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MILWAUKIE '88!

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
MARCH 15, 1988**

The one thousand five hundred and forty-eighth meeting of the Milwaukie City Council was called to order at 7:03 p.m. in the Council Chambers with the following Councilors present:

Roger A. Hall,
Mayor
Craig Lomnicki

William Fitzgerald
Chere' Sandusky
Mike Richmond

Also present:

Hugh H. Brown,
City Manager
Greg Eades,
City Attorney
Jerri Widner,
Finance Director

Bill Adams,
Community Development Director
Paul Roeger,
Acting Public Works Director
Pat DuVal,
Executive Secretary

AUDIENCE PARTICIPATION

City Manager Hugh Brown introduced retiring City Public Works Illustrator/Drafter Alberta Barrows and her husband Bill to the City Council. **Mayor Hall** read Resolution No. 8-1988 expressing appreciation to Alberta for her 10 years of service to the City of Milwaukie.

Jim Backenstos read a letter he had received from Clackamas County Sheriff Bill Brooks concerning City of Milwaukie inquiries on contracting police services. Mr. Backenstos questioned the City Manager's recommendation that Council not approve a contract. He stated that Sheriff Brooks had not made a presentation before the Council concerning a service that was now costing the City of Milwaukie over \$1 million a year. Mr. Backenstos stated he considered this a matter of administration setting city policy, which is against the City Charter. Mr. Backenstos asked if there would be an A and B budget, and Mayor Hall replied the Budget Committee had proposed one measure for an operating levy and a second measure for supplemental services. **Councilmember Sandusky** said Council had directed staff to contact the Sheriff's department and to make recommendations to Council. **Mr. Backenstos** said the Sheriff should be allowed to make his own presentation to Council. He said if the City continues to grow, contracting will be necessary. **Councilmember Sandusky** said the proposal was not found economical. **Councilmember Lomnicki** said no one was ever denied the privilege of addressing Council. **City Manager Brown** said the discussions were amiable, but the proposal was not economical.

PUBLIC HEARING

Consideration of the Public Facilities Improvement Ordinance was postponed to the next meeting.

OTHER BUSINESS

Adoption of Findings re: Kellogg Lake Apartments Project **City Attorney Eades** told Council that staff felt the draft findings prepared by the applicant supported Council's wishes. Regarding the issue raised by Mr. Shoemaker on the 1983 annexation decision, Mr. Eades said the file information showed a public hearing changing the site to a comparable city zoning. He stated no record of notification and request for comment to DLCD appeared to have been made. Mr. Shoemaker had contacted the DLCD, and they show no notification. Eades stated the applicant and the staff felt these facts would not have any effect on the current decision, but if it were determined otherwise and the Comp Plan was not acknowledged, the property may be subject to statewide planning goals, not Milwaukie's Comp Plan. Eades said the applicant had prepared supplementary findings addressing this issue as a precaution.

Bob Shoemaker, attorney for the appellant, told Council he had evidence he wished it to consider. **City Attorney Eades** said brief presentations could be made but suggested not re-opening the public hearing. **Shoemaker** said the 1982 City Council had made a serious error in the matter of the medium density designation. He presented Council with the opponent's written comments on the findings and conditions.

Councilmember Lomnicki urged that Council address the legal question and not debate an old decision.

City Attorney Eades said it would be necessary to consider the 1982 decision and the implication on these findings.

Shoemaker said the letter also addressed concerns with the French drain, slope stability, and environment. **City Attorney Eades** said comments on the conditions would be most helpful, and Council could consider those items which they found most imperative. **Mayor Hall** asked what was most appropriate to hear at this meeting, and Eades replied since arguments had already been heard from both sides, it would be appropriate for Council to ask questions. Eades also suggested confining remarks to questions regarding the 1982 decision because all of Mr. Shoemaker's arguments are contained in his letter.

Mr. Shoemaker stated this was a complex legal issue and suggested Council get a legal opinion from a land use specialist. He said this was a difficult question requiring additional time and attention. **Mayor Hall** said Council felt that information had been adequately reviewed.

Mark Greenfield, attorney for the applicant, presented an addendum to the findings and conclusions addressing the questions raised by the legal counsel for the Friends of Kellogg Lake about the 1982 annexation. Greenfield stated that despite the assertions, he felt the statewide planning goals did not apply to this application. Greenfield also stated that Shoemaker's suggestion that Council seek an independent lawyer experienced in land use was unnecessary because both he and his associate Mr. Sullivan had extensive knowledge in this area.

Councilmember Sandusky asked if an agreement with the owner regarding maintenance of the drain system was included. **Councilmember Lomnicki** asked what recourse the City would have if there were non-compliance and bond money was used up. **City Attorney Eades** said the City could require that money be replaced as used. **Greenfield** indicated the bond could run with the land because under a conditional use permit, the City can take any actions it feels necessary. **Eades** said details could be worked out as the plan progresses.

Councilmember Lomnicki questioned the language on page 11 of the findings regarding the minimum lot size of 5000 sq. ft. **Greenfield** stated this was only a comparison to the standards in the ordinance for a single-family residence and language could be changed.

It was moved by **Councilmember Richmond** and seconded by **Councilmember Fitzgerald** to adopt the findings, conclusions, and conditions with the addendum and authorize the Mayor to sign the order. Motion passed 5 - 0.

Resolution Setting 1988 Levy Election Date and Adopting the Ballot Title - Finance Director Jerri Widner presented Council with the ballot title with the changes made by the Budget Committee in its March meetings. She explained it would be a two-part levy. **Mayor Hall** questioned the word "improved" in the second levy; he felt it suggested that there was something wrong with the first levy. **Councilmember Richmond** suggested "supplemental" might be more appropriate in defining the second levy. It was the consensus of Council to make the language change.

It was moved by **Councilmember Sandusky** and seconded by **Councilmember Lomnicki** to set the levy election date and adopt the ballot title with language change. **Councilmember Richmond** said he opposed the resolution because it did not solve the problem of accusations that the City held certain services hostage at levy elections. **Mayor Hall** said that public testimony at the budget hearings would indicate agreement with this proposed budget. **Councilmember Richmond** said he had a high priority for those services low on the scale and felt the need to more clearly present the manner in which they could be funded. The motion passed 4 - 1, with Councilmember Richmond voting in opposition.

RESOLUTION NO. 9-1988:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE,
OREGON, CALLING AN ELECTION FOR THE 1988-89 OPERATING LEVY.**

CONSENT AGENDA

It was moved by **Councilmember Sandusky** and seconded by **Councilmember Fitzgerald** to adopt the Consent Agenda which consisted of the City Council Minutes of March 1 and 3, 1988, City Acceptance of Sewer Improvements, Brookside Sanitary Sewer Rehabilitation, Phase II, and applications for Liquor Licenses by Ship-a-Shore Restaurant and the Roswell Market.

The meeting was adjourned at 8:45 p.m.

Pat Duval