

MILWAUKIE  
CITY COUNCIL MEETING  
May 5, 1980  
7 p.m.

COUNCIL CHAMBERS

1359th Meeting

The one thousand three hundred fifty-ninth meeting of the Council of the City of Milwaukie, Oregon, was held at 7 p.m. on May 5, 1980, with the following councilpersons present:

Mel Paulson	Robert Ewald
Anne Nickel	Mayor Allen Manuel
Joy Burgess	

Also present:

Kenneth S. Whorton, City Mgr. Greg Eades, City Attorney  
Steven Hall, P.W. Director Dorothy E. Farrell, Sec'y  
The invocation was given by the Reverend John F. Sills, Wichita Evangelical Church, and the Pledge of Allegiance was recited.

Burgess made a statement saying she supported efforts by the city and citizen advisory committees to develop Milwaukie's riverfront; that she has found a local person interested in working with the city.

AUDIENCE PARTICIPATION

1. Public Works Director introduced Clifford Harshman, newly appointed Public Works Superintendent.
2. Mayor Manuel proclaimed May 22 through May 25, 1980, as Poppy Days 1980 in Milwaukie. The American Legion "Poppy Girl" gave the history of Poppy Days and presented poppies to members of City Council.

PUBLIC HEARING- APPEAL ON VR-80-2 AND M-80-2

On March 25, 1980, the Planning Commission approved request for variance to allow lot widths of 50 feet rather than 60 feet at building line for two lots to be partitioned at 11164 SE 52nd Avenue; and to allow public street frontage of 25 feet for one lot rather than required 35 feet, based on conditions as stated in Planning Commission minutes of March 25, 1980, meeting (M-80-2, VR-80-2). Lloyd A Miller, 11186 SE 52nd Court, and others, appealed the Planning Commission approval. Notices of public hearing mailed as required. Assistant Planning Director gave staff report. Public hearing was declared open at 7:20 p.m. No correspondence received in opposition to the appeal; letter received from Byron L. and Ida Lou Foreman, 11192 SE 52nd Court, favoring the appeal.

Speaking in favor of the appeal:

Lloyd Miller, 11186 SE 52nd Court  
Bob Sherman, 11121 SE 52nd Court  
Ken Austin, 11125 SE 52nd Court

Explaining Planning Commission position:

Don Trotter, Planning Commission Chairman  
Bob Kennedy, Planning Commission member

Making comments:

Linda Sherman, 11121 SE 52nd Court

Public hearing was declared closed at 8:50 p.m.

It was MOVED by Burgess, SECONDED by Ewald, that based on the

testimony this evening, the petitions turned in, the negligence and non-performance of the developer in the past by not complying with city law, I do not feel he should be rewarded for his non-performance and disobeying the law in the past, so I would MOVE that the City Council approve this appeal.

Burgess said the lot is not unique; the variance is not necessary because there has already been a partition of the property that fits in with the R-7 zone; the benefits do not outweigh the adverse effect; the adverse effects would be the loss of vegetation, the loss of open space desirable in that residential neighborhood; and the reasons given to want to build were just to recoup some expenses; and said she would agree to submit those findings in her motion.

Nickel said the Council has to have justification for reversing the Planning Commission and that cities are losing land use decisions in court because they gave inadequate reasons; that the Council is given variance criteria they are required to follow. Manuel said he did not feel the "findings" given by Burgess are adequate; that he would be the first to support the motion if he felt there were adequate findings.

MOTION FAILED to pass with the following roll-call vote: AYES: Burgess. NOES: Paulson, Nickel, Manuel and Ewald.

It was MOVED by Ewald, SECONDED by Nickel, that the staff not issue any building permits for the lower lot until all previous conditions attached to Lot No. 1 are complied with, including blacktopping of driveway, finishing the remodeling, and blockage of road. MOTION CARRIED unanimously.

It was MOVED by Nickel, SECONDED by Paulson, to deny the appeal and accept the decision of the Planning Commission, based on the testimony tonight, the findings of the Planning Commission, and the staff report. MOTION CARRIED with the following roll-call vote: AYES: Paulson, Nickel, Manuel and Ewald. NOES: Burgess.

(Meeting recessed at 9:30 p.m., reconvened at 9:45 p.m. with all present.)

Mayor Manuel announced the following items would be postponed to the next meeting:

Ordinance on Towing Abandoned Vehicles  
 Amendments to Comprehensive Plan (postponed indefinitely)  
 Resolution on Interest Rate on Contracts for Local Improvement Districts

#### REQUEST FROM TRI-MET FOR ADDITIONAL LAY-OVER ZONE

Tri-Met, in letter dated April 9, 1980, has requested the city to designate one additional bus layover zone in the vicinity of 21st and Jackson. It was consensus of Council that the City Manager approve the request and issue traffic regulation.

#### PAYMENT OF BILLS

It was MOVED by Nickel, SECONDED by Paulson, that the bills listed for May 5, 1980 payment be approved for payment. MOTION CARRIED unanimously.

REQUEST FOR TRANSFER FROM CONTINGENCY FUND TO PARKS FUND

Public Works Director has written memo, dated April 28, 1980, concerning Parks and Recreation grant matching funds. It was MOVED by Burgess, SECONDED by Nickel, to authorize expenditure of \$12,120 out of Contingency Fund to allow the city to complete Scott and Furnberg Parks. MOTION CARRIED unanimously.

ACCEPTANCE OF CONTINUANCE ON ACKNOWLEDGEMENT OF COMPREHENSIVE PLAN

Public Works Director has written memo, dated April 28, 1980, regarding LCDC extension on comprehensive plan. It was MOVED by Nickel, SECONDED by Paulson, to accept the 120-day continuance by LCDC on acknowledgement of the city's comprehensive plan. MOTION CARRIED unanimously.

AUTHORIZATION TO APPLY FOR LCDC COMP. PLAN MAINTENANCE GRANT

Department of Land Conservation and Development has sent letter, dated April 22, 1980, concerning initial discussion of post acknowledgement policy and related issues. It was MOVED by Nickel, SECONDED by Paulson, to authorize application for LCDC maintenance grant for comprehensive plan. MOTION CARRIED unanimously.

REQUEST BY THE LANE CO. FOR REVENUE BOND FINANCING FOR REGIONAL J.C. PENNEY WAREHOUSE

Department of Economic Development has sent letter, dated April 22, 1980, concerning application by The Lane Company, Plaza 600 Building, Seattle, WA. for revenue bond financing for regional warehouse. It was MOVED by Nickel, SECONDED by Ewald, to approve the application of The Lane Company for revenue bond financing for a regional J.C. Penney warehouse between Monroe, Railroad Avenue and 37th in Milwaukie, which is in compliance with the comprehensive plan. MOTION CARRIED unanimously.

CONSIDERATION OF STORM DRAINAGE LIMITATIONS -INTERNATIONAL WAY LOCAL IMPROVEMENT DISTRICT

Public Works Director has written memo, dated April 30, 1980, concerning International Way LID storm drainage limitations. It was MOVED by Nickel, SECONDED by Paulson, to allow staff to proceed with guidelines as stated in the memo, and restrict development in the area until the guidelines are developed. MOTION CARRIED unanimously.

ORDINANCE NO. 1459 - SHORT FORM CITATIONS - SECOND READING

The ordinance was read the first time at the April 21 meeting. It was MOVED by Nickel, SECONDED by Ewald, to read Ordinance Number 1459 (AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NO.1380 AUTHORIZING USE OF THE SHORT-FORM UNIFORM COMPLAINT AND CITATION METHOD FOR MINOR OFFENSES IN MUNICIPAL COURT AND REPEALING ORDINANCE NO. 1434) the second time by title only. MOTION CARRIED unanimously. It was MOVED by Nickel, SECONDED by Paulson, to adopt Ordinance 1459. Ordinance 1459 was put on its passage with the following roll-call vote: AYES: Paulson, Nickel, Manuel, Burgess and Ewald.

NOES: None. Ordinance 1459 passed the Council and was so declared by the Mayor.

COST OF MAILING BUDGET FACT SHEET AND PURCHASING BANNERS

Manager said it would cost approximately \$648 to mail 7200 fact sheets on the budget. One banner, 3' x 30' would cost \$150, and one banner, 3' x 50' would cost between \$170 and 175. It was MOVED by Nickel, SECONDED by Ewald, to authorize \$1000 to cover cost of mailing fact sheet, and purchase of two banners, 3' x 50', from the City Council budget. MOTION CARRIED unanimously.

MEMO FROM CENTER DEVELOPMENT ADVISORY COMMITTEE RE WIDENING KELLOGG CREEK DRIVE

Center Development Advisory Committee has sent memo, dated April 21, 1980, concerning widening Kellogg Creek Drive. It was Council consensus to respond to the committee, saying the matter is being tabled pending receipt of annexation petition on property in the area.

CONSENT AGENDA

- a) Approval of minutes - April 17, 1980 special meeting, April 21 regular meeting
- b) Final Acceptance - Well #6 pump house
- c) Letter from Southern Pacific re Annexation
- d) Memo re bills on last agenda
- e) Memo re cost of headphones in Council Chambers
- f) Procedure for use of 1976 and 1977 HUD grants
- g) Memo from City Attorney re election
- h) Call for bids on 41st Avenue L.I.D.

It was MOVED by Ewald, SECONDED by Nickel, to adopt the Consent Agenda. Burgess asked that items c, e and f be removed for discussion, and Nickel requested item e.

- b) Public Works Director has written memo, dated April 28, 1980, recommending final acceptance of Well #6 pump house, LPW/EDA Project No. 07-51-23551.
- c) Public Works Director has written memo, dated April 23, 1980, concerning proposed annexation of Southern Pacific property south of Harmony Road, and attached copy of letter from Southern Pacific, dated September 25, 1979, saying SP is not ready to proceed with a drainage study at this time. It was Council consensus to write Southern Pacific indicating the city's interest in assisting them to develop the property.
- d) Interim Finance Director has written memo, dated April 30, concerning questions on bills presented at April 21 Council meeting.
- e) Dick Bailey, Administrative Assistant to City Manager, has written memo, dated April 30, concerning headphones for hard-of-hearing in Council Chambers. It was Council consensus to ask the Senior Citizen Advisory Commission to comment on the proposal.
- f) Administrative Assistant to City Manager has written memo, dated April 28, 1980, concerning Department of Housing and Urban Development grants for fiscal 1976 and 1977. Burgess asked questions about the funds. It was Council consensus to proceed as recommended by staff.

g) City Attorney has written memo, dated May 1, 1980, concerning notice of election should the budget fail on May 20.  
 h) City Attorney has sent memo, dated May 1, 1980, concerning 41st Avenue Local Improvement District. Manager asked to have this item deleted; there is a new property owner who is not interested in the local improvement district.  
 Public Works Director requested a specific motion on item (b). It was MOVED by Manuel, SECONDED by Ewald, to accept the Engineer's report for final acceptance of Well #6 pump house, LPW/EDA Project No. 07-51-23551. MOTION CARRIED unanimously.

#### OTHER BUSINESS

1. Nickel asked if the city had ever explored the idea of parks fees being used for development of parks. Manager said he would recommend against it, because it would reduce the flexibility of the City Council and Budget Committee to put a budget together.
2. Burgess reminded the Council there are two vacancies on the Civil Service Commission.
3. It was Council consensus to hold a work session on urban renewal.
4. Burgess asked if it would be necessary to have a supplemental budget before July 1.
5. Burgess said the City Manager had appeared before the Senior Citizen Advisory Commission to give information on consolidation, and asked him to remember there are two members of the Council who don't support the effort. Ewald said the Council by majority vote had directed the Manager to continue giving information on consolidation.
6. Ewald asked for an accounting of money left in the Community Center project fund, and what the money could be spent for.
7. Paulson asked for more information on the state tax on fines.
8. Council asked for a report on how extensively the Milwaukie Police Department is involved in solicitation for funds by the Clackamas County Peace Officers Association.

It was MOVED by Burgess, SECONDED by Ewald, to return to regular session at 11:30 p.m., after the Executive Session. MOTION CARRIED with the following roll-call vote: AYES: Manuel, Burgess and Ewald. NOES: Paulson and Nickel.

The meeting went into executive session at 11:05 p.m., under ORS 192.660 (1)(d) to discuss labor negotiations; returned to regular session at 11:30 p.m.

#### RESOLUTION NUMBER 25-1980 - MANAGEMENT SALARIES

It was MOVED by Burgess, SECONDED by Nickel, to read Resolution Number 25-1980 (A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE RATIFYING AND ADOPTING THE PAY PLAN FOR MANAGEMENT AND CONFIDENTIAL EMPLOYEES FOR THE CITY OF MILWAUKIE FOR THE PERIOD FROM JULY 1, 1980 THROUGH JUNE 30, 1981) by title only. MOTION CARRIED unanimously. It was MOVED by Burgess, SECONDED by Nickel, to adopt Resolution 25-1980. MOTION CARRIED unanimously.

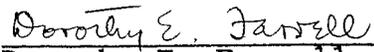
RATIFICATION OF POLICE UNION CONTRACT

It was MOVED by Nickel, SECONDED by Burgess, to ratify the contract for fiscal year 1980-81 and 1981-82 with Clackamas County Peace Officers Association, Local No. 843. MOTION CARRIED unanimously.

The meeting adjourned at 11:35 p.m., to be continued at the work session on May 6 to take up items on tonight's agenda not considered.

  
Allen Manuel, Mayor

ATTEST:

  
Dorothy E. Farrell, Secretary