives that the Commission decides to take on (will future Commissioners continue the work).

In addition, relevant laws and policies should be kept in mind as Commissioners become more active in promoting the work of the Planning Commission:

[Commission Rules of Procedure:](#)

Section 10.C *Representing the Commission*. The Planning Commission shall act as a body. A member, when representing the Commission may speak or act for the Commission in accordance with the recommendation or direction taken by the Commission. The Chair or Chair's designee shall serve as the official spokesperson of the Commission.

Individual Commission members may speak as an individual, clearly specifying they are speaking as an individual articulating their own views and concerns (e.g. I am speaking as an individual, not representing the Planning Commission.)

Tip: Be mindful of who you are speaking for and be mindful of how your words instill public confidence in the work of the Commission.

[Open Public Meetings Act \(OPMA\):](#)

A public meeting occurs when a quorum of Commissioners gathers to transact Commission business. While most meetings occur in person, a meeting can occur through a series of emails or tweets transacted by a quorum. Penalties for violations of the OPMA include both personal liability and City liability. The only meetings of the Planning Commission that should occur are those where the City has specifically provided required public notice.

Tip: All Commissioners should have taken the online OPMA training, which can be reviewed on the [Attorney General's webpage](#). If Commissioners choose to become more active in digital communication platforms, they need to be cognizant of both the substance of the communication and whether other Commissioners are engaged in the communication. The [City Council Policies and Procedures](#) (pages 17-19) outline their adopted rules for how the Council uses social media (Attachment 1).

[Public Records Act \(PRA\):](#)

Any written record that relates to the conduct of government is subject to the PRA and applicable rules for disclosure. Penalties for violations of the PRA can be civil and criminal.

Tip: All Commissioners should have taken the online PRA training, which can be reviewed on the [Attorney General's webpage](#). The easiest public record to maintain and disclose is Commissioner use City email because the City can automatically archive and search those when public record requests are made. Other digital communications require individual Commissioners to retain and disclose on request. Again, some guidance is provided in the Council Policies and Procedures.

Attachments:

1. Excerpt from City Council Policies and Procedures

cc: Kellie Stickney, Communications Program Manager

CHAPTER 5: COUNCIL COMMUNICATIONS

5.01 Written Correspondence. Access to the City Council by written correspondence is a significant right of all members of the general public, including in particular, residents of the City. The City Council desires to encourage the exercise of this access right by the general public to bring to the attention of the Council, matters of concern to Kirkland residents. In order to do this most effectively, some orderly procedure for the handling of written correspondence is essential. One concern of the City Council is application of the appearance of fairness doctrine to correspondence addressed to the Council, concerning matters which will be coming before the City Council in a quasi-judicial or land use hearing context. Special care in the way the content of those letters is brought to the attention of the individual members of the Council is essential in order that an unintended violation of the appearance of fairness doctrine does not result.

The Council believes that the following procedure for handling of written correspondence addressed to the Council will best accommodate the desires and concerns of the Council as set forth in this section:

1. Correspondence of an Information Only Nature — Correspondence which is purely of an informational nature and which does not require a response or action should not be placed on the Council meeting agenda by the City Clerk, but rather transmitted to the Councilmembers in the normal course of daily business.

2. Routine Requests — Items of a routine nature (minor complaints, routine requests, referrals, etc.) shall be answered by staff. Routine requests and staff responses shall be transmitted to the Councilmembers in the normal course of daily business.

3. Significant Correspondence — Correspondence that requires policy decision or approval by Council shall be placed by the Clerk on the regular Council agenda and shall be accompanied by staff report as are all other agenda items. Direct replies may be made by the City Manager if policy matters are not involved or the Council has previously provided policy direction. Replies shall be transmitted to the Councilmembers in the normal course of daily business.

4. Correspondence Directly Relating to Quasi-Judicial Hearing Matters — All such correspondence when so identified by the City Clerk shall not then be included within the agenda materials, but shall be placed in a City Council communication holding file, or directly into the appropriate hearing file, so that they will be circulated to City Councilmembers at the time that the matter comes before the City Council for its quasi-judicial consideration, and as a part of the hearing record for that matter. The City Clerk shall also advise the sender of each such letter, that the letter will be coming to the attention of the City Council at the time that the subject matter of the letter comes before the Council in ordinary hearing course.

5. Prompt Acknowledgments — The City Manager or designee will promptly acknowledge the receipt of all written correspondence and inquiries and, where appropriate, advise the writer of referral to the City Council or a City department.

5.02 Council Communications with the Public. The Kirkland City Councilmembers are committed to open and progressive communications in their capacity as elected officials. Individual Councilmembers use a variety of methods to communicate with the public, stakeholders, partners and the media. Social media platforms offer a way to deliver public information and customer

service to constituents and give citizens another means to interact with their government. The purpose of this policy is to provide guidelines for Council communication with the public, when Councilmembers are acting in their official capacity or commenting on City government matters, through traditional media outlets or the use of social media platforms through personal accounts or pages.

The Council believes that the following guidelines will provide consistency in procedures and allow for use of more tools to communicate with the public.

1. The content and tenor of all public communications should model the same professional behavior displayed during Council meetings and community meetings and reflect well on the individual Councilmember, the City Council as a whole and the community.
2. The following disclaimers should be included in whole or referenced with a link to the disclaimers for all communications initiated by Councilmembers in open forums.
 - a. The views expressed represent the views of the author and may not reflect the views of the Kirkland City Council.
 - b. Responses to this communication by other Councilmembers may be limited by the provisions of the Open Public Meetings Act under which a policy discussion must be held in an open public meeting if a quorum of the City Council participates.
 - c. Comments posted in response to a Councilmember-initiated communication may be subject to public disclosure under the Public Records Act.
3. Media outlets such as newspapers, radio and television news coverage may be used as communications medium by individual Councilmembers provided that the communication clearly states that the views expressed do not represent those of the City Council or the City of Kirkland but the views of the individual Councilmember.
4. Communications Initiated by Councilmembers. Guest editorials, letters to the editor and blog posts published by Councilmembers should be provided to the full City Council at the same time they are delivered to the media outlet. Drafts of guest editorials, letters to the editor or blog posts may not be circulated for comment by a quorum of the Council prior to publication as this may violate the Open Public Meetings Act.
5. Use of Social Media. Posts to social media sites (Web 2.0) such as blogs, Facebook and Twitter may be used by individual Council members to communicate with the public provided the following guidelines are used:
 - a. Blog posts or other posts to social media sites should include, or reference by a link, the disclaimers listed in Section 2.
 - b. Social media sites are not to be used for the conduct of City Council business other than to informally communicate with the public. Public notices, items of legal or fiscal significance that have not been released to the public and discussion of quasi-judicial matters may not be included in Councilmembers social media posts. Councilmembers are encouraged to maintain social media sites with settings that can restrict users' ability to comment in order to avoid inadvertent discussions of these items. Unsolicited public comments on quasi-judicial matters must be placed on the record by the Councilmember at the time the matter is

before the City Council for consideration.

- c. In order to demonstrate- openness and a willingness to listen to the entire community, Councilmember posts on social media sites should be made through a public-facing page or by marking individual posts as available to the public as a whole.
 - d. When commenting on a post or an article published by someone other than a Councilmember, a link to the standard disclaimers in Section 2 should be included within the thread.
6. If a Councilmember makes a factual error in a public communication, it should be corrected as soon the error comes to light. Blog posts may be corrected by amending a previous post with a note that a correction was made.
7. Retention of Council Electronic Communications and Social Media Content. All email and text messages, files downloaded from outside sources and other electronic files, relating to the conduct of government or the performance of any governmental or proprietary function, are considered official City business records and are subject to the Washington State Public Records Act and the laws governing the retention and destruction of public records.¹
 - a. Email messages sent or received via City email addresses are captured by the City archiving system servers. Council communications are potentially archival and will be retained in accordance with the State retention schedule.
 - b. Email messages sent or received using personal addresses should be forwarded to the member's City account, but should also be maintained in their original form to preserve associated metadata. Attachments should be saved to City server drives as appropriate.
 - c. Text message records are maintained by the communications carrier/providers with varying policies and practices, and can be difficult to retrieve and to maintain in accordance with State law. At this time, Councilmembers should only use text messaging for transitory communications and not to discuss City business.
 - d. Social Media postings should be captured via screen shots which are emailed to, and retained in, the Councilmember's City email account as an interim archiving method pending selection of an appropriate social media archiving technology solution.
 - e. Members should consult with the City Clerk's Office for assistance with any retention questions.
8. Use of City-owned equipment to update personal social media sites or email accounts is subject to Administrative Policy 7.1 which allows for incidental use of City equipment for personal needs provided the activity does not cause the City to incur additional cost or liability or pose additional risk to security, privacy or conflict with any other City policy. Use of City-owned equipment or email accounts for campaign purposes is prohibited by RCW 42.17A.555.

¹ "Public record" is broadly defined in RCW 42.56.010(3) to include, ". . . any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. . . "

