

MILWAUKIE
CITY COUNCIL MEETING
October 1, 1979
7 p.m.

COUNCIL CHAMBERS

1346th Meeting

The one thousand three hundred forty-sixth meeting of the Council of the City of Milwaukie, Oregon, was held at 7 p.m. on the 1st day of October, 1979, with the following councilpersons present:

Mel Paulson	Robert Ewald
Anne Nickel	Mayor Allen Manuel
Joy Burgess	

Also present:

Paul Richards, City Mgr. Pro Tem	Donald Oblander, Finance Direct.
Steven Hall, P.W. Director	Dorothy E. Farrell, Secretary

The invocation was given by the Reverend Don Crawford, Linwood Alliance Church, and the Pledge of Allegiance was recited.

BUDGET COMMITTEE MEETING

The Budget Committee meeting was called to order. In addition to the Councilmembers listed above, the following members were present:

Donald W. Graf	John Palmer
Diane Brock	James Backenstos

Absent: Wallace Bischoff (excused)

Complete minutes of the Budget Committee meeting will be prepared separately.

MEMO RE TAX LEVY ELECTION - DATES OF BUDGET AND STREET ELECTIONS

The Council recently decided on a three-election process for the Spring of 1980 - March, Street Levy; May, Tax Base; June, Excess Tax Levy (if necessary). Budget Committee members discussed possible election dates. It was MOVED by Burgess, SECONDED by Ewald, that the city budget election be held at the May primary in 1980, and the city tax base election and the street and storm sewer bond election be held at the November general election. MOTION CARRIED with the following roll-call vote: AYES: Paulson, Nickel, Burgess and Ewald. NOES: Manuel.

CONSENT CALENDAR

- a) Approval of minutes - September 4, 1979 meeting
- b) Payment of bills
- c) Memo from Attorney re ordinance publication
- d) Memo from Attorney re outdoor burning
- e) Library grant application
- f) Application for Planning Commission
- g) Memo from Planning Director re City-County agreement
- h) Application for Senior Citizen Advisory Council
- i) Letter re TV ordinances
- j) Progress payment to general contractor on Milwaukie Center
- k) LOC convention
- l) Comprehensive Plan meeting dates
- m) Memo re crime trends
- n) Letter to O'Leary - forwarding of data to DA re PD (Adams Street matter)

It was MOVED by Burgess, SECONDED by Nickel, to adopt the Consent Calendar. Manager Pro Tem said he had comments on items h and j; Burgess asked to have item f removed; Ewald item c; and Paulson items g, k and m.

- b) Bills were listed for October 1, 1979 payment.
 - c) Acting City Attorney has written memo, dated September 25, concerning publication requirements for city ordinances. Ewald felt the memo was not clear.
 - d) Acting City Attorney has written memo, dated September 25, concerning necessity of permits for outdoor burning.
 - e) Ledding Library is making application for state aid for public libraries.
 - f) Planning Director has written memo, dated September 27, concerning recommended appointee to Planning Commission. Burgess asked that a press release be sent out saying the city is accepting applications.
 - g) Planning Director has written memo, dated September 26, concerning City-County Coordination and Dual Interest Area Agreement. Paulson asked question about the creeks mentioned in letter to Ardis Stevenson, Coordinator of Environmental Services.
 - h) Hazel Kinsella has applied for appointment to Senior Citizen Advisory Council. Manager Pro Tem stated Ms. Kinsella was confused as to the committees, and really intended to apply for appointment to the Center Advisory Committee
 - i) James N. Gardner of Lindsay, Nahstoll, Hart, Neil & Weigler, has written letter, dated September 6, concerning Cablecom-General, Inc.
 - j) Manager Pro Tem has approved payment of \$105,086 to Glynbrook Construction as progress payment on Milwaukie Senior/Multi-purpose Community Center. Manager Pro Tem said the city has a serious problem on delay of payments from the county to the city in regard to the Center
 - k) League of Oregon Cities has sent information on the 1979 League convention. Paulson asked the cost for attending just one day of the convention.
 - l) Planning Director has sent memo, dated September 25, concerning meeting dates on Comprehensive Plan.
 - m) Oregon Law Enforcement Council reports a downward crime trend in Milwaukie. Paulson commended the Police Department for the encouraging report.
 - n) Manager Pro Tem has sent letter, dated September 25, to Clackamas County District Attorney, via City Attorney Pro Tem, concerning allegations on July 16 by complainants on Adams Street.
- On the motion to adopt, MOTION CARRIED unanimously.

AUDIENCE PARTICIPATION

1. Jean Baker, 2607 Monroe, has sent letter, received September 28, concerning business license policy. Mrs. Baker had informed a staff member she would be present at tonight's meeting to discuss the letter. However, Mrs. Baker did not appear.
2. Bill Hupp, 2626 SE Washington, spoke to the Council on his proposal for full development of the city's Willamette River

waterfront, north of Jefferson Street, for a pleasure boat marina. It was MOVED by Nickel, SECONDED by Burgess, that development of the waterfront has been a very high priority, and Council should encourage any citizen in doing anything to get it off the ground; that any expenses go through the City Manager; that Council ask the Parks and Recreation Commission to consider appointing Mr. Hupp to the Waterfront Development Subcommittee. After discussion, the motion was withdrawn, and it was MOVED by Ewald, SECONDED by Burgess, that Council appoint Mr. Hupp as the Council's special envoy to the Parks and Recreation Commission to work very closely with Eloise Hobson (through Parks and Recreation Commission Mr. Hupp has direct access to the Waterfront Development Subcommittee) to get the waterfront development going. MOTION CARRIED unanimously.

3. James Backenstos, 3626 SE Harrison, read statement of policy and purpose of the Committee of Concerned Citizens and Taxpayers of Milwaukie. Mr. Backenstos also demanded a public apology from Mayor Manuel for his statement in an article in the Milwaukie Review that Mr. Backenstos had called employees of the city third rate citizens.

NEIGHBORHOOD COUNCIL REPORTS

Manager said Neighborhood Council annual report is being prepared by staff. Manager said also Neighborhood Council Executive Board minutes contain a reference that a fire vehicle was not available for public safety on a particular day for an extended period of time, but that was not the case.

REPORT ON COUNCIL EXECUTIVE SESSION ON FIRE CHIEF MATTER

City Council, in executive session, discussed with the Fire Chief City Manager Harold Schilling's report on charges against the Fire Chief. That executive session was held September 26; two members of the press were present. City Manager Pro Tem Richards said he intends to interview fire personnel from the lowest level to the top, and prepare a supplementary report for the Council, hopefully by October 28, at which time a decision will be made by him on the matter.

(Meeting recessed at 8:45 p.m., reconvened at 8:55 p.m. with all present.)

PUBLIC HEARING - APPEAL OF SANH THO VUONG ON VR-79-13

On August 28, 1979, the Planning Commission denied request for variance by Sanh Tho Vuong, 4952 SE Mason Lane, to construct a carport/deck to be 3'6" rather than the required 10 ft. from the side lot line. Mr. Vuong has appealed the Planning Commission decision. Public hearing was declared open, at 8:55 p.m. Notices mailed as required. Staff report was given by Planning Director. Speaking in favor of the appeal:

Gene Williams, 15121 S. Redland Road, builder
 Sanh Tho Vuong, 4952 SE Mason Lane, applicant
 George Hein, 4930 SE Mason Lane
 Bob Hedensten, 4889 SE Fieldcrest

Speaking against the appeal:

Eric Leedy, 4974 SE Mason Lane

Correspondence against the appeal:

Eric Leedy, 4974 SE Mason Lane

Correspondence giving opinion that presenting a fait accompli should not be sufficient reason to grant a variance, but if circumstances are such that the variance would have been granted anyway, the writer has no strong feelings:

Paul Kittleson, 9162 SE Mason Hill Drive

It was MOVED by Burgess that the City Council deny the appeal with the suggestion the applicant re-apply to the Planning Commission for a reduced variance, with the added suggestion possibly the deck not be permitted, so as to not invade the privacy of the property to the east. MOTION FAILED for lack of a second.

It was MOVED by Nickel, SECONDED by Paulson, to uphold the Planning Commission denial of the variance, with the suggestion the applicant re-apply for a reduced variance. The denial is based on the findings of the Planning Commission, staff reports, and the testimony at the hearings.

It was MOVED by Manuel, SECONDED by Nickel, to amend the motion by dropping the requirement that the applicant pay an additional fee for re-application. MOTION CARRIED with the following roll-call vote: AYES: Paulson, Nickel, Manuel and Burgess. ABSTAIN: Ewald.

On the main motion, MOTION CARRIED with the following roll-call vote: AYES: Paulson, Nickel and Manuel. NOES: Burgess. ABSTAIN: Ewald.

CHANGES IN ORDINANCE 1433 - FIRE CODE, AND 1434 - SHORT FORM COMPLAINT AND CITATION FOR MINOR OFFENSES

It was MOVED by Manuel, SECONDED by Paulson, to accept editorial changes in the two ordinances made by staff. MOTION CARRIED unanimously.

RESOLUTION ON FIRE CODE FEES

Fire Chief had wanted clarification of Council intention on fees under Fire Code; the matter will be set over to the next agenda.

ORDINANCE NUMBER 1435 - MURPHY COMPANY STREET VACATION

The following changes were made in Exhibit B attached to the street vacation ordinance: (1) changed to read: "Proof of dedication of public right-of-way for an additional 20 feet on the remaining portion of Meek Street providing for a minimum 40 feet total right-of-way." (5) changed to read: "All costs of engineering, construction and inspection and related costs to be paid in full by the Murphy company or current owner of record. The Murphy company or current owner of record will place the full estimated amount of improvements and engineering and other related costs in an escrow account to guarantee that the City of Milwaukie can complete the improvements as proposed herein." (7) added, reading as follows: "If at any time within 10 years following the vacation of these streets, the plywood mill is replaced by another use, the City of Milwaukie may, as a condition to the approval of such use, require the rededication of all or portions of the streets vacated by this document."

It was MOVED by Burgess, SECONDED by Nickel, to read Ordinance Number 1435 (AN ORDINANCE VACATING PORTIONS OF MEEK STREET, MOSS STREET, LLEWELLYN STREET AND S.E. 31ST STREET, LOCATED IN THE

SOUTHEAST QUARTER OF T1S, R2E, SECTION 25CD) the first time by title only, with the corrections as noted. MOTION CARRIED unanimously. It was MOVED by Burgess, SECONDED by Nickel, to read Ordinance 1435 the second time by title only. MOTION CARRIED unanimously. It was MOVED by Burgess, SECONDED by Nickel, to adopt Ordinance 1435. Ordinance 1435 was put on its passage with the following roll-call vote: AYES: Paulson, Nickel, Manuel, Burgess and Ewald. NOES: None. Ordinance 1435 passed the Council and was so declared by the Mayor.

MEMO FROM CITY ATTORNEY RE EMPLOYEE PETITION

Acting City Attorney Hammond has written memo, dated September 24, concerning Involvement of City Council Regarding Grievances of City Employees.

APPOINTMENTS TO TAX BASE COMMITTEE

There was discussion of appointments to Tax Base Committee. Staff was directed to develop a resolution, and the appointments will be discussed when the resolution is presented.

RESOLUTION NUMBER 39-1979 - SALARY FOR BUILDING OFFICIAL

It was MOVED by Burgess, SECONDED by Nickel, to read Resolution Number 39-1979 (A RESOLUTION RATIFYING AND ADOPTING THE PAY PLAN FOR THE POSITION OF BUILDING OFFICIAL FOR THE CITY OF MILWAUKIE FROM OCTOBER 1, 1979 TO JUNE 30, 1980 AND AMENDING RESOLUTION 33-1979) by title only. MOTION CARRIED unanimously. It was MOVED by Burgess, SECONDED by Nickel, to adopt Resolution 39-1979. MOTION CARRIED unanimously.

SYNOPSIS OF CRITERIA FOR CITY MANAGER

Korn/Ferry International, management search firm who are recruiting for City Manager candidates, have prepared synopsis of criteria for Milwaukie City Manager.

MEMO RE TERMS OF BUDGET COMMITTEE MEMBERS

City Attorney Myer Avedovech has written memo, dated September 7, concerning terms of Budget Committee members. Staff was asked to contact existing members of the Committee to find out if they are interested in reappointment for a short period.

MOBILE HOME ORDINANCE

Staff has prepared a proposed amendment to the zoning ordinance which would allow mobile homes and trailers as temporary residences. The matter will be referred to the Planning Commission.

APPOINTMENT TO JOHNSON CREEK TASK FORCE

Mel Paulson had accepted appointment as Milwaukie representative to the Johnson Creek Task Force, but has resigned. It was Council consensus that Steve Hall serve on the Task Force, and make policy decisions where he thinks he has the authority, otherwise he will ask for Council decision.

MEMO FROM ASSISTANT FIRE CHIEF RE AIR QUALITY ADVISORY COMMITTEE

Assistant Fire Chief has written memo, dated September 18, 1979,

concerning Air Quality Advisory Committee meeting. Outdoor burning will not be permitted after December 31, 1980, and the city should find other methods for disposing of grass, leaves, limbs and trimmings. It was Council consensus that the city's MSD representative, Jack Deines; the City Manager; Assistant Fire Chief Jones; and the city's Public Works Director meet to come up with a recommendation.

MEMO RE TAX LEVY ELECTION

Finance Director has written memo, dated September 26, concerning tax levy elections in 1980.

MEMO RE WILLAMETTE GREENWAY

Planning Department has written memo, dated September 27, concerning inclusion of Kellogg Lake in Willamette Greenway. Also included in agenda is copy of memo from City Council to Planning Commission, dated May 3, 1978, and copy of letter from Planning Commission to City Council, dated May 11, 1978, on the same subject.

MEMO RE OREGON LIQUOR CONTROL COMMISSION INFORMATION

Police Chief has written memo, dated September 26, concerning his meeting with OLCC regarding their memo dated September 6, on liquor license application approval.

MEMO RE 51ST AVENUE PARKING PROBLEM

In their July 16, 1979 agenda, Council received a letter signed by residents on 51st Avenue concerning parking problems. Police Chief has written memo, dated September 26, concerning his meetings with those residents.

MEMO RE BIKE PATH CONTROL

Public Works Director has written memo, dated September 25, concerning bike path control.

RESOLUTION NUMBER 40-1979 - CHECK SIGNING

It was MOVED by Burgess, SECONDED by Nickel, to read Resolution Number 40-1979 (A RESOLUTION REPEALING RESOLUTION NUMBER 37-1979, AND AUTHORIZING SIGNATURES ON CITY OF MILWAUKIE CHECKS) by title only. MOTION CARRIED unanimously. It was MOVED by Burgess, SECONDED by Paulson, to adopt Resolution 40-1979. MOTION CARRIED unanimously.

BLOCK GRANT PROGRAM CALENDAR

County Department of Human Resources, Housing and Community Development, has sent calendar of events on 1980 block grant applications.

ORDINANCE ON UNION PACIFIC RAILROAD (PORTLAND TRACTION COMPANY) FRANCHISE

It was Council consensus to delay consideration of the ordinance, with the hope of increasing the franchise fee.

RESOLUTION NUMBER 41-1979 - BUDGET REAPPORTIONMENT

It was MOVED by Nickel, SECONDED by Ewald, to read Resolution Number 41-1979 (A RESOLUTION REPEALING RESOLUTION NUMBER 4-1979) by title only. MOTION CARRIED unanimously. It was MOVED by Nickel, SECONDED by Ewald, to adopt Resolution 41-1979. MOTION CARRIED

unanimously.

It was MOVED by Ewald, SECONDED by Burgess, to extend the meeting for 10 minutes. MOTION FAILED to pass with the following roll-call vote: AYES: Manuel, Burgess and Ewald. NOES: Paulson and Nickel. There was discussion as to which controls, the resolution Council adopted on extending meetings, which specifies a majority vote, or Roberts Rules of Order, adopted by Council, which calls for a two-thirds majority to suspend the rules. Manager was asked to get the point clarified.

Meeting adjourned at 11:05 p.m.



Allen Manuel, Mayor

ATTEST:



Dorothy E. Farrell, Secretary

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