

AGENDA
DAYTON HISTORIC PRESERVATION COMMITTEE

DATE: WEDNESDAY, MAY 16, 2018
PLACE: CITY HALL ANNEX, 408 FERRY STREET
TIME: 6:30 PM

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>PAGE #</u>
A.	CALL TO ORDER	
B.	APPROVAL OF THE ORDER OF THE AGENDA	
C.	APPEARANCE OF INTERESTED CITIZENS	
<div style="border: 1px solid black; padding: 5px; background-color: #f0f0f0;"><p>This time is reserved for questions or comments from persons in the audience on any topic.</p></div>		
D.	APPROVAL OF MINUTES OF MEETING OF MARCH 21, 2018	
E.	CLG GRANT UPDATE	
F.	OTHER BUSINESS	
	1. Public Meeting Rules	2-24
G.	ADJOURN	

Posted: 05/10/18
Rochelle Roaden, City Recorder

*Persons with hearing, visual or manual impairments who wish to participate in the meeting should contact the City of Dayton AT LEAST 32 WORKING HOURS (4 DAYS) prior to the meeting date in order that appropriate communication assistance can be arranged. The City Hall Annex is accessible to the disabled.
Please let us know if you need any special accommodations to attend this meeting.*

NEXT MEETING DATES
Wednesday, June 20, 2018
City Hall Annex, 408 Ferry St, Dayton

Dayton Historic Preservation Committee
Minutes of Meeting of March 21, 2018

Members present: Judy Gerrard, Wayne Herring, Kelly Haverkate, Kim Courtin,
Dave Hargett

Staff: Debra Lien

The meeting was opened by Chair Judy Gerrard at 6:31 pm.

Approval of Minutes of Meeting of February 21, 2018

Kim Courtin made a motion to approve the minutes as presented, which was seconded by Kelly Haverkate. The motion passed unanimously, 5-0.

CLG Update

Judy presented the historic marker draft with the exhibit text and the new schedule from SeaReach.

There was general discussion about the draft text and corrections were noted, and suggestions were made to make the format more cohesive and to make the flow of information easier to understand.

Kim noted that while the cemetery is not full, it is no longer an "open" cemetery. Requests for burials must petition the state for permission. Kim will research symbols, and for pictures that may be used for the historic marker.

In future the group may want to talk to the city manager about an informational cemetery brochure being produced.

Judy said we need to get the next draft back within a week, hopefully by the 26th of March.

Kim left to attend another meeting.

Other Business

Debra gave a brief overview of the meeting the city will hold next week regarding Senate Bill 1051 requiring cities to allow accessory dwelling units where single family homes are

allowed. This will be a joint meeting with City Council, Planning Commission and the Historic Preservation Committee to gather public input on the above subject.

Judy noted that the Oregon Heritage Conference will be held in Bend this year from April 11-14. Judy and Kelly will not be able to attend. Dave said he might be able to go. Debra said if they go, then present their registration invoice to the City Recorder for reimbursement.

Debra gave the members of the committee copies of the revised terms expiration dates. When the committee was formed, the staggered dates were not put into place as the code required. This revised schedule follows code requirements. The members acknowledged receipt of term expiration dates.

Judy officially turned over to city staff the photos, negatives and slides of the original historic inventory from 1984-1986. She had them digitized and turned that information in as well as an invoice for the preservation of them digitally. If the City will not pay for the work she had done, she will donate the cost. Debra said she would present the bill for payment.

Judy also has minutes of meetings that were held during this process. She will scan these records and turn that information over to the City as well.

Adjournment

Kelly Haverkate made a motion to adjourn, seconded by Dave Hargett. The motion was passed unanimously, 4-0 at 7:19 pm.

Respectfully submitted,

Rochelle Roaden,
City Recorder

Public Meetings

A Handy Guide To What
Constitutes a Public Meeting



AGENDA



- **Overview of Basic Principles**
- **Review of Current Court Decisions**
- **Other States**
- **Current Dos and Don'ts**

To Whom Does the Law Apply?

- Oregon's public meetings laws apply to the governing body of a public body.
- Governing Body: council, planning commission, parks advisory board
- Public Body: city, planning commission, any board, or advisory group.

Meeting Legal Requirements

- 24 Hours Notice
- Public Body's Jurisdiction
- Accessible Location
- Minutes
- Open to the public
(to attend)



Open to the Public

- All meetings of the governing body of a public body shall be open to the public and all person shall be permitted to attend any meeting except [Executive Sessions]. 192.630(1)
- A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating towards a decision on any matter except for [Executive Sessions]. 192.630(2)

What is a Meeting?

- A public meeting is the convening of any governing body for which a quorum is required to make or deliberate toward a decision on any matter. ORS 192.610(5)



Open to the Public

- All meetings of the governing body of a public body shall be open to the public and all person shall be permitted to attend any meeting except [Executive Sessions]. 192.630(1)
- A quorum of a governing body may not meet in private for the purpose of deciding on or deliberating towards a decision on any matter except for [Executive Sessions]. 192.630(2)

Dumdi v Handy, et. al.

- Two members of the commission want to secure funding for their staff.
- Series of discussions and emails that were carefully crafted to avoid a quorum of commissioners.



Dumdi v Handy, et. al.

- **Holding:**
 - Although quorum never met, there was a series of meetings “orchestrated to avoid having to discuss the matter in public.”
 - Therefore, “serial communications” constituted a “meeting.”
- **Case gets settled, commissioners ordered to repay attorney costs.**
- **No appeal, so not controlling.**

Handy v Lane County

- Court of Appeals Case
 - Now before Supreme Court, LOC is Amicus
- Facts:
 - Handy sought contributions to pay for his portion of the *Dumdi* case. He is alleged to violate certain laws. Media makes public records request.
 - County exec meets individually with three commissioners.
 - Commissioners call a special meeting to discuss how to handle public records request.

Handy v Lane County

- Holding: When aggregated, non-contemporaneous communications between a quorum violates private meeting prohibition in ORS 192.630(2) (But does not apply to information gathering)
- Communications includes messages passed through an intermediary!
- What is information gathering?

Post Handy Decisions

- **Tri-Met v. Amalamated**
- **Transit Union** -- staff team that advises governing body might be a “governing body of a public body” that can’t meet in private.



Post Handy Decisions

- **Rivas v. Board of Parole – “file pass”**
procedure not a “meeting” for ORS 192.630(1). No violation of ORS 192.630(2) because of statutory exemption for Board of Parole to deliberate in private. (Implied that but for statutory exemption, file pass could violate private prohibition)

Other States: A Sign of What's to Come?

- If the Supreme Court upholds the Court of Appeals opinion, how do we advise our clients?
- Other states may signal what's to come.



Hypothetical?

City Manager prepared a memorandum, draft ordinance, and other documents proposing that the City Manager be given the authority to hire or fire certain specified department heads, without Council approval. Manager hand delivered the memorandum to five of the seven members of the Council in advance of a work session of the Council, at which the proposed ordinance would be discussed but not voted on. When delivering the memorandum, Manager stated, “Here’s the policy. If you have any questions, give me a call.” Four members of the Council either immediately or after having read the memo expressed to the City Manager their preliminary support or disfavor for proposal.

The memorandum was discussed by the Council at the work session held in an open public meeting. Pursuant to the agenda procedures for the City, the request of two Council members was required to place an item on the agenda of a regular meeting for consideration by the Council. No motion was made for the Manager’s proposed ordinance to be placed on the agenda of the regular meeting.

Hypothetical?

City Attorney and City Manager had individual meetings with five Council members to discuss possible settlement of a lawsuit. During the meetings, the Attorney and Manager presented information about the case, the pros and cons of settlement, and answered questions raised by the individual Councilors. Before leaving each meeting, the Manager and Attorney inquired whether the Councilor with whom they were meeting was generally in favor of the settlement terms.

After having met with all five Councilors individually, the Attorney prepared an attorney client privileged memorandum summarizing the issues and concerns raised by each Councilor and distributed the memorandum to each member of the Council in advance of an executive session on this topic. The Council held an executive session wherein the issue of settlement was discussed by the full Council.

Hypothetical?

A five member City Council is required to hold two votes on an ordinance before it is enacted. At the first reading, the ordinance was approved by a 3-2 vote, with one councilor stating, “I’m not entirely convinced this ordinance is a good idea, but I am voting yes tonight so that we can continue this discussion. I will make up my mind before our final vote in two weeks.”

In the interim two week period, a citizen supplied that Councilor with various materials supporting the ordinance. In those materials were copies of emails between the citizen and two other councilors, which explained the various policy reasons those other councilors were supporting the ordinance. Not all of this information was discussed at the previous council meeting. After having read the materials, the Councilor in question decided to support the ordinance.

Hypothetical?

City staff is planning to use the CM/GC contracting method to build a new library. Councilor X sends an email to the rest of his Council and the City Manager requesting that an item be placed on the agenda to discuss whether the City's new library should be built using a design-bid-build, design-build or CM/GC contracting process. In his email, the Councilor sets forth various arguments as to why he believes the design-build process is the best to support his request that this item be placed on the agenda.


The City Manager responds to this email explaining that she is happy to place this item on the agenda if that is the will of the Council, but she strongly believes the CM/GC process is better and explains various reasons for this belief in her email. After reading the City Manager's email, each of the remaining Councilors responds via email to the entire group and says that they do not want this item placed on agenda. No Councilor provides any additional information as to why they don't want to place this item on the agenda.

What does this mean for public officials?

Dos

- Evaluate current council rules, customs and practices.
- Have your client consult with you regarding exec sessions.
- Watch the LOC Bulletin for updates on these cases

Don'ts (for now)

- No quorum outside a noticed public meeting,
- Allow members to share opinion or that of another member / receive opinions of another member except in a public meeting.
- Pass files with opinions/positions
- If meeting in less than a quorum, receive only factual information. 

OPEN Oregon

Understanding the letter of the Public Meetings Law is critical. Equally important is understanding and committing to the spirit of that law. Public bodies should approach the law with openness in mind. Open meetings help citizens understand decisions and build trust in government. It is better to comply with the spirit of the law and keep deliberations open.

