



AGENDA

MILWAUKIE DESIGN AND LANDMARKS COMMITTEE Monday, November 25, 2013, 6:30 PM

**CITY HALL CONFERENCE ROOM
10722 SE MAIN ST**

1.0 Call to Order—Procedural Matters

2.0 Meeting Notes—None

3.0 Information Items

4.0 Audience Participation—This is an opportunity for the public to comment on any item not on the agenda

5.0 Public Meetings—Public meetings will follow the procedure listed on reverse

6.0 Worksession Items

6.1 Summary: Review of DR-13-05 Design Review Meeting
Presenters: Li Alligood, Associate Planner

6.2 Summary: Discussion of DLC Bylaws
Presenters: Li Alligood, Associate Planner

7.0 Other Business/Updates

8.0 Design and Landmark Committee Discussion Items—This is an opportunity for comment or discussion for items not on the agenda.

9.0 Forecast for Future Meetings:

December 2, 2013 1. Cancelled

January 7, 2013 1. TBD

Milwaukie Design and Landmarks Committee Statement

The Design and Landmarks Committee is established to advise the Planning Commission on historic preservation activities, compliance with applicable design guidelines, and to review and recommend appropriate design guidelines and design review processes and procedures to the Planning Commission and City Council.

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email planning@ci.milwaukie.or.us. Thank You.
2. **DESIGN AND LANDMARK COMMITTEE MEETING MINUTES.** Approved DLC Minutes can be found on the City website at www.cityofmilwaukie.org
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at www.cityofmilwaukie.org
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.

Public Meeting Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Committee members.

1. **STAFF REPORT.** Each design review meeting starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommendation with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Committee was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMITTEE MEMBERS.** The committee members will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the Committee will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC MEETING.** The Chairperson will close the public portion of the meeting. The Committee will then enter into deliberation. From this point in the meeting the Committee will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.
10. **COMMITTEE DISCUSSION AND ACTION.** It is the Committee's intention to make a recommendation this evening on each issue on the agenda. Design and Landmark Committee recommendations are not appealable.
11. **MEETING CONTINUANCE.** Prior to the close of the first public meeting, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Design and Landmarks Committee will either continue the public meeting to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony.

The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.

Milwaukie Design and Landmarks Committee:

Greg Hemer, Chair
Sherry Grau, Vice Chair
Val Ballestrem
Becky Ives

Planning Department Staff:

Steve Butler, Interim Planning Director
Ryan Marquardt, Senior Planner
Li Alligood, Associate Planner
Brett Kelter, Associate Planner
Marcia Hamley, Administrative Specialist II
Alicia Martin, Administrative Specialist II



MILWAUKIE

Dogwood City of the West

To: Design and Landmarks Committee

Through: Steve Butler, Interim Planning Director/Community Development Director

From: Li Alligood, Associate Planner

Date: November 18, 2013, for November 25, 2013, Worksession

Subject: Design and Landmarks Committee Bylaws

ACTION REQUESTED

Review proposed revisions to the DLC bylaws and provide direction to staff regarding further revisions.

BACKGROUND INFORMATION

Milwaukie Municipal Code (MMC) Subsection 2.10.050.A requires the City Council to adopt bylaws for each City board, committee, or commission. The DLC's current bylaws were adopted in 2003 (see Attachment 1).

The purpose of bylaws is to establish conduct for meetings, elections of officers, filling vacancies, describing the types of officers and their duties, and other routine conduct. When Committee members or staff are unsure about the appropriate conduct, the bylaws should provide direction and clarity. According to The People's Law Dictionary, "Bylaws are, in effect a contract among members, and must be formally adopted and/or amended."¹

A. History of Prior Actions and Discussions

- **September 2003:** City Council adopted the current DLC bylaws.

B. Issues with DLC Bylaws

Staff relies on the bylaws adopted by each board, commission, and committee to provide guidance regarding the conduct of meetings, the appointment of its members, and other important issues. However, the current DLC bylaws do not provide guidance where it is most needed, or provide guidance regarding processes that are no longer applicable to the Committee.

¹ The People's Law Dictionary. S.v. "bylaws." Retrieved April 13, 2011, from <http://legal-dictionary.thefreedictionary.com/Bylaws>

An update of the Committee bylaws is timely for several reasons:

- The current bylaws were adopted in 2003, and have not been updated since.
- City Council adopted substantial revisions to the zoning ordinance in 2011,² including new language about the procedures for conducting design review meetings. These procedures became effective on May 15, 2011, and are not included or referenced in the current bylaws.
- The Committee reviews several design review applications each year, and additional clarity and procedural guidance is important.

Staff has identified components of the bylaws in need of revision or clarification, including:

- Correction of outdated references and procedures.
- Current language regarding appointment of Committee members does not appear to be consistent with the municipal code.
- The responsibilities of the Chair, Vice-Chair, Committee members, and supporting City staff are unclear.
- There is minimal guidance for situations where quorum is not reached.
- There is no guidance for situations in which both the Chair and Vice-Chair are absent from a meeting.
- There is no structure or guidance regarding meeting agendas or procedures, or for the role of the Chair as the meeting moderator.
- There is no schedule in place for regular review and update of the bylaws.

Staff seeks Committee direction on the type and substance of potential revisions to the bylaws. The Planning Commission adopted revised bylaws in 2010 (see Attachment 2 for an annotated version of the adopted PC bylaws). Although the Commission's bylaws may be more extensive or detailed than the Committee desires, they provide a good starting point for evaluation.

NEXT STEPS

The Committee will vote on whether to retain the existing bylaws, revise the bylaws, or approve the proposed revisions to City Council for adoption. Revised bylaws would not become effective until formally adopted by Council.

ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	DLC Packet	Public Copies	E- Packet
1. DLC bylaws, adopted September 16, 2003	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Planning Commission bylaws, adopted March 2, 2010	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

DLC Packet = paper materials provided to the Committee 7 days prior to the meeting.

Public Copies = paper copies of the packet available for review at City facilities and at the DLC meeting.

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/design-and-landmarks-committee-25>.

² Ordinance 2025, adopted March 15, 2011 (Land Use File #ZA-10-02).

Milwaukie Design and Landmarks Commission (DLC)**BY-LAWS**

Approved by the Design and Landmarks Commission, August 27, 2003
Adopted by the Milwaukie City Council on September 16, 2003

ARTICLE I: MEMBERS AND VOTING PROCEDURES

1. Membership of the Commission shall be as established by the Milwaukie Municipal Code and appointed by City Council.
2. A majority of the Commission may recommend to the City Council that a member be removed from the Commission by the City Council.
3. Members are expected to attend all meetings. Failure to attend one-half or more of regularly scheduled meetings in a six-month period shall be grounds for a recommendation for removal.
4. If a quorum is not attained fifteen minutes following the scheduled time of call to order, the meeting shall be cancelled.
5. All members who are present at Commission meetings, including the Chairperson and Vice-Chairperson, are allotted one vote each on all motions.
6. One member must make a motion and another member must second that motion in order for the Commission to vote. A motion is passed by majority of the Commission members present. Any member, including the Chairperson and Vice-Chairperson, may make and second motions.

ARTICLE II: CHAIRPERSON AND VICE-CHAIRPERSON DUTIES/MOTIONS

1. The Commission shall elect a Chairperson and a Vice-Chairperson. Elections shall be held yearly in January.
2. In the event that an officer cannot complete the specified term, an emergency election shall be held for the completion of the term.
3. In the event the Chairperson cannot attend a scheduled meeting, the Vice-Chairperson shall act as the presiding officer.
4. The Chairperson shall preserve the order and decorum of the meeting; direct discussion and comment to relevant issues; establish and enforce time limits for discussion and comment as appropriate; prevent attacks on personalities; and encourage citizen input.

ARTICLE III: MEETINGS AND PUBLIC HEARINGS

1. Regular meetings shall be held at 6:30 p.m. on the fourth Wednesday of each month. The time and date of the meeting may be changed by a majority vote of Commission.
2. The public shall be notified of all Commission meetings by the City's general notification procedures.
3. The Planning Director or his/her designee shall be responsible for preparing the Minutes for each meeting and keeping records of the attendance.
4. The Planning Director or his/her designee shall be responsible for mailing the Agenda and all meeting materials to members and interested members of the public at least seven (7) days before the next scheduled meeting.
5. Special Meetings may be called at the request of the Chairperson or a majority of the Commission. The Planning Director shall set a special meeting on such request unless good cause exists for delaying until the next regularly scheduled meeting. Good cause may include such factors as staff availability, meeting room availability, and budgetary considerations.
6. Executive Sessions may be held consistent with City Council Meeting Provisions, Section 2.04.090 of the City of Milwaukie Code and applicable state law

ARTICLE IV: BY-LAWS/ CHANGES

1. By-laws may be amended, repealed or altered by a majority of the entire Commission, subject to approval by the City Council.

MILWAUKIE PLANNING COMMISSION BYLAWS

These bylaws are a good model for the DLC to use in its bylaws update. Staff has annotated this version for Committee consideration.

- Throughout, of course, we would replace Planning Commission with Design and Landmarks Committee; “Commission” with “Committee”.
- Staff recommends that the DLC Bylaws include the yellow-highlighted sections, though the specific statements should be edited to apply to the DLC and its work. The sections shown below as ~~struck out~~ are not applicable to the Committee and thus not recommended to be carried over into the DLC Bylaws.

ARTICLE I NAME

The name of this commission is the Planning Commission (Commission).

ARTICLE II PURPOSE, AUTHORITY, AND OBJECTIVE

- A. **Purpose.** The purpose of the Commission is to serve as an advisory body to, and a resource for, the City Council in land use matters.
- B. **Authority.** The Commission is authorized by ORS 227 and Milwaukie Municipal Code (MMC) Chapter 2.16.
- C. **Objective.** The Commission’s objectives include articulating the community’s values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan.
- D. **Open Meetings.** All meetings of the Commission are open to the public. The Commission has the authority to conduct an executive session under ORS 192.660.

ARTICLE III MEMBERSHIP

- A. **Appointment.** Each Commission member shall be appointed by the Mayor with the consent of Council, consistent with MMC 2.10.030 G. Members shall serve at the pleasure of the Council.
- B. **Term of Office.** Terms are for a period of four years. Commission members may serve no more than two consecutive full terms, unless there is an interval of at least one term prior to reappointment. The Council may waive this limitation if it is in the public interest to do so.
- C. **Membership.** The Commission consists of seven members. No more than two members may be non-residents, and no more than two members shall be engaged in the same kind of occupation, business, trade, or profession. No member may be a City of Milwaukie officer, agent, or employee; and no more than two voting members of the Commission may engage principally in the buying, selling, or developing of real estate for profit as individuals; or members of any partnership, or officers or employees of any

corporation that engages principally in the buying, selling, or developing of real estate for profit.

- D. **Vacancies and Removal.** Vacancies are filled in the same manner as the original appointments. A member of the Commission may be removed by the appointing authority, after hearing, for misconduct or nonperformance of duty.
- E. **Attendance.** Upon failure of any member to attend ____ consecutive meetings, the Commission may recommend termination of that appointment to the Council, and the Council may remove the incumbent from the Commission and declare the position vacant to be filled in the manner of a regular appointment.
- F. **Compensation.** Commission members shall receive no compensation for their service, but shall be fully reimbursed for all duly authorized expenses.

ARTICLE IV OFFICERS AND STAFFING

- A. **Officers.** The officers consist of a Chair and a Vice Chair who shall be selected by the membership and who shall serve at the pleasure of the membership for one year. Nominations and election of new officers shall be taken from the floor at the Commission's first meeting of the calendar year. Officers may be re-elected. In the event that an officer is unable to complete the specified term, a special election shall be held for the completion of the term.
- B. **Chair.** The Chair shall preside at all deliberations and meetings of the Commission and call special meetings in accordance with these Bylaws and review Commission agendas with the staff liaison. The Chair shall sign all documents memorializing Commission actions in a timely manner after action by the Commission.
- C. **Vice Chair.** During the absence, disability, or disqualification of the Chair, the Vice Chair shall exercise or perform all duties and be subject to all the responsibilities of the Chair. In the absence of the Chair and Vice Chair, the remaining members present shall elect an acting Chair.
- D. **Staff.** The City of Milwaukie Planning Department will provide staff support to the Commission for: land use issues, meeting notifications, postponements, final disposition of matters, and other steps taken or acts performed by the Commission, which include administrative housekeeping functions such as word processing, minutes preparation, copying, and information gathering to the extent the budget permits.

ARTICLE V ORGANIZATIONAL PROCEDURES

- A. **Meetings.** The Commission shall hold meetings as necessary at a time and place designated by staff consistent with Oregon Public Meetings Law. Typically, the Commission meets at least once a month on the second and/or fourth Tuesday at 6:30 p.m. at City Hall. ~~Commission meetings shall end no later than 10:00 p.m., unless extended by majority vote of the Commissioners present and participating in the Agenda item that is under consideration at that time. An extension to 10:30 p.m. is allowed by Commission action. If a meeting has not concluded at 10:30 p.m., the Commission may vote on the Agenda item, consider another extension of up to 30 minutes, or vote to continue the item to the next available meeting.~~

- B. Quorum.** A quorum is four of the voting membership of the Commission. The concurrence of a majority of the Commission members present shall be required to decide any matter. ~~In the case of a tie vote, the matter is not complete. One new motion may be made. If a majority vote is not obtained on that motion the agenda item fails. If a quorum is not attained fifteen minutes following the scheduled time of call to order, the meeting shall be cancelled.~~ In the event it is known by the Director prior to a meeting that a quorum will not be present at any meeting, the Director shall notify the Commission members. All items scheduled for the meeting shall be automatically continued to a regularly scheduled meeting unless the Director determines that a special meeting is needed. The Director shall post notice of the continuance ~~on the exterior doors of City Hall~~ notifying the public of the continuance and specifying the date and time when the continued items will be before the Commission. The Notice shall remain through the evening on which the meeting is originally scheduled.
- C. Order of Business.** The Chair shall have the authority to arrange the order of business as is deemed necessary to achieve an orderly and efficient meeting. In general, the order of business will be as follows:
1. Call to order – Procedural Matters
 2. Minutes
 3. Information Items
 4. Audience Participation
 5. Public Hearings
 6. Worksession Items
 7. Planning Department Other Business/Updates
 8. Planning Commission Discussion Items
 9. Forecast for Future Meetings.
- D. Voting.** All members who are present at a Commission Meeting, including the Chair and Vice Chair, are allotted one vote each on all motions. A motion may be made by any Commissioner with the exception of the presiding officer. All Commissioners, when a vote is taken, shall vote unless he or she abstains from voting and cites the reason for the record. ~~Staff shall call the roll, altering the order of members called.~~ The Chair shall vote last.
- ~~**E. Reconsideration of Actions Taken.** A member who voted with the majority may move for a reconsideration of an action at the same meeting only. The second of a motion may be a member of the minority. Once a matter has been reconsidered, no motion for further reconsideration shall be made without unanimous consent of the Commission.~~
- F. Minutes.** A staff representative or designee shall be present at each meeting and shall provide for a sound, video, or digital recording, or written minutes of each meeting. The record of the meeting, whether preserved in written minutes or sound, video, or digital recording, shall include at least the following information:
- Names of the Commission members present;
 - All motions and proposals, and their disposition;
 - The results of all votes and the vote of each Commission member by name;
 - The substance of any discussion on any matters; and,

- A reference to any document discussed at the meeting;

Written minutes need not be a verbatim transcript, but give a true reflection of the matters discussed at the meeting and the views of the participants.

Written minutes of a meeting will be made available to the public within a reasonable time after the meeting.

Minutes shall be reviewed and voted upon by the Commission at a regular meeting.

- G. **Repeal or Amendments.** The Commission may review these bylaws periodically and forward suggested revisions to the Council for approval. These bylaws may be repealed or amended, or new bylaws may be adopted by a majority vote of the Council on its own initiative, or upon a recommendation from the Commission.
- H. **Meeting Conduct.** The meeting conduct for this Commission is these bylaws except where superseded by or local, state, or federal law.
- I. ~~**Statement of Economic Interest.** Commissioners are required to file annual statements of economic interest as required by ORS 244.050 with the Oregon Government Standards and Practices Commission.~~

ARTICLE VI DUTIES OF OFFICERS

- A. **Duties of the Chair.** The Chair or Vice Chair, in addition to the duties in Article IV, shall preserve the order and decorum of the meeting.
1. The Chair may assess the audience at the beginning of the meeting, and, with the consent of the Commission, announce reasonable time limits.
 2. The Chair will direct the planning staff to summarize the issues to be addressed and the criteria to be applied by the Commission during its deliberations, following the conclusion of public hearing testimony.
 3. The Chair will summarize the hearing results and state the appeal process at the conclusion of the public hearing.
- B. **Requesting Response and Opinion.** The Chair will ask for response and opinion from the members of the Commission.
- C. **Appointments to Specific Projects on Committees.** The Chair may appoint Commissioners to specific projects or committees, and may select a Commissioner to be spokesperson for the Commission when the Chair or Vice Chair is unavailable.
- D. **Confer with Director.** The Chair or Vice Chair shall confer with the Planning Director (Director) on a regular basis outside scheduled meetings concerning the direction each expects of the Commission.
- E. **Orientation of New Members.** The Chair, in conjunction with the Director, shall orient new members.

ARTICLE VII DUTIES OF THE COMMISSION

- A. **Duty of Commissioner.** Commissioners shall address all those who come before the Commission in a formal and courteous manner.
- B. **Absence From a Meeting.** If a Commissioner is unable to attend a meeting, it is that Commissioner's responsibility to inform the Community Development staff and/or the Commission Chair of that fact prior to the meeting to be missed.
- C. **Site Visits.** Prior to Commission meetings, Commissioners are encouraged to visit sites that are subjects for land use actions. If a Commissioner visits a site, he or she shall report on the record any information gained from the site visit that is not consistent with the information included in the application or staff report.
- D. **Method of Handling Conflicts by Members.** In accordance with ORS 244.135: (1) A member of the Commission shall not participate in any Commission proceeding or action in which any of the following has a direct or substantial financial interest:
 - 1. The Commission or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the Commissioner;
 - 2. Any business in which the Commissioner is then serving or has served within the previous two years; or
 - 3. Any business with which the Commissioner is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.
 - 4. Any actual or potential interest shall be disclosed at the meeting of the Commission where the action is being taken.
- E. **Meeting Preparation.** Commissioners shall prepare for participation at a meeting by fully reviewing the staff report and materials provided by the Director. If a Commissioner is unable to attend a hearing on a quasi-judicial application that is continued to another hearing, the Commissioner shall not take part in the continuance hearing unless the Commissioner:
 - 1. Reviews the staff report and materials provided by the Director as well as:
 - a. all materials submitted at the hearing, and
 - b. any additional materials prepared by the planning staff applicable to the application, and
 - c. either the audio recording of the hearing or the draft minutes of the hearing.
 - 2. Declares that they are prepared to participate.
- F. **Duties Assigned by Council.** The Commission shall carry out the duties assigned to it by Council relating to development, updating, and general maintenance of the Milwaukie Zoning Ordinance and the Milwaukie Comprehensive Plan.

ARTICLE VIII GOALS AND OBJECTIVES

- A. **Annual Goal Review.** The Commission shall review the Council goals annually for establishment of Commission goals which enhance and augment those of the Council.
- B. **Establishment of Commission Goals.** The Commission shall establish goals, at a minimum, annually.