

MILWAUKIE  
CITY COUNCIL MEETING  
May 5, 1981  
7 p.m.

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ST. JOHN'S EPISCOPAL CHURCH

1383rd Meeting

The one thousand three hundred eighty-third meeting of the Council of the City of Milwaukie, Oregon, was held at 7 p.m. on May 5, 1981, with the following councilors present:

Mel Paulson	Roger Hall
Anne Nickel	Mayor Joy Burgess
Donald W. Graf	

Also present:

Kenneth S. Whorton, City Mgr.	Topaz Faulkner, Planning Dir.
Steven Hall, P.W. Director	Greg Eades, City Attorney
Gordon Erickson, Finance Dir.	Dorothy E. Farrell, Sec'y
Richard Bailey, Fire Chief	

The invocation was given by Mayor Burgess, and the Pledge of Allegiance was recited.

AUDIENCE PARTICIPATION

1. The "Poppy Girl" for the Milwaukie American Legion told about the significance of the Legion Auxiliary's poppy program, and gave poppies to members of the Council. Mayor read proclamation naming May, 1981 as Poppy Month and May 20 to 23 as Poppy Days in Milwaukie.

2. Keith Wolfard, Chairman of Engine Company 1159, Clackamas County, representing Professional Firefighters of the county, asked the Council to make an exception to the "no alcohol" rule at The Milwaukie Center for a dance to be held during the Fourth Annual West Coast Championship Firemen's Muster in conjunction with Milwaukie Festival Daze. The dance will be for out-of-town firefighters only.

It was MOVED by Nickel, SECONDED by Graf, that given the uniqueness of the situation, Council allow an exception to the rule and grant Engine Company 1159 permission to use the Center for the dance and alcoholic beverages be allowed. The conditions are that the firefighters have agreed to control their group, and provide some security measures worked out between them and city staff.

MOTION CARRIED unanimously.

3. Ron Moran, Milwaukie Fire Department, said at Civil Service Meeting May 5, persons were excluded from the public hearing, and he feels this was a violation of Charter. City Attorney is to write a memorandum on the subject, and provide a copy for Moran.

4. Bob Ewald, 4925 SE Rainbow Lane, said he thinks every citizen deserves an answer to Moran's question.

5. James Backenstos, 3626 SE Harrison, said notices on the back of his water bill were on the part he had to turn in, and suggested the city put out a card to inform people of public hearings and events. He also said he feels there was a conflict of interest at the Civil Service Commission meeting on May 5. City Attorney advised the Council not to listen to any comments about the substance of the hearing, as there is the possibility it will come to the Council on appeal.

PROCLAMATIONS

Mayor read proclamations naming May 9, 1981 as Fire Service Recognition Day, and naming the month of May as Older Americans Month and May 23 as Older Americans Day. Since the proclamation on Older Americans Month and Day included the statement "with the unanimous consent of the City Council," it was MOVED by Nickel, SECONDED by Paulson, that the City of Milwaukie proclaim May 23 as Older Americans Day. MOTION CARRIED unanimously.

PUBLIC HEARING - VACATION OF A PORTION OF SE 47TH STREET -  
ORDINANCE NUMBER

North Clackamas School District 12 has requested the city vacate the northernmost section (approximately 230') of 47th Street where it borders the west side of School District property. Public hearing was declared open at 7:32 p.m. Notices published and posted as required. Paulson announced one of the speakers on the matter is a long-time friend; however Paulson said he would retain the right to vote. Staff report was given by Public Works Director. Public Works Director requests the following be added to the ordinance at the end of Section 1: "Portland General Electric and Pacific Northwest Bell will maintain rights of service and maintenance of existing facilities."

Letters in opposition:

Richard E. Nase, 11282 SE 46th  
Carole N. Fossler, 4657 Franklin

Speaking in opposition:

Richard E. Nase, 11282 SE 46th

Answering questions:

Michael D. Pinon, Director, Physical Plant Department, North Clackamas School District

Public hearing was closed at 7:52 p.m.

It was MOVED by Nickel, SECONDED by Graf, to read (AN ORDINANCE OF THE CITY OF MILWAUKIE VACATING A PORTION OF SE 47TH STREET) the first time by title only. MOTION CARRIED with the following roll-call vote: AYES: Nickel, Burgess, Graf and Hall. NOES: Paulson. The ordinance will be on the agenda for the next meeting for second reading.

PUBLIC HEARING - ANNEXATION OF ASSEMBLY OF GOD CHURCH PROPERTY  
AND NORTH CLACKAMAS PARK (A-80-7)

Assembly of God Church and City of Milwaukie have petitioned for annexation of property located south of Highway 224, east and south of Mt. Scott Creek, north of Kellogg Creek Drive, and north and west of Rusk Road to the City of Milwaukie. The Church wishes to annex Tax Lots 600, 700, 900 and 901 to obtain city services, and the City of Milwaukie wishes to annex city-owned North Clackamas Park (Tax Lots 100, 1000 and Tract A) for administrative reasons.

Public hearing was declared open at 8 p.m. Public hearing was requested by Edward J. Sullivan, attorney for Oatfield Ridge Community Organization. Paulson announced he had a conflict, that in view of the fact that he had contacts with the applicant prior to the request for annexation, he cannot render an impartial decision and will not vote or enter into discussion on the application.

Edward J. Sullivan, attorney for Oatfield Ridge Community Organization, challenged the jurisdiction of the Council, based on his contention the city doesn't have legal title to North Clackamas Park. He presented as an exhibit a litigation report from Pioneer National Title Insurance, dated January 30, 1981. City Attorney advised Council to continue with the public hearing, stating if it turns out the city doesn't have jurisdiction, any action would have to be voided.

Staff report was given by Planning Director. There has been no correspondence on the matter other than that included in the agenda packet.

Giving presentations for applicants:

Jon S. Henricksen, attorney for Assembly of God Church  
Steven Hall, Milwaukie Public Works Director

Mr. Henricksen requested the church join in the staff report; that the Planning Commission file be part of the record at this public hearing; that his supplemental report to the original staff report be considered by Council as if fully testified to tonight. Mr. Henricksen asked if the Council decides not to annex the park, that the annexation application of the church be considered separately.

No one appeared to speak in favor of the annexations.

Speaking against the annexations:

Nancy Thornton, 14114 SE Elderberry Lane, Chairman of Oatfield Ridge Community Organization  
Charles L. West, 50110 SE Lake Road  
Garland Taylor, 603 SE Eric

Mr. Taylor said since there isn't clear title to the park property, he feels the city doesn't have the right to request annexation. Councilor Nickel said she would like the record to show the city does not agree there is any question as to the ownership.

Mr. Taylor presented pictures taken of the park, saying the park is becoming a city dump.

Elmer J. Leland, 5205 SE Aldercrest Road  
Gary Clifford, 13398 SE Ruscliff Lane  
Gloria Cook, 6030 SE Harrison  
Ralph Clifford, 13480 SE Ruscliff Lane

Mr. Clifford presented pictures of real estate office at Highway 224 which he said is not in compliance with city zoning, and of a meat processing plant which he said is a non-conforming use. He also presented a page from a bulletin titled "Geology and Geologic Hazards of Northwest Clackamas County, put out by the Department of Geology and Mineral Industries.

(Meeting recessed at 9:22 p.m., reconvened at 9:30 p.m. with all present.)

Speaking against:

Edward J. Sullivan, attorney for Oatfield Ridge Community Organization

Councilor Nickel said she wanted the record to show the city does have a dual interest agreement with the county, and it was formally acknowledged as acceptable by LCDC when they gave the city compliance acknowledgement.

Public hearing was closed at 10:19 p.m.

It was MOVED by Graf, SECONDED by Hall, that the Council indicate approval of the annexation of the two pieces, and ask staff to prepare findings of fact to be given to Council at the next regular meeting, and ask the attorney for the church to prepare findings of fact in support of the annexation request from them, and that these be given to Council at the next regular meeting. Councilor Nickel said she wants the record to show Council appreciates the comments, and Council listened and noted things, but were not convinced the weight was against the annexation proposal. MOTION CARRIED with the following roll-call vote: AYES: Nickel, Burgess, Graf and Hall. ABSTAIN: Paulson.

#### PAYMENT OF BILLS

It was MOVED by Nickel, SECONDED by Graf, that the bills listed for May 5, 1981 payment be approved for payment. MOTION CARRIED unanimously.

#### LETTER REQUESTING SUPPORT OF TERRITORIAL DAYS

Jo Davis, Chairman of Oregon City Territorial Days, Inc., has written letter, received April 24, 1981, asking for support and assistance. It was Council consensus that a proclamation be prepared for a future agenda, and that Territorial Days be told Milwaukie wishes them well.

#### SIGN ORDINANCE AMENDMENT - ORDINANCE NUMBER 1492

It was MOVED by Graf, SECONDED by Burgess, that Ordinance Number 1492 (AN ORDINANCE OF THE CITY OF MILWAUKIE AMENDING ORDINANCE NO. 1441 REGULATING SIGNS) be read the first time. MOTION CARRIED unanimously. The ordinance was read in full. It was MOVED by Graf, SECONDED by Nickel, to read the ordinance the second time by title only. MOTION CARRIED unanimously. It was MOVED by Nickel, SECONDED by Graf, to adopt Ordinance 1492. MOTION CARRIED with the following roll-call vote: AYES: Paulson, Nickel, Burgess, Graf and Hall. NOES: None. Ordinance 1492 passed the Council and was so declared by the Mayor.

#### MEMORANDUM FROM MANAGER CONCERNING INVOCATIONS

Manager has written memorandum, dated May 1, 1981, concerning invocations at Council meetings. It was Council consensus that the Mayor, City Council and some staff members will volunteer to give the invocation. It was MOVED by Nickel, SECONDED by Burgess, to continue the invocation at meetings. MOTION CARRIED with the following roll-call vote: AYES: Paulson, Nickel, Burgess and Graf. NOES: Hall.

#### CONSENT AGENDA

a) Approval of Minutes - April 16 and 21, 1981 Council meetings

b) Resignation from Civil Service Commission

It was MOVED by Nickel, SECONDED by Paulson, to adopt the Consent Agenda. MOTION CARRIED unanimously.

b) Jim Crawford, 5202 SE Monroe, has written letter, dated April 28, resigning from the Civil Service Commission.

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INFORMATION ITEMS

a) Proclamations

- 1) Day of the Nurse
  - 2) National Cancer Day
- b) Letter to Legislators concerning HB 2521  
 c) Memorandum Concerning Council Work Session

It was MOVED by Nickel, SECONDED by Graf, to accept the proclamations as information items. It was MOVED by Burgess, SECONDED by Graf, to amend the motion to allow Burgess to comment on the Day of the Nurse proclamation. MOTION CARRIED with the following roll-call vote: AYES: Paulson, Burgess, Graf and Hall. NOES: Nickel. The main motion was withdrawn.

OTHER BUSINESS

- 1. Graf said Friday morning there will be discussion at Oregon City in connection with the proposal for the senior support levy by the county.
- 2. Mayor has received letter from Mayor of Salem, asking whether the Milwaukie City Council would support an increase in state gas tax without referral to the voters. No action was taken.
- 3. Manager has written memorandum, dated May 4, 1981, concerning flyer explaining the 1981-82 budget.

It was MOVED by Graf, SECONDED by Burgess, to extend the meeting for 10 minutes. MOTION CARRIED with the following roll-call vote: AYES: Burgess, Graf and Hall. NOES: Paulson and Nickel.

Meeting adjourned to go into executive session concerning real property transaction under ORS 192.660 (1)(e).

The meeting adjourned at 11:07 p.m.

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Dorothy E. Farrell, Secretary

ATTEST:

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Joy Burgess, Mayor

Exhibits presented by opponents of annexation A-80-7:

- 1. Litigation report from Pioneer National Title Insurance, dated January 30, 1981, Order No. 164-336, by Edward Sullivan
- 2. Pictures (5) of North Clackamas Park, by Garland Taylor
- 3. Picture of Suntree Inc. Realtors sign, by opponent
- 4. Pictures of Real Estate office and Meat Packing Plant, by Ralph Clifford
- 5. Page from Bulletin 99 from Department of Geology and Mineral Industries, by Ralph Clifford

