

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION AUGUST 17, 2004

Mayor Bernard called the work session to order at 5:35 p.m. in the City Hall Conference Room.

Councilors present: Barnes, Loomis, and Stone (arrived at 5:45 p.m.).

Staff present: City Attorney Gary Firestone, Finance Director Stewart Taylor, Community Development and Public Works Director Alice Rouyer, Community Services Director JoAnn Herrigel, and Planning Director John Gessner.

Project Impacts to Trees at 40th Avenue and King Road

Mayor Bernard announced interested parties would meet in the Council Chambers with staff on the possible tree removal resulting from the 40th Avenue and King Road sidewalk project.

Convert Design and Landmarks Commission to a Committee

Mr. Gessner discussed the proposed code amendment would convert the Design and Landmarks Commission (DLC) to a committee of the Planning Commission. The Planning Commission and DLC held a joint work session on June 28 and recommended some minor changes. The DLC held a public hearing on July 22 and accepted the revised code amendments. The purpose of this work session was to make a final check with the City Council prior to noticing the adoption hearing on October 5, 2004.

Councilor Barnes referred to page 2.6 commission responsibility section 9.c – “disseminate information to educate the public as to state and federal law...” and asked how that is done.

Mr. Gessner replied this was existing language. He did not believe there was an active program at this time, but there are a number of avenues such as the neighborhood associations and specific outreach programs.

Councilor Barnes thought an outreach program could really help the City in the long run because there have been questions about how the City Council makes its decisions. She believed a public relations segment of the Committee could be very helpful.

Proposed Code Amendments Strengthening Code Compliance

Mr. Gessner explained this amendment addressed the frustration of having to issue a permit even when there is an enforcement case pending. The proposed amendment would grant the City the discretion to either reject applications or refuse approvals until

code violations have been corrected. The policy question is, does the City Council want staff to proceed with implementation of the code that would affect those changes? The building official would be authorized to reject and withhold permits. With Council's direction, the proposed amendment would go to the neighborhood associations for review prior to adoption.

Councilor Stone asked how frequently this type of situation comes up.

Mr. Gessner replied probably a couple of time as year.

Mr. Firestone added regardless of the frequency, this will be a tool for the City when it finds itself in a situation that it struggles with. If there is not a code provision, permits and violations have to be treated separately.

Mayor Bernard understood if, for example, a party cut down all the trees on a property in the public right-of-way and there was a violation pending, then the building project could be held up until the violation was resolved.

Mr. Gessner said there were two situations recently one of which was the Centex subdivision that had violated the tree permit regulations. That issue had to be resolved separate from the land use application.

Councilor Stone asked if there were other cities the size of Milwaukie that had a similar policy.

Mr. Firestone did not know if there were any similar in size, but some larger jurisdictions have these provisions. He knew of a larger jurisdiction where the property was clear cut, and the developer just came in and paid the fine and went on with the project. One of the concerns is that if a City does not have a provision like this, people could say the penalty is so small that it is worth it to get the land use approval.

The City Council directed staff to continue the code amendment process.

Jefferson Street Boat Ramp

Mayor Bernard noted the number of Riverfront Board members in the audience and indicated his support of Board's vision.

Councilor Loomis was not that comfortable with it and requested a work session with the Oregon Marine Board. He understood there was \$1 million for improvements including bathrooms, paths, and docks, and he would like to tie those into the riverfront park improvements. He wanted something the community will use. He felt it would not be prudent to at least have discussions and explore the possibilities.

Mayor Bernard noted Milwaukie is just about out from under a 30-year commitment with the Marine Board, and he did not want to enter another one without having a

CITY COUNCIL WORK SESSION – AUGUST 17, 2004

Approved Minutes

Page 2 of 7

riverfront plan. The Board has worked on this project for years. He and Ed Zumwalt are committed to raising funds for the design plan and would like to wait before sitting down with the Marine Board. A number of years ago Bill Hupp approached the Port of Portland for funds, and since we all pay taxes to the Port, it is time to get some of that money back. The plan should include a boat landing and dock, but Mayor Bernard had a problem with expanding the parking lot. When the Marine Board came to the Riverfront Board meeting several years ago, its plan called for taking the Greenspace for a parking lot. He thought Milwaukie should take the riverfront park plan to the Marine Board. Mayor Bernard did not want to sell that property to the Marine Board for 30 years. The City should fix the ramp temporarily if necessary, but he urged giving the Riverfront Board a chance to contact the Port. In the meantime, people will work to raise funds for the riverfront.

Ms. Herrigel said staff would like direction on the issues – whether to pursue funding from the Oregon State Marine Board or do a short-term fix. She proposed the City at least pursue what can be done short-term without any obligations. Staff will research Port of Portland options and schedule a work session with the Marine Board. The Riverfront Board developed a list of criteria for a process to move forward, but it did not go anywhere because one of the criteria was an obligation of no more than 5 years. That was not an option for the Marine Board. She felt it was appropriate for the City Council to make these decisions. One option is a short-term fix for the ramp that can be started immediately. January begins the next Marine Board funding cycle, and Ms. Herrigel recommended the City attend preliminary meetings in order to be prepared to submit a funding request in March 2005.

Councilor Barnes asked the feasibility of charging parking lot users.

Councilor Loomis said boaters already pay through licensing.

Ms. Herrigel said the Marine Board money comes from motorized boat registration and gas sales, but research the idea of additional fees.

Councilor Loomis urged exploring all the possibilities to make the riverfront work for all users before turning down the \$1 million.

Mayor Bernard said a lot of money and time has been spent on acquiring property.

Councilor Loomis did not disagree with that, but the citizens are looking for something tangible.

Mayor Bernard said the drawings the Marine Board brought to the Riverfront Board several years ago showed expansion of the parking lot to the north.

Councilor Loomis wanted to determine if something could be worked out that does not increase the footprint of the asphalt, costs little, and works for everyone. The City could buy out the Marine Board if it has the money.

CITY COUNCIL WORK SESSION – AUGUST 17, 2004

Approved Minutes

Page 3 of 7

Mayor Bernard noted there was no depreciation on the improvements. For example, if the Marine Board put in \$1 million, the City would be responsible for that amount for 20 years.

Ms. Herrigel understood the City would be obligated to pay back the entire amount of the grant if the facility were moved or closed.

Councilor Stone understood Ms. Herrigel was working on having emergency repairs done in the amount of about \$10,000.

Ms. Herrigel replied the Marine Board stated it has about \$10,000 in discretionary funds available for emergencies.

Councilor Stone wanted to ensure people were safe but did not want to commit the City to a 20-year contract. She felt other options needed to be explored.

Mayor Bernard said Milwaukie residents do pay taxes to the Port of Portland, and a number of years ago Bill Hupp approached the Port. The city manager at the time said he should be the one to approach the Port, and it was over at that point. He urged pursuing the Port of Portland and getting Milwaukie's fair share.

Councilor Loomis said a lot of people have used the boat ramp for years. He did not support removing the ramp, and the other Council members agreed.

Mayor Bernard added that the Riverfront Board's letter stated that the plan should include a boat ramp.

Councilor Stone wanted to make sure the City looks at the big picture in terms of who would be using the whole area. The Riverfest was a prime example of how well it can be utilized by everyone – not just boaters. She hesitated to jump into something and tie the City up for \$1 million in a contract. The City needs to look at how it wants to implement the plan that will be done in phases. She wanted more assurance that the longer-term vision was being considered.

Ms. Herrigel felt one of the frustrations for the Riverfront Board was there is vision for the riverfront, and the boaters have a vision for the ramp. The issue is who is going to lead and who is going to follow? The adopted Downtown Riverfront Plan says that it is open space that leads the charge, and the boat ramp follows. If the City Council pursues the Marine Board funding and gets it, then the boat ramp and parking lot would drive the issue. This is a decision the City Council should make with input from the public. The outcome of the last riverfront plan was that there was no boat ramp. The Riverfront Board requested that the Council have that happen in the context of a plan with several opportunities for public discussion. If the City Council decides to outright pursue the funding, then the rest of the park will fill in around it.

Mayor Bernard would support a dock and ramp with a nice access road and put parking somewhere else with shuttle service. The City did spend a lot of time on the Downtown Riverfront Plan, and there was a lot of input. The Marine Board has requirements related to parking. Neither he nor the Riverfront Board liked being told that Greenspace had to be given away. He agreed the City Council needed to talk to the Marine Board but should also research other avenues.

Councilor Barnes asked why the Marine Board makes the final decisions. She recommended seeking support from the state legislators for this district. The Marine Board is another state agency that is funded by the legislature, and there may be room to negotiate through the City's legislative partners. We do not have to take the Marine Board's answer as the final answer.

Councilor Loomis thought 20 years might not be a bad deal if all the components work. He would like to be part of the discussion since he was not involved in the earlier ones.

Councilor Stone urged looking at the issue holistically. It is not just about the boat ramp – it is about the whole area and what the City Council plans to do for the community. She did not want the boat ramp to drive the park development. The plan was designed to be friendly to everyone, not just those who use boats. She had concerns about that being the driving force and how the area will be created. She would look forward to the Council's sitting down with the Marine Board and the Riverfront Board. Councilor Stone asked if there were other potential locations for the boat ramp.

Ms. Herrigel responded that research over the past 8 to 10 years has identified no other feasible options on the east side of the Willamette between Portland and Oregon City.

Councilor Stone would like to see some of the big touring boats that are docked at the seawall in Portland be docked in Milwaukie. It will take a lot of money to do that, so the City would have to find funding. She sees a more vital riverfront beyond boats docked for fishing and kayaking – she sees something bigger than that.

Mayor Bernard understood there are no other spots. There is a landing on Oak Grove Boulevard that residents are interested in closing. The other alternatives might be a ramp closer to the creek or at the Kellogg Treatment site when it is decommissioned. The water is deep there, so some larger boats could come in. He would love to see a floating restaurant like the River Queen.

Ms. Herrigel heard general support for short-term safety issues, researching fees that other jurisdictions might have in place, looking at funding from the Port of Portland, and scheduling a work session with the Oregon Marine Board. She provided photos of the ramp area. The south side of the ramp is the shortest, and it is difficult for people to gauge the length. She discussed the signage and barricades.

CITY COUNCIL WORK SESSION – AUGUST 17, 2004

Approved Minutes

Page 5 of 7

Councilor Stone supported closing the ramp temporarily to resolve safety concerns.

Mayor Bernard thought the City should begin looking into what it would take to have a dock that can be used whether or not there is a ramp there.

Councilor Stone did not want money spent on something the City might not want in five years. She felt it would be a good idea in terms of liability issues to keep the south lane of the ramp closed until repairs are done.

Mr. Firestone said the City's liability depends on a lot of different factors. If the City Council takes discretionary action, the City arguably would have discretionary immunity unless it posted inaccurate information. As long as the issues are known, there is a possibility for liability. If the City Council says it knows there is a problem and will-fix it, that is a discretionary action, and the City would probably have discretionary immunity. Knowing but doing nothing increases the possibility of liability.

Ms. Herrigel reported the north lane is adequately signed, and the south lane is closed. She asked what type of action the City Council would need to take.

Mr. Firestone said the City Council should at least make a motion if not adopt a resolution. The group discussed the language of the motion.

Councilor Stone had some follow up questions on the proposal to convert the Design and Landmarks Commission (DLC) to a Committee. It was unfortunate that staff cutbacks resulted in this action. The minimum requirement is two meetings a year. How can the group really be effective with so few meetings? If issues come up, could the DLC be called in for a concurrent meeting with the Planning Commission?

Mr. Gessner said the minimum requirement is two meetings annually. The number of meetings will depend on the work program, so the DLC could potentially meet more times to complete its tasks. There will be "as-needed" meetings to review land use applications, historic preservation applications, and others for which the DLC has the responsibility for advising the Planning Commission. The purpose for making the change is to manage the workload. The biggest constraint is the planning department's ability to support a functioning commission. The proposal before the City Council was the alternative to decommissioning the DLC and transferring those responsibilities to the Planning Commission.

Councilor Stone understood Brent Carter is a Planning Commission member as well as a DLC member, and he has a background in architecture. She discussed DLC membership and that "at least one committee member shall demonstrate special interest, experience, training, knowledge ... and one shall have special interests in planning, architecture, landscape or design."

Mr. Gessner said Mr. Carter would have to step down from the DLC if the code is amended and was optimistic the committee would have qualified applicants.

The work session adjourned at 6:25 p.m.

Pat DuVal

Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL WORK SESSION AUGUST 17, 2004

MILWAUKIE CITY HALL

Second Floor Conference Room
10722 SE Main Street

WORK SESSION – 5:30 p.m.

A light dinner will be served.

Discussion Items:

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>
1.	5:30 p.m.	Project Impacts to Trees at 40 th Avenue and King Road	Paul Shirey & Brenda Schleining
2.	5:45 p.m.	Convert Design and Landmarks Commission to a Committee	John Gessner
3.	5:55 p.m.	Proposed Code Amendments Strengthening Code Compliance	John Gessner
4.	6:05 p.m.	Jefferson Street Boat Ramp	JoAnn Herrigel
5.	6:20 p.m.	Adjourn	

Public Notice

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the preceding items.
- Executive Session: The Milwaukie City Council may go into Executive Session pursuant to ORS 192.660. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Community Development and Public Works Director

From: Paul Shirey, Engineering Director
Brenda Schleining, Civil Engineer

Subject: Impact of Construction Project on Trees in Right-of-Way

Date: August 5, 2004, for August 17, 2004, Work Session

Action Requested

Consider options for managing impacts to mature fir trees located in project limits of CDBG street and sidewalk project at S.E. 40th and King streets. (See attached map of project area and tree location.)

Background

The City is a recipient of federal funding for street, sidewalk, planting strip and storm sewer improvements. These improvements will be constructed on a portion of SE King between 40th and 42nd and 40th from King to Harvey. All the work will be within existing city rights-of-way. A construction contract was awarded this past month and the contractor recently marked the trees and shrubs that need to be removed to build the improvements. Engineering staff is assisting the Planning Department with the permitting process for tree removal.

Despite two public meetings that included explicit drawings indicating trees to be removed along with several letters to all residents of the affected area, some people were unaware of the need to remove four pine trees at the northeast corner of 40th and King streets. As soon as these trees were marked for removal, a spontaneous movement to protest the removal and fight to save the trees was sponsored by some area residents.

Although the trees are within public right-of-way, the staff understands the desire to try to save these trees. This species of tree have shallow root systems and, as a result, often contribute to heaving and broken sidewalks, curbs, and pavement surfaces. The

cost to repair broken sidewalks is the private property owner's while the City is responsible for the curb and street surfaces. The trees are also quite vulnerable to blowdown during wind events.

There are a variety of ways to deal with the trees, bearing in mind the best interests of the community and the city in the short run and over the next 10-20 years. Staff prefers the following two options:

1. Remove the trees and plant four larger street trees in their place.

This will help create a nice landscape buffer between traffic and pedestrians and create a tree canopy over the street that helps slow down traffic.

2. Remove the two smallest trees, then build the sidewalk around the remaining trees. This approach means that the six-foot landscape strip would be eliminated.

The adjoining lot owner should understand the liability they have for repairing the sidewalk should the roots cause the sidewalk to heave and/or break apart. There is also a possibility that the construction of the sidewalk and curb will damage shallow roots that would eventually kill the trees. In this event, the trees become a blowdown hazard.

Staff feels strongly that keeping the trees and eliminating the sidewalk is not in the public interest.

Concurrence

The options have been discussed with the Chair of the Ardenwald NDA, the Planning Department, and the City Manager.

Fiscal Impact

If option one is chosen, there will need to be a cost-plus change order to cover the cost of the street trees.

Workload Impacts

None.

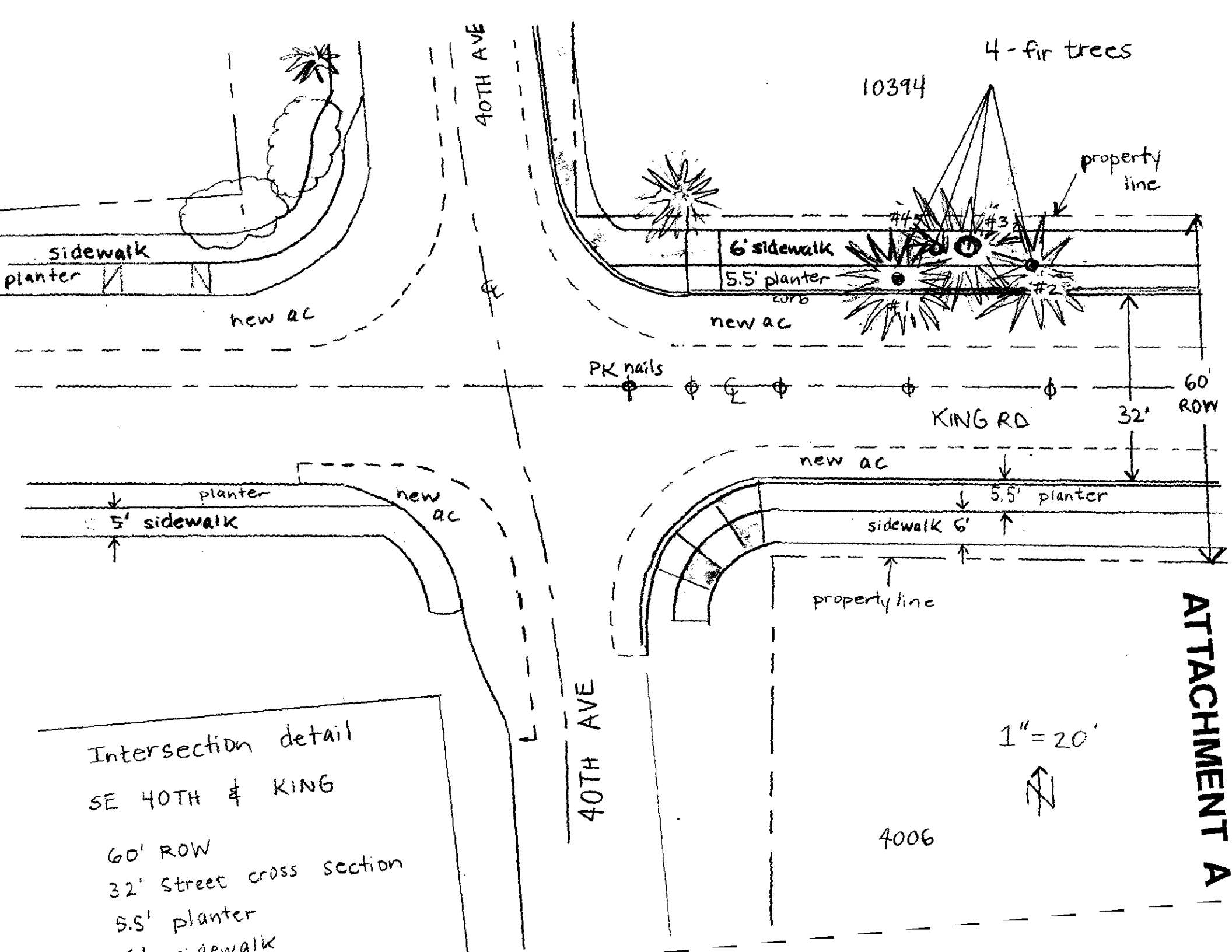
Alternatives

1. Direct staff to implement option one or two.
2. Develop another option.
3. Stop project improvements short of the affected trees.

Attachment

1. Map of project area and tree location.

- For assistance/service per the Americans with Disabilities Act (ADA) please dial TDD (503) 786-7555.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.
- For assistance/service per the Americans with Disabilities Act (ADA) please dial TDD (503) 786-7555.



40TH AVE

10394

4 - fir trees

property line

sidewalk
planter

new ac

6' sidewalk

5.5' planter
curb

new ac

PK nails

KING RD

60'
ROW

32'

planter

new ac

5' sidewalk

new ac

5.5' planter

sidewalk 6'

property line

ATTACHMENT A

Intersection detail

SE 40TH & KING

1" = 20'



60' ROW

32' street cross section

5.5' planter

6' sidewalk

40TH AVE

4006



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Community Development and Public Works Director

From: John Gessner, Planning Director

Date: August 6, 2004 for the August 17, 2004 Council Meeting

Subject: Convert the Design & Landmarks Commission to a Committee

Action Requested

Review the proposed language for code amendments converting the Design and Landmarks Commission to a committee of the Planning Commission and provide direction to staff.

Background

The City Council has previously directed staff to proceed with code changes as needed to convert the Design and Landmarks Commission (DLC) to a Committee. On June 28, 2004, the DLC and Planning Commission conducted a joint work session to review proposed staff amendments. At that meeting the DLC and Planning Commission requested minor changes to the language. The Planning Commission directed staff to proceed subject to those changes. On July 22, 2004, the DLC conducted a public hearing and accepted the revised amendments, which are attached. Staff seeks Council direction prior to scheduling the matter for adoption hearings.

Key Features

The following describe the key features of the amendments:

1. Transfer the DLC's responsibilities and decision-making authority to the Planning Commission.

2. Specify that the Committee's role is to advise the Planning Commission on all matters over which the DLC previously had responsibility.
3. Require at least two joint meeting per year of the Committee and the Planning Commission for work program development and discussions on urban design, design review, and historic preservation.
4. Ensure that the Committee will have the opportunity to review applications prior to a Planning Commission decision.
5. Housekeeping amendments as necessary to implement required changes. This includes creating a new definition for "committee" and replacing references to the Design and Landmarks Commission.
6. The City Attorney has recommended a change to Milwaukie Municipal Code 2.10.010(J) by deleting the "Local Contract Review Board" as an independent board as part of this amendment package. The Council presently fills this function. Therefore, the designation of the board in the municipal code should be deleted.

Concurrence

The Planning Commission, Design and Landmarks Commission, City Attorney, and Community Development and Public Works Director concur with the proposal.

Fiscal Impact

The proposal will reduce potential future budgetary requests that would be necessary to support a Design and Landmarks Commission.

Workload Impacts

The proposal was precipitated by a need to reduce staff workload due to staff reductions in the Planning Department.

Alternatives

The Council has the following decision-making options.

1. Accept the code changes as written.
2. Direct staff to modify the code changes.
3. Reject the code changes.
4. Take no action.

Draft Code Changes to Milwaukie Municipal Code
August 17, 2004

underlined text to be inserted

~~Strikeout~~ text to be deleted

Section 2.10.010 Applicability.

This chapter applies to all city boards and commissions unless mandated otherwise by state statute or city ordinance, including but not limited to the following boards and commissions:

- A. Budget committee (ORS 294.336 and MMC 2.14, exclusive from monthly meetings)
- B. Center/community advisory board (MMC 2.20 and IGA).
- C. Citizens utility advisory board (MMC 211)
- D. Design and Landmarks ~~Commission-Committee~~ (MMC 2.18)
- E. Library board (ORS 357.400 to 357.621 and MMC 2.28).
- F. Park and recreation board (MMC 2.12)
- G. Planning commission (ORS 227.010 -- .030 and MMC 2.16)
- H. Public safety advisory committee (MMC 2.24)
- I. Board of construction appeals (MMC 2.22 and 15.04.030)
- ~~J. Local contract review board~~ (MMC 3.05 and ORS 279) (Ord. 1908 § 1, 2002; Ord. 1869 § 2, 2000; Ord. 1793 § 3 (part), 1996)

Section 2.10.020 Definitions.

"Board" means a public body created by ordinance or resolution which acts in an advisory capacity to the council in all matters set forth by the enactment establishing the board.

"Commission" means a public body created by ordinance or resolution which acts as a decision-making body on behalf of the city council in all matters set forth by the enactment establishing the commission. (Ord. 1793 § 3 (part), 1996)

~~"Committee" means a public body other than a board or commission. Each committee has the authority and responsibility established for it by this code and by state law as applicable.~~

Section 2.10.030 Board, Committee, and commission appointments.

- A. Any individual or group is encouraged to submit names for consideration to the city.
- B. Appointments must comply with any ordinances, bylaws, Charter provisions, or state or federal laws concerning the board or commission. In the event of any inconsistency between this chapter and a chapter relating to a specific board or commission, the specific chapter shall control.

- C. In order to become more familiar with the applicants' qualifications, the council may interview all applicants for a vacancy.
- D. Reappointments to a board, committee, or commission shall be considered in accordance with the guidelines listed in this section, together with the type of service the individual has already given to the board, committee, or commission and his/her stated willingness to continue. No person may serve more than two (2) successive terms on any board or commission unless there is an interval of at least one (1) term prior to the reappointment; provided, that the council may waive this limitation if it is in the public interest to do so.
- E. Consideration should be given to residents outside the city when the board, committee or commission or function serves residents outside city boundaries.
- F. No individual should be considered for appointment to a position on any board, committee, or commission where a conflict of interest may result. Board, committee, or commission members shall not participate in any ~~committee~~ proceeding or action in which any of the following has a direct or substantial financial interest: the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member; any business in which the member is serving or has served within the previous two (2) years; or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential conflict of interest shall be disclosed at the meeting of the board or commission where the action is being taken.
- G. Board, committee, or commission vacancies are filled by appointment of the mayor with the consent of council. Appointments are made for terms not to exceed four (4) years and will expire the last day of March unless mandated otherwise by state statute. All board and committee members or commissioners shall serve without compensation.
- H. Individuals appointed to one (1) board or commission shall not serve on any other city board or commission during the term of their appointment. (Ord. 1810 § 1, 1996; Ord. 1793 § 3 (part), 1996)

Section 2.10.040 Removal.

Members of a board, committee, or commission serve at the pleasure of the governing body. (Ord. 1793 § 3 (part), 1996)

Section 2.10.050 Organization and operation.

- A. Bylaws. The council shall adopt bylaws for each board, committee or commission's meetings and the performance of its duties. These bylaws shall be reviewed and updated annually by each board, committee or commission. Bylaw revisions shall be reviewed and accepted by the city council.
- B. Annual Work Plan. Each board, committee, or and commission shall prepare an annual work plan which will have elements of the city vision and city council goals. These work plans shall be discussed with an approved by the city council in a joint work session.

- C. Staff Support. The city will provide for necessary staff support for the board or commission including postage, meeting place, secretarial service and new member orientation and training.
- D. Meetings. Each board or commission should meet at least once each month and shall meet on the call of the chairperson or on call by a majority of its members. All meetings shall be subject to the requirements of ORS 192.610 to 192.690 (Open Meeting Law). A majority of the voting members shall constitute a quorum for the conduct of business and the concurrence of a majority of those members present shall be required to decide any matter. These meetings shall be an opportunity for public involvement in the discussion of issues relating to that particular board, committee or commission. The provision of 2.010.050 (D) that requires monthly meetings shall not apply to the Design and Landmarks Committee. All other provisions of 2.010.050 (D) apply to the Design and Landmarks Committee.
- E. Authority to Bind. Neither a board, -committee, or commission, as a whole, or any member or members individually or collectively, shall exercise authority to bind the city, its officers or agents to financial commitment or obligations. Any funding for projects must be budgeted by the council, and authorized expenditures presented to the staff for payment. The city may enter into agreements with other public agencies, associations and individuals for services which will assist the board, committee, or commission.
- F. Annual Reports and Minutes. Each board or commission shall report on its activities in a work session with the city council at least annually. The written minutes for each board or commission shall be submitted to council for information.
- G. Ethics Law. Board, committee, and commission members appointed by the city are considered "public officials." As such, they are expected to abide by the Government Standards and Practices Laws of the State of Oregon currently codified as ORS 244.010 to 244.400.
- H. Boards, committees, and commissions may be asked to provide comments to other advisory bodies and staff when matters under consideration relate to their functional area of expertise. (Ord. 1793 § 3 (part), 1996)

Section 2.16.010 Established—Purpose, Planning Commission.

- A. The planning commission is lawfully established for the purpose of reviewing and advising on matters of planning and zoning according to the provisions of the comprehensive plan, zoning ordinance, and other planning implementation documents. The commission shall be responsible for, but is not limited to, the following activities:
 - A1. Keeping current the comprehensive plan and implementing ordinances for the city and urban growth boundary as applicable;
 - B2. Preparing as necessary legislation that will implement the purposes of the comprehensive plan;
 - C3. Recommending to the city council plans for regulating future growth, development and beautification of the city, and to review and recommend on regional issues and concerns;
 - D4. Recommending and making suggestions to the council concerning;

- 4a. The laying out, widening, extending, and locating of public thoroughfares, parking of vehicles and relief of traffic congestion,
- 2b. Betterment of housing and sanitation conditions,
- 3c. Establishment of districts for limiting the use, height, area, bulk, and other characteristics of buildings and structures related to land development,
- 4d. Protection and assurance of access to incident solar radiation, and
- 5e. Protection and assurance of access to wind for potential future electrical generation or mechanical application;
- E5. Recommending to the city council plans for regulating the future growth, development and beautification of the city in respect to its public and private buildings and works, streets, parks, grounds and vacant lots, and plans consistent with future growth and development of the city in order to secure to the city and its inhabitants' sanitation, proper service of public utilities and telecommunications utilities, including appropriate public incentives for overall energy conservation and harbor, shipping and transportation facilities;
- F6. Recommending to the city council plans for promotion, development and regulation of industrial and economic needs of the community with respect to business and industrial pursuits;
- G7. Considering and conducting public hearings on the comprehensive plans and zoning ordinances and similar matters which may include, but are not limited to, zone changes, condition uses, subdivisions and partitions;
- H8. Performing all other acts and things necessary to properly carry out the provisions of ORS Chapter 227 that are not specifically addressed by local ordinances and procedures;
- 9. The commission shall be responsible for the following historic preservation activities:
 - a. Carry out the duties described for it in this section and otherwise assist the city council on historic preservation matters;
 - b. Review and make recommendations on all partitions and subdivisions of historic properties designated in Comprehensive Plan Appendix 1 Historic Resources Property List;
 - c. Disseminate information to educate the public as to state and federal laws protecting antiquities and historic places;
 - d. Act as a coordinator for local preservation groups such as the Milwaukie Historical Society, educational workshops, signing and monumentation projects and other similar programs;
 - e. Assist the Milwaukie Historical Society in advising interest groups, agencies, boards, commissions and citizens on matters relating to historic preservation within the city;
 - f. Review and make recommendation on all applications requesting designation or deletion of a landmark and placement or removal on the cultural resources inventory, as provided under Zoning Ordinance 19.323.5;

- h. Review and make recommendation on all applications requesting designation or deletion of an historic district as provided under Zoning Ordinance 19.323.5;
 - i. Review all development, which proposes to alter a landmark, subject to the procedures and criteria set forth in this section;
 - j. Review all demolition permits affecting landmarks, as provided under Zoning Ordinance 19.323.8;
 - k. Review and make recommendation on all conditional use applications related to landmarks;
 - l. Maintain an historic and cultural resources inventory and map of landmarks;
 - m. Develop regulations for the protection of landmarks, such as design guidelines for adoption by the city council.
10. Reviewing the historic resources element of the comprehensive plan;
11. Providing decisions and/or recommendations to the city council regarding compliance with applicable design guidelines for development projects subject to design review under the zoning ordinance;
12. Reviewing and recommending appropriate design guidelines and design review processes and procedures to the city council; and.
13. Such other activities as the council may assign. (Ord. 1802 § 1 (part), 1996)

B. Coordination with the Design and Landmarks Committee

The Planning Commission shall meet at least twice annually with the Design and Landmarks Committee for reviewing prospective work program tasks related to urban design, architecture and design guidelines, historic preservation and other areas of responsibility assigned to the committee in 2.18.010 (A).

Section 2.18.010 Established— Design and Landmarks Committee, Purpose , Appointment and Composition, Coordination with Planning Commission.

~~The design and landmarks commission is established for the following purposes:~~

- ~~A. Assisting the city council on historic preservation matters defined in Section 323 of the zoning ordinance, specifically those duties and responsibilities described in Sections 323.4(B) and 323.5 of the zoning ordinance;~~
- ~~B. Reviewing the historic resources element of the comprehensive plan;~~
- ~~C. Providing decisions and/or recommendations to the planning commission and the city council regarding compliance with applicable design guidelines for development projects subject to design review under the zoning ordinance; and~~
- ~~D. Review and recommend appropriate design guidelines and design review processes and procedures to the city council.~~

A. The design and landmarks committee is established to advise the planning commission on all matters specified in 2.16.010(A)(9) through 2.16.010 (A)(12);

B. Appointment and Composition. The design and landmarks committee shall have five members appointed by the city council for three-year terms. The city council shall have discretion to reappoint or remove committee members. One committee member shall have demonstrated special interest, experience, training or knowledge in the field of historic preservation or history. One committee members shall have demonstrated special interest, experience, training, or knowledge in the field of architecture, planning, landscape design or similar field; and.

C. Annual Meetings. The Design and Landmarks Committee shall meet with the Planning Commission in accordance with 2.16.010 (B).

~~Section 2.18.020 Membership--Qualifications.~~

~~The commission shall consist of such members as described in the zoning ordinance, Section 323.4(A). (Ord. 1799 § 2 (part), 1996)~~

Section 2.18.~~030~~020 Statement of economic interest.

~~Commissioners~~ Committee members are required to file annual statements of economic interest as required by ORS 244.050 with the Oregon Government Standards and Practices Commission. (Ord. 1799 § 2 (part), 1996)

Amend Zoning Ordinance Section 323 as follows

1. 323.3 (B) Commission. Means the City of Milwaukie ~~Design and Landmarks~~Planning Commission.

~~2. 323.3 (C) Committee. Means the City of Milwaukie Design and Landmarks Committee.~~

3. Renumber subsequent subsections in 323.3 as needed to accommodate new section 323.3 (C).

4. Replace all instances of "Community Development Director" with Planning Director"

5. 323.3 (J) "Unrankable" means historic resources that lack sufficient information to be ranked. When that information is available, those found to be "Significant" or "Contributing" shall be recommended by the ~~design and landmarks commission~~ planning commission for designation as "Landmarks."

6. Repeal Sec 323.4

7. 323.5 Process for Designation or Deletion of a Landmark.

A. Application Request. The owner of record, contract purchaser, or an agent of any of the foregoing, of property within the city may make application for resource designation or deletion. The application shall be in such form and detail as the ~~community development~~planning director prescribes and will be the same as the major quasi-judicial review process of subsection 19.1011.4 of this title, ~~-substituting the design and landmarks commission for the planning commission~~. The application shall be submitted to the ~~community development~~planning director. The ~~design and landmarks~~planning commission or the city council may also initiate such proceedings on their own motion.

B. ~~Design and Landmarks~~Planning Commission. The commission, ~~as described in subsection 19.323.4,~~ shall conduct a public hearing to evaluate the request. The commission shall enter findings and make a written recommendation to the city council.

8. 323.5 (C).

~~C.~~ City Council. The city council shall conduct a public hearing to consider the recommendation of the ~~design and landmarks~~ planning commission on the request and shall either approve, approve with conditions, or deny the request.

9. 323.6 (D)

Other Requests. All requests that do not meet the provisions of subsection C above shall be forwarded to the commission. The commission's decision will be final after notice and public hearing held the same as subsection 19.1011.3 of this title (Minor Quasi-Judicial Review), ~~-substituting the design and landmarks commission for the planning commission~~. The commission shall approve or disapprove issuance of the

permit. The commission may attach conditions to the approval for permit which must be adhered to for the permit to remain valid.

10. 323.8 (C)

Public Hearing Review. The commission shall hold a public hearing within forty-five days of application. The procedures shall be the same as those in subsection 19.1011.3, Minor Quasi-Judicial Review, ~~substituting the design and landmarks commission for the planning commission.~~



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Community Development and Public Works Director

From: John Gessner, Planning Director
Gary Firestone, City Attorney

Date: August 6, 2004 for the August 17, 2004 Council Meeting

Subject: Proposed Code Amendments Strengthening Code Compliance

Action Requested

Review the proposed approach that limits issuance of permit and other approvals on properties with known violations and provide direction to staff.

Background

Staff has been requested to find means that would strengthen code compliance on properties where there are known violations. The City Attorney, working with a staff team,¹ has developed a preliminary approach to this task and is seeking Council direction on the following key features and proposed code language attached. With Council approval, staff will follow-up with a public information and outreach process to ensure appropriate stakeholder involvement.

Key Features

1. The Building Official is authorized under the proposed amendments to withhold permits on properties where there is a known violation of any code provision.

¹ The team consists of the Building Official, Engineering and Planning Directors, and the Code Compliance Coordinator.

2. The Code Compliance Officer and Planning or Engineering Department can request a “stop” on permits for code violations on any property seeking building permit approval.
3. No planning approvals may be granted on properties with a known violation.
4. The attached code language is presented in “adoption ready” form, but will be amended as needed to address Council and community concerns.
5. If authorized to proceed by the Council, next steps include the following:
 - Introduce the proposal to the Neighborhood Associations.
 - Present the proposal to the Planning Commission.
 - Distribute the proposal to other stakeholder groups that might be identified.

Concurrence

The City Attorney, Code Compliance Coordinator, Building Official, and Planning, Engineering, and Community Development and Public Works Directors agree with the proposed approach.

Fiscal Impact

No impact to budgeted expenses or revenues is expected.

Workload Impacts

If adopted the proposed code is expected to reduce workload impacts of compliance by providing strong inducements for property owners to comply with city codes. Completing the code adoption process may take up to an additional 10-15 hours of staff time.

Alternatives

The Council has the following decision-making options:

1. Direct staff to proceed with the proposed approach.
2. Direct staff to proceed with modifications to the approach.
3. Reject the proposal.
4. Take no action.

Section 1: Section 15.04.070 is amended by to read as follows:

Section 15.04.070 Authority of the building official.

A. The building official is authorized to enforce all the provisions of this chapter and of Section 19.1015, and shall issue permits only for projects that comply with Title 19. This authority is shared with, and does not conflict with authorities conferred to the Planning Director in Section 19.1001.1. The building official shall have the power to render written and oral interpretations of this chapter (Chapter 15) and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules, and regulations shall be in conformance with the intent and purpose of this chapter.

B. In accordance with prescribed procedures and with the approval of the appointing authority, the building official may appoint technical officers, inspectors and other employees to carry out the functions of this chapter, including enforcement.

Section 2: Section 19.1001.2 is amended by to read as follows:

Application and Fee Required. Applications and requests for actions authorized under this title shall be made in accordance with the provisions of this chapter. Application and other applicable fees as established by resolution of the city council shall be paid at the time the application or request is submitted.

Section 3: Section 19.1009 is amended to read as follows:

Decisions.

A decision may be made to grant, grant with conditions, modify, or deny an application as provided by the applicable approval criteria. No application may be approved while an enforcement action (as that term is used in Section 19.1015) is pending and the existence of the pending enforcement action shall constitute grounds for denial of the application. If any man-made changes to the physical characteristics of a property are made at any time within five years prior to an application, the City may deem the condition of the property to be the same as it was before the change(s). If a violation has occurred on the property as established by Municipal Court judgment or a final decision in a nuisance proceeding and the violation or nuisance has resulted in changes to the condition of the property, the decision maker shall deem the property to be in the condition it was in prior to the violation if the pre-violation conditions

would have prevented or restricted development or resulted in a requirement for additional mitigation.

Section 4: New Section 19.1015 is added, reading as follows:

19.1015 No Permits for Properties With Existing Violations.

The purposes of this section are to provide additional assurances that City ordinances relating to the use and development of land are complied with and to limit opportunities for persons to benefit from violations of City ordinances.

A. Except as provided in subsection B, no application for use or development of land shall be accepted or approved for a site, which is subject to an enforcement action. In the event that an enforcement action is commenced after an application has been approved but before work on the approved project has been completed, a stop work order shall be issued as provided in Chapter 1.10.

B. Applications for the following may be accepted or approved while an enforcement action is pending:

1. Permits or approvals necessary to correct the violation;
2. Permits or approvals necessary to allow work to provide for safety of persons and property.

C. For purposes of this section, “enforcement action” means an action by the City to correct, terminate, abate or impose a penalty for violation of a City ordinance relating to use or development of a property. City ordinances relating to use or development of property include but are not limited to Titles 15 and 19. A violation of a condition of approval imposed by the City shall be considered a violation of a City ordinance for purposes of this section.

D. An enforcement action shall be deemed to have been commenced on:

1. Issuance of a warning under Section 1.08.100;
2. Issuance of a summons and citation under Section 1.08.180;
3. Issuance of a complaint under Section 1.08.210;

4. Issuance of notice under Section 8.04.170;
 5. Issuance of an order under Section 15.04.140; or
 6. Any other formal action by the City to commence a process to enforce the City's regulations relating to the use and development of land.
- E. An enforcement action shall be deemed to be completed on any of the following:
1. Issuance of a judgment by the Municipal Court in favor of the property owner;
 2. Issuance of a judgment by the Municipal Court in favor of the City and payment of any penalty imposed by the court and compliance with all other portions of the judgment;
 3. Execution of a voluntary compliance agreement and compliance with any terms of the agreement established as a condition precedent to further development;
 4. Abatement of any nuisance and payment of any costs of abatement incurred by the City;
 5. Withdrawal of an order issued under Section 15.04.140; or
 6. Any other action or acknowledgment by the City that the violation does not exist or has been fully resolved to the City's satisfaction.
 7. In the event that a violation cannot be cured or abated, an enforcement action for that violation may be deemed to be completed by agreement between the City and the violator or property owner and compliance with any terms of that agreement imposed as a condition to further land use or development approvals, which terms may include mitigation requirements.
- F. Any decision to reject an application under this section shall be subject to appeal following the procedures for an appeal of a stop work order as set out in Chapter 1.10.



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: JoAnn Herrigel, Program Administrator

Subject: Jefferson Street Boat Ramp

Date: July 29, 2004

Action Requested

Provide staff with direction regarding repair of the Jefferson Street boat ramp.

Background

History

The Jefferson Street Boat is located west of McLoughlin Blvd at the western terminus of Jefferson Street in Milwaukie. The ramp and the parking facility associated with it are owned by the City of Milwaukie and maintained by the North Clackamas Parks and Recreation District under an intergovernmental agreement signed in 1992. The boat ramp property was purchased in 1970 with funds from the State of Oregon. The Boat Ramp has since been the focus of many grants from the Oregon Marine Board, the Oregon Department of Fish and Wildlife, the Oregon Division of State Lands and the Federal Land and Water Conservation Fund. The dates of these grants range from 1972 through 1983.

Construction

The boat ramp itself is an asphalt roadway that goes down toward the river and is extended past the low water line with concrete slabs. These concrete slabs create two "lanes" out into the water. These slabs create a "northern" and a "southern" lane. As the years pass, the gaps between the concrete slabs are widening, often allowing trailer tires to become stuck. Also, the northern and southern edges of the lanes are steep, abrupt and difficult to navigate for those unfamiliar with the ramp conditions.

Recent Incidents/City Actions

In July 2004, the City closed the boat ramp for three days pending investigation of two incidents that occurred at the boat ramp involving vehicles and attached boat trailers that slid into the river. Staff from the City of Milwaukie, the North Clackamas Parks and Recreation District and the Oregon Marine Board investigated the signage at the ramp, the striping of the pavement, the current water levels and the condition of the ramp and

the slabs. Based on the results of these investigations the City took several immediate actions:

- Staff closed the southern lane of the ramp until the water level rises. It is felt that although the signage warns the public to use the northern lane during low water conditions, the public's interpretation of low water is not always accurate.
- The signage and pavement striping at the ramp was modified slightly to reflect the distance from the pavement to the end of the ramp.
- A sign was installed stating " Use Ramp at your Own Risk".

All actions taken were reviewed by the City Attorney before implementation.

Oregon Marine Board Assessment

In their report to the city regarding their assessment of the ramp, the Oregon Marine Board staff noted that the ramp "appears to be at or near the end of its useful life expectancy" and suggested that the City begin planning and budgeting for its replacement. They suggest in their letter that there are some things that could be done to extend the life of the existing ramp, including installing riprap at the end of the lanes to keep boats from dropping off the end or removing the concrete panels, rebuilding the panel connections and resetting them. They caution the City that this second option may be costly compared to complete replacement of the ramp.

Pros and Cons of Ramp replacement

The Oregon Marine Board has two types of funding available for use on boating facilities. Neither type requires a match from the City.

One type is Emergency Maintenance Assistance funding that can be used for facility repairs over and above normal maintenance work. City staff is currently working with the Parks District and the Marine Board staff to determine what level of funding and repairs might be completed with these funds. We have requested a permit for work to be completed during the next "in water work window."

The second type of funding is non-emergency funding that is awarded every two years, or, biennially. The sources of these funds are statewide motorboat registration and motorboat gas taxes. This funding can be used to enhance only those facilities used for motorized boats. Applications for the next cycle of funding for this grant program are due in March/April of 2005. The term of the grant agreement for these funds is 20 years during which the facility could not be removed or relocated without repayment to the Marine Board. A rough cost estimate for ramp improvement alone is at least \$100,000.

In 2000, the City adopted the Downtown Riverfront Plan that shows the Riverfront Park as an open space with no boat ramp. Boating advocates would point out that the absence of the boat ramp in this plan was billed as a "temporary" situation pending identification of an alternate location for the facility. Unfortunately, no alternate locations appear available and feasible for a similar facility anywhere near Milwaukie on the east side of the Willamette.

Among the issues presented by the deterioration of the Boat Ramp is the need to resolve the future of the Jefferson Street boat ramp, the associated parking lots, and the effort to create more green open space in the Riverfront Park.

It is clear that the City will, at some point, have to make a decision regarding the future of the boat ramp and its associated parking lot. The Riverfront Board has recommended that this decision be part of the larger public input process for the Riverfront Park plan. Staff has yet to identify a source of funding for completing the final Riverfront plan but is optimistic that when funds are identified the final design can be completed swiftly.

Boating advocates and the Oregon Marine Board encourage the City to take more immediate steps to replace the ramp and enhance parking for boaters and access to the facility. The Marine Board has provided the City with several concept drawings for redesign of the boat ramp area over the years and has offered their technical support toward final engineering designs for the facility. The Marine Board has stated that the replacement of the Jefferson Street boat ramp would be “an ideal candidate” for their biennial grant funding. Replacement of the Boat Ramp with Oregon Marine Board funds commits the City to a boat ramp in its current location for twenty years.

The City has several options and staff would like direction from Council on which course of action to pursue. Following are the options that staff has identified. Council, of course, may identify additional options.

- Direct staff to apply for Oregon Marine Board funding in March/April 2005 to replace the Jefferson Street Boat Ramp. This option would obligate the City to keeping the boat ramp in place for twenty years.
- Direct staff to pursue Emergency Maintenance Assistance funding, of \$10,000 or less, from the Oregon Marine Board. No obligation to keep the boat ramp in place is attached to this option.
- Direct staff to take no action regarding repair or replacement of the boat ramp.
- Direct staff to close the boat ramp to remove all liability to the City. This option may incur some financial repayment (estimated at \$30,000 or so) to the Oregon Marine Board due to existing grant agreements.

Concurrence

The City Attorney encouraged staff to bring this issue before Council in order that Council might take “discretionary action”.

Fiscal Impact

Neither type of funding from the Oregon Marine Board requires matching funds. A payment of an in-water work permit fee will cost the City \$375.00. This permit is required before any construction work can be completed in the river.

Work Load Impacts

City staff from Community Services, Planning and Engineering would be involved in coordinating any ramp upgrades resulting from this resolution.

Alternatives

See options described above. Council may develop additional alternatives.