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MILWAUKIE '87!

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
SEPTEMBER 1, 1987**

The one thousand five hundred and thirty-fifth meeting of the Milwaukie City Council was called to order at 7:00 p.m. in the Council Chambers with the following Councilors present:

Roger Hall,
Mayor
Craig Lomnicki

William Fitzgerald
Chere' Sandusky
Mike Richmond

Also present:

Hugh H. Brown,
City Manager
Greg Eades,
City Attorney
Steve Hall,
Public Works Director
Bill Adams,
Community Development Dir.

Anne Nickel,
Development Coordinator
Dave Krogh,
Assistant Planner
Pat DuVal,
Executive Secretary

AUDIENCE PARTICIPATION

City Manager Hugh Brown read a letter received from Dave Hunt of the Bowen-Hunt Development Co. thanking City staff members for their capable and cooperative assistance through the construction of the Crystal Lake Project.

Al Liane, referring to the August 18 edition of the Review, expressed concern with the increased taxes incurred through the urban renewal district and tax increment financing and the impact on residents of both the North Clackamas #12 School District and the City of Milwaukie. City Manager Brown said these were matters being addressed with the School District at this time. Mayor Hall cited the example of the City of Beaverton whose tax base increased after completion of development, resulting in dramatically lower taxes for residents.

George Anderson, Anderson Die Co. near Ochoco, requested the City to investigate the feasibility of completing the Roswell sewer/storm drain project in conjunction with the widening of McLoughlin Blvd. Public Works Director Steve Hall said he would keep Mr. Anderson and City Council apprised of progress with the State Highway Department.

Jim Backenstos said he disapproved of the use of funds to supply services outside the City limits while taking a rescue vehicle out of service.

PUBLIC HEARING

Zone Change from C-N (P-D) to C-G (ZC-87-04) - Ordinance. Applicant: Castillo Co., Inc.; Location: East side of Freeman Way between Lake Rd. and Hwy 224.

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The public hearing was opened at 7:25. No ex parte contacts or conflicts of interest were declared.

Assistant Planner Dave Krogh presented the staff report requesting the approval of the Castillo Co. rezoning. **Krogh** told Council the developer's original intent had been to provide neighborhood commercial uses to support the residential portion of the planned development, but development of the commercial site had not occurred. By 6 to 1 vote, the Planning Commission approved the removal of the site from the Planned Development status and change the zone from C-N to C-G to allow the development of an insurance office and claims facility. **Krogh** stated the public facilities are adequate; proposed zoning is consistent with the Comp Plan commercial designation; commercial development of this property is consistent with Comp Plan policies regarding economic development; and traffic capacity of surrounding streets conformed with the Transportation Element of the Comp Plan. The applicant had supplied the City with site and landscape plans.

No further correspondence had been received.

Councilmember Fitzgerald asked if the developer were aware of potential traffic pattern changes at the 224/Freeman Way interchange. **Krogh** replied they were aware, but any redesign would be in the future and have no real bearing on this project.

Tom Bolen, architect for the Castillo Co., told Council that extensive research by State Farm and his company had found this site to be advantageous to their needs. This facility would provide new professional service jobs and put the land to the highest and best use. **Councilmember Lomnicki** asked if there would be sidewalks and what the hours would be. **Bolen** replied that sidewalks would be put in, and the hours of the facility would be 8:30 a.m. to 5:00 p.m. He said there would be less impact than a shopping district.

Questions of Clarification

Diane Huskey, 12600 SE Freeman Way #6, asked why this site was chosen.

Steve Weinberger, State Farm Insurance, explained it was a good market location with good exposure and accessibility to the public.

Betty Chandler, 12600 SE Freeman Way #38, asked if residents could be guaranteed that a pleasant development such as the one proposed would be done. **City Attorney Eades** said the Planning Commission would require a transition area review for any proposed development.

Mayor Hall asked about the proposed time frame. **Weinberger** replied funds had been allocated for this project, and immediately following a decision to rezone, and an architect would be sought. **Councilmember Sandusky** asked what uses were allowed in a C-G. **Krogh** replied facilities such as food stores, offices, clinics, eating and drinking establishments, community buildings, recreation facilities, banks, and laundry and dry cleaners.

The hearing was closed at 8:02 p.m.

It was moved by **Councilmember Richmond** and seconded by **Councilmember Fitzgerald** to read the ordinance for the first time by title only. Motion passed 5 - 0. The ordinance was read the first time. It was moved by **Councilmember Richmond** and seconded by **Councilmember Fitzgerald** to read the ordinance for the second time by title only. Motion passed 5 - 0. The ordinance was read the second time. It was moved by **Councilmember Richmond** and seconded by **Councilmember Fitzgerald** to adopt the ordinance and the findings. Motion passed 5 - 0.

ORDINANCE NO. 1634:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1438 BY REZONING CERTAIN PROPERTY FROM C-N (P-D) TO C-G (ZC-87-04).

PUBLIC HEARING

Appeal of Planning Commission Decision Denying a Lot Size Variance Request in an R-10 Zone (AP-VR-87-01). The public hearing was opened at 8:12 p.m. No conflicts of interest were declared, and **Councilmember Sandusky** announced she was acquainted with Mr. Santilli but did not feel it would influence her decision.

Assistant Planner Dave Krogh presented the staff recommendation to uphold the Planning Commission's denial of a lot size variance request in an R-10 zone. The decision had been based on noncompliance with Objective #4 of the Comp Plan -- Neighborhood Conservation and inability to meet criteria "unique, exceptional or extraordinary conditions." The Applicant submitted new information to support his appeal, but staff analysis concluded the Commission findings to be valid.

Correspondence had been received from Harold and Ardith Duncan, 12401 Guilford Dr., in opposition to the variance.

Applicant's presentation:

Steven Santilli, 12300 SE Oatfield Rd., speaking to the uniqueness of his lot pointed out the 140' frontage and the natural division by elevation and other physical traits. He also pointed out a 1982 variance approved in the immediate area; Comp Plan Objective #5 encouraging infilling; and variation of lot size in the 1987 Street of Dreams.

Councilmember Fitzgerald asked Santilli when he had purchased his property. **Santilli** replied April, 1987, but he had no intention of subdividing at the time he bought it. **Councilmember Fitzgerald** stated he did not think Council could override the covenants of a subdivision without consent of 2/3 of the residents. **Councilmember Lomnicki** asked if Council could override deed restrictions. **City Attorney Eades** replied the Comp Plan and Zoning Ordinance provided the only criteria that should be addressed by Council. Subdivision covenants provide rights and remedies between neighbors. **Santilli** asked about existing violations of the covenants (including Cedarcroft Subdivision), and **Mayor Hall** said these should be addressed by the neighbors.

Testimony in support: None

Testimony in opposition: Dan Hildebrand, 12381 SE Guilford Dr., indicated the 1982 variance granted in Cedarcroft was one of compromise and did not feel such action was not in keeping with the covenants of this established neighborhood. Hildebrand distributed graphics depicting the visual impact of the requested variance and upholding what he considered the neighborhood conservation objective of the Comp Plan.

George Van Bergen, 12366 SE Guilford Dr., speaking on behalf of the neighborhood, supported the Planning Commission's denial. He said the burden of proof was with the applicant, and he did not think the criteria had been met to approve this request. Residents of the neighborhood had bargained on limitations when they purchased their homes, and the character of the area must be maintained.

In lieu of testifying, many other members of the audience signed a statement agreeing with Mr. Van Bergen.

Applicant Rebuttal: Mr. Santilli again stressed the uniqueness of his lot, the Cedarcroft variance, and the added revenue to Milwaukie if another house were built.

The public hearing was closed at 9:30 p.m.

Council discussion: Councilmember Lonnicki said he considered the Planning Commission and staff reports valid.

It was moved by Councilmember Lonnicki and seconded by Councilmember Fitzgerald to uphold the denial based on the Planning Commission findings. The motion passed 5 - 0.

Formation of Stanley Avenue Sanitary Sewer Local Improvement District

The public hearing opened at 9:45 p.m. Public Works Director Steve Hall presented the report stating after meetings with residents, this area was targeted as one which was in need of sanitary sewer service and whose residents were interested in forming an LID. Since this area has a high incident of septic failures, he explained that City participation in this LID would protect the groundwater source. Hall also stated this area was within the City's short-term growth boundary. Approximately 60% of the property owners had signed a petition for participation, and funding is available from the sewer fund and CDBG. The Boundary Commission approved the extraterritorial extension, and each property owner who signed the LID petition has also signed a petition to annex. Hall presented a letter from Charles and Karen Beshcars objecting to the LID's and clarified some of the points and questions made in the correspondence.

Development Coordinator Anne Nickel added that a double majority annexation would indicate voter approval so that an election should not be required. Responding to the suggested lack of information, Ms. Nickel said a limited

number of questions could be addressed through general information, but staff was always available to answer any specific questions people might have.

Steve Hall explained the method of assessment was based on maximum of 15,000 square feet per lot with a maximum depth of 150'.

Councilmember Lomnicki stated people had to understand some latitude was necessary in the information process. As more work is done on the LID, more and better information can be provided

Testimony in opposition: **Charles Beshears** stated his main concern was financial impact on the participants in the LID's. He suggested formation of a drainage district might be a viable alternative. **Mr. Deshears** said piecemeal LID's would not solve the socio-economic problems of the area. He asked if a regional service district might be more economical and expressed concern with possible foreclosures.

Testimony in support: **Arlene Iwai**, 5433 SE Willow, supported the proposal because without sewers she would be unable to develop her property. **Eva Wilson** said sewers were greatly needed. **Rose Lee Carney**, 9941 SE Stanley, said she had been a resident of the area for 10 years and sewers are a necessity.

Councilmember Richmond asked for clarification of CSD #1's position. **Hall** replied that discussions have been held, and **Councilmember Richmond** said regionalization talks should continue.

The public hearing was closed at 10:50 p.m.

It was moved by **Councilmember Richmond** and seconded by **Councilmember Fitzgerald** to read the ordinance for the first time by title only. Motion passed 5 - 0. The ordinance was read the first time. It was moved by **Councilmember Richmond** and seconded by **Councilmember Sandusky** to read the ordinance for the second time by title only. Motion passed 5 - 0. The ordinance was read the second time. It was moved by **Councilmember Richmond** and seconded by **Councilmember Fitzgerald** to adopt the ordinance. Motion passed unanimously.

ORDINANCE NO. 1635:

AN ORDINANCE OF THE CITY OF MILWAUKIE AUTHORIZING THE CONSTRUCTION OF SANITARY SEWERS AND ESTABLISHING A LOCAL IMPROVEMENT DISTRICT.

Formation of Johnson Creek Boulevard Sanitary Sewer Local Improvement District

The public hearing was opened at 11:05 p.m. **Public Works Director Steve Hall** presented the staff report reviewing actions to date. Approximately 60% of the property owners had signed LID and annexation petitions, and no written remonstrances had been received. Assessment methods are the same as those used on the Stanley LID, and there would be no City participation in this project. Failing septic tanks made sewer service to this area, and an extraterritorial extension had been granted by the Boundary Commission.

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Ruby Stapleton, 8920 SE 58th, spoke in support of the improvements which were much needed.

The public hearing was closed at 11:10 p.m.

It was moved by **Councilmember Lonnicki** and seconded by **Councilmember Fitzgerald** to read the ordinance for the first time by title only. Motion passed 5 - 0. It was moved by **Councilmember Lonnicki** and seconded by **Councilmember Fitzgerald** to read to ordinance for the second time by title only. Motion passed 5 - 0. The ordinance was read the second time. It was moved by **Councilmember Lonnicki** and seconded by **Councilmember Fitzgerald** to adopt the ordinance. Motion passed unanimously

ORDINANCE NO. 1636:

AN ORDINANCE OF THE CITY OF MILWAUKIE AUTHORIZING THE CONSTRUCTION OF SANITARY SEWERS AND ESTABLISHING A LOCAL IMPROVEMENT DISTRICT.

Councilmember Richmond thanked Steve Hall and Anne Nickel for the efforts put into the projects.

Mayor Hall said these actions should not be considered a final solution, and lines of communication should be kept open.

OTHER BUSINESS

Discussion of Johnson Creek Blvd./SE Corridor Project **Public Works Director Steve Hall** told Council suggested names of residents to serve on the project committee were needed. **Lilly Moore** said the Ardenwald Neighborhood would be willing to address the need, and **Ruby Stapleton** spoke of the traffic problems at Johnson Creek Blvd. and Linwood Ave.

Eating/Drinking Establishment Definitions (ZA-87-02)- Ordinance, second reading. It was moved by **Councilmember Richmond** and seconded by **Councilmember Sandusky** for the second reading of the ordinance by title only. Motion passed 4 - 0, with Mayor Hall abstaining. The ordinance was read the second time. It was moved by **Councilmember Fitzgerald** and seconded by **Councilmember Sandusky** to adopt the ordinance. Motion passed 4 - 0, with Mayor Hall abstaining.

ORDINANCE NO. 1637:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1438 REGARDING THE DEFINITIONS OF "EATING ESTABLISHMENTS" AND "DRINKING ESTABLISHMENTS." (ZA-87-02)

City Acceptance of Street and Utility Improvements (SE Llewellyn St. and Meadow Gardens Estates Subdivision) It was moved by **Councilmember Sandusky** and seconded by **Councilmember Fitzgerald** to accept these street and utility improvements.

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It was consensus of Council the "Form of Application" ordinance should be on the next agenda with additional information.

Councilmember Sandusky asked the status of the boat ramp. **City Attorney Eades** replied that estimates for the ramp had been higher than anticipated, and the Marine Board questioned the use of funds for an installation that might be moved later for urban renewal.

Councilmember Fitzgerald stated he had held a conversation with Chief Mills of Oak Lodge Fire District regarding Project Firestop and suggested a meeting with the Fire District. **Hugh Brown** suggested meetings be initiated with all area jurisdictions involved in urban services.

City Manager Hugh Brown announced his receipt of notice from Murphy Plywood stating their inability to meet their compliance date. City Council directed that the compliance deadline be enforced as ample consideration had already been given by the City to the company's need for compliance time. **Councilmember Richmond** suggested contacting DEQ for support.

CONSENT AGENDA

It was moved by **Councilmember Fitzgerald** and seconded by **Councilmember Sandusky** to approve the Consent Agenda containing the minutes of the August 18, 1987 City Council meeting and bid rejection of hand-held water meter reading equipment.

The meeting was adjourned at 11:55 p.m.

Pat DuVal

Pat DuVal, Executive Secretary

