

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
NOVEMBER 20, 1990**

The one thousand six hundred and twelfth meeting of the Milwaukie City Council was called to order at 6:53 PM at the Milwaukie Center with the following Councilmembers present:

Roger Hall,  
Mayor  
Craig Lomnicki

William Fitzgerald  
Chere' Sandusky  
Michael Richmond

Also present:

Dan Bartlett,  
City Manager  
Tim Ramis,  
City Attorney  
Charlene Richards,  
Assistant to the  
City Manager

Tim Corbett,  
Public Works Director  
Maggie Collins,  
Community Development Dir.  
Anne Nickel,  
Development Coordinator  
Pat DuVal,  
Executive Secretary

**PUBLIC HEARING**

**Continuation to Consider Findings for Great American Development Zone Change Request - Ordinance**

Mayor Hall called the public hearing on the application of Great American Development Company for the rezoning of 10.8 acres located at 4060 SE Lake Road to order at 6:54 PM.

Mayor Hall explained the hearing was a continuation of the public hearing held on November 6, 1990. On November 6, the public testimony portion of the hearing was closed, and Council directed that findings be prepared. The purpose of this hearing is to consider the findings on the zone change request and to consider the ordinance which rezones the 10.8 acres from R-10 to R-7. He said the Council would deliberate on the findings and the ordinance.

Maggie Collins, Community Development Director, presented the staff report in which it was explained that the applicant had provided findings in response to the concerns expressed in public testimony portion of the hearing on November 6, 1990.

**Determination of Findings and Decision:** It was moved by Councilmember Sandusky and seconded by Mayor Hall to read the ordinance which rezones 10.8 acres from R-10 to R-7 for the first time by title only. Motion passed 3 - 1 with the following vote: Mayor Hall, Councilmember Sandusky, and Councilmember Richmond aye; Councilmember Lomnicki nay; Councilmember Fitzgerald abstained. The ordinance was read for the first time by title only.

The second reading of the ordinance will be at the December 4, 1990, meeting.

**Consider Downtown Economic Improvement District Proposal**

**Mayor Hall** opened the public hearing on consideration of formation of an economic improvement district in the downtown area to order at 6:59 PM.

**Mayor Hall** explained the purpose of the hearing was to consider creating an economic improvement district in the downtown area. On October 16, 1990, the Council adopted an ordinance establishing a procedure for creating an economic improvement district and setting a time and date for the first of two public hearings on formation of an economic improvement district. This was the first hearing.

**Staff Report:** **Anne Nickel**, Development Coordinator, presented the staff report updating the actions occurring to date in the Economic Improvement District. **Nickel** reviewed the notice process and residential exemption considerations.

**Nickel** said the assessment roll contained those properties which were in the improvement district. She referred to Ordinance No. 1690, Section 4 which outlined the actions to be taken. The Council must determine if an assessment shall be made; determine the benefited property; determine the cost to be borne by the respective parcels in the proposed district; direct the preparation and filing of assessment roll; and direct the assessment amount and notice of the next public hearing be mailed to each property owner.

**Correspondence:** **Nickel** stated that five remonstrance letters had been received to date.

**Audience Testimony:** **Gary McClain**, President of the Milwaukie Downtown Development Association, introduced the board and steering committee members present. He announced the weekly public meetings of the MDDA and invited any interested persons to attend. He said he believed the project was productive for the City and beneficial to its residents.

**Larry Froland**, downtown property and business owner, said he believed the vitality of the City could be improved by this project.

**John Wyatt**, Key Bank, said he and his company felt it was appropriate to take a more proactive role in the development of the downtown area and to reverse some negative trends.

**Susie Terrell**, Milwaukie Travel, said her agency was supportive of the program and urged preservation of the unique features of Milwaukie and Main Street.

**Champ Husted**, Kellogg Bowl, said he believed it was time for action and to give back to the community.

**Kent Frutiger**, Steering Committee member, said he was concerned with the restoration of historically sensitive property.

**Arlie Brown**, Perry Pharmacy, said he believed the cooperation between business owners, property owners, and the City would result in success.

**Jean Myers**, Candyland, said believed it was necessary that the businesses work together to improve the downtown area.

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**Dan Bartlett**, City Manager, read a letter received from Rodney Nichols, DMD, in support of the program.

Testimony in Opposition: **George Van Bergen** said he did not feel the notice had clearly stated the hearing location. He said he was not speaking in opposition to the project, but that his property should not be included in the improvement district. **Van Bergen** said he was concerned that the proposed additional costs would prevent full building occupancy of the downtown area. He said the style of the occupancy had drifted away from retail, but most building space was currently occupied.

**Van Bergen** said his property was zoned R1B, residential business office commercial. He said his was a destination business and generated a minimum amount of traffic. He said he believed that any property not following a commercial designation should not be included in the district. **Van Bergen** said he believed the ordinance was faulty because of this. **Van Bergen** urged that his property not be included in the economic improvement district.

**Jim Backenstos**, 3626 Harrison, said he believed expansion of the McLoughlin Corridor should be considered before making any improvements on Main Street. He asked for clarification of the term "modified boundaries." **Backenstos** said he had conducted a survey and found that many people were opposed to the improvement district.

**Bartlett** said the purpose of the hearing was to consider the proposed boundary. The Council could make modifications to the boundary, such as **Van Bergen's** proposal, if desired.

**Backenstos** said he did not believe the downtown area could compete with shopping centers. He said he did not believe that property values or taxes were decreasing in the City core area. He asked if the work done by the Community Development staff were being subsidized by taxpayers.

**Don Stogsdill**, 3898 SE Wake, said he believed that before doing anything meaningful in the downtown area, it was necessary to know the plans of the State Highway Department regarding McLouglin Blvd. He said he believed that real property used for residential purposes should be included in the improvement district. **Stogsdill** said the MDDA's \$56,000 annual budget seemed unrealistically low. He said he believed the process was not democratic in that those businesses which are not owner operated could not remonstrate. **Stogsdill** also expressed concern that the project could be impacted by passage of the property tax limitation measure. He said exclusion of property on the basis of residential use was discriminatory. He said he did not feel that City residents had the obligation to underwrite downtown improvements.

**Arthur Pruitt**, Pramco, 2305 SE Washington, said the benefits would not be equal for his property. He asked that his property not be included in the district.

Staff Comments: **Nickel** said this was not a retail effort as suggested in public testimony. She said a vital downtown area includes retail, service, and professional businesses. She said the McLoughlin Corridor is an issue with which the MDDA is concerned.

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**Nickel** said that there will be a fund created for those businesses needing financial assistance in order to participate in the district. The downtown development group manager will also be available to assist such businesses in operational needs.

**Nickel** said that R1B zoning is transitional in nature. Increased vitality of the downtown area will probably attract more tenants in locating businesses in the RB1 zone.

**Nickel** addressed the concern that the MDDA budget might not be adequate. She said this was a model budget used by other similar groups. This type of organization functions best when supported by the business community through donations. The contingency is ample to cover most needs. She said the steering committee and board of directors was a small group, but any interested parties had been invited to attend weekly meetings to address the group with questions and concerns.

**Councilmember Sandusky** asked how many property owners had requested exemption. **Nickel** said four property owners had formally stated that they wished to remonstrate. The remonstrance deadline will be the next public hearing as set by Council.

**Bartlett** spoke regarding the impact of the property tax limitation. He said the economic improvement assessment is not levied by the County. If the assessment exceeds \$10/\$1000 assessed value, the amount will have to be prorated as addressed in Ballot Measure 5.

**Nickel** said those property owners who were concerned with inclusion in the district could request a zone change.

**Van Bergen** expressed concern that **Nickel** had responded to property owners' concerns, but that no rebuttal was allowed.

**City Attorney Monahan** said that **Nickel** had addressed her responses to direct questions from the public testimony. He said he did not believe **Nickel's** comments presented new evidence.

**Van Bergen** said he did not believe that **Nickel** was familiar with the nature of those businesses concerned about inclusion within the district.

Questions of Clarification: **Councilmember Sandusky** asked if the four property owners who sought exclusion could be deleted from the district at this time and consider others on a case-by-case basis.

**Monahan** said this might be possible if those properties in question were on the boundaries. He said the remonstrance hearing would indicate if there were a sufficient number of property owners opposed to the district to prevent further development.

**Bartlett** said this is a process in which the City Council would determine the boundaries. The Council could delete R1B properties if desired. He said the Council could also consider developing a dual assessment of the area in which concentric areas of perceived benefit could be defined. **Bartlett** said the MDDA had considered the concept, but because the Milwaukie downtown area is compact, it was not considered a workable solution.

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**Councilmember Richmond** said he was concerned with passage of the property tax limitation.

**Bartlett** said that one Council cannot bind another. The Council and district can adapt as circumstances require.

**Councilmember Richmond** asked how this project differed from the earlier Storefront Project.

**Nickel** said the Storefront Project did not have the involvement of the downtown businesses.

**Councilmember Lomnicki** said he was in favor of moving forward on the EID, but not remove any properties. He said he felt that all properties would benefit from downtown improvement. He added that the City does not hire the project manager, but is hired by the Downtown Association. The City supports the project through funding infrastructure improvements. He suggested that certain property owners who were concerned with inclusion in the district might request rezoning with the Planning Commission.

**Councilmember Richmond** questioned rezoning properties because owners did not wish to participate in the improvement district. He said he believed certain properties should not be included within the boundary of the district.

**Bartlett** said the ordinance could be amended in the second year of implementation. He referred to Ordinance No. 1690, Section 4. Notice of the amount of the assessment would give property owners a basis upon which to support or oppose the district at the second hearing tentatively scheduled for January, 1991.

**It was moved by Councilmember Lomnicki and seconded by Mayor Hall to direct staff to prepare an assessment ordinance and set January 15, 1991, as the next hearing for remonstrance. Motion passed 4 - 1 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, and Councilmember Sandusky; Councilmember Richmond nay; no abstentions.**

#### **AUDIENCE PARTICIPATION**

None.

#### **OTHER BUSINESS**

##### **Consider Fee Waiver for Challenge Center**

**Dan Bartlett**, City Manager, presented the staff report in which the City Council was requested to authorize the City Building Official to waive building permit and systems development charge fees for interior expansion of the Challenge Center.

**Bartlett** explained that the Challenge Center was a non-profit community organization providing a sheltered work shop. They had applied for an interior expansion of the work shop. **Bartlett** said he had implied to Challenge Center staff that City fees could be waived. Upon application, the Building Official determined that he did not have the authority to waive SDC fees in the amount of \$2,960. **Bartlett** proposed that a policy be developed for fee waiver ability at the staff level.

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**Bartlett** recommended that until the City had adopted a written fee waiver policy that staff bring individual non-profit fee waiver proposals to the Council. He said an amount equal to the systems development charges would be transferred from other funds.

**Ken Florsheim**, Executive Director of the Challenge Center, 5285 SE Mallard Way, explained that was a non-profit rehabilitation agency providing vocational training, employment, and job placement services for disabled adults. It as found that functionally the building was not handicapped accessible. In order to remove the barriers, funds had been raised for 94% of the expenses. There had been a misunderstanding between Challenge Center staff and City staff regarding the ability to waive systems development charges and permit fees.

**Joe Bernard**, 3160 SE Lake Rd., described the function of the Challenge Center and the special needs of those handicapped people who utilize the Center. He urged that Council grant this waiver.

**Mayor Hall** expressed concern that the effect of this action would be that the City was donating funds to a non-profit organization.

**Bartlett** said he believed the policy to which the Mayor referred regarded advocacy organizations. This request concerns employment of a segment of the population which is not usually employed. Other such fee waivers had been made, but did not involve an SDC.

**Councilmember Lomnicki** said systems development charges should not be waived in the future.

**Bartlett** said there was not sufficient policy for the waiver of fees. He suggested that he work with the Community Development Director to formulate a policy of fee waiver for non-profit organizations.

**Councilmember Sandusky** said that staff had agreed to waive the fee, and the action should be upheld.

It was moved by Councilmember Fitzgerald and seconded by Councilmember Richmond to waive the permit fees and take funds from the City Manager's budget for SDC fees and that a policy be established for Council adoption. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky and Councilmember Richmond aye; no nays; no abstentions.

**Consider 1990-1991 Compensation Recommendation for MEA/AFSCME, 350-5 Represented Employees**

**Charlene Richards**, Assistant to the City Manager, presented the staff report in which the City Council was requested to approve the terms of a tentative agreement between City representative and the Milwaukie Employees Association, AFSCME, and authorizing the Mayor and City Manager to execute Addendum A establishing wage rates for the period July 1, 1990, through June 30, 1991.

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**Richards** said that implementation of the point factor job evaluation of all represented positions had been completed. Implementation of the final result was negotiated with the union. The union ratified the tentative agreement on November 7, 1990.

**Councilmember Lomnicki** asked if he could have additional salary information as had been provided with the non-represented employee class study.

**Councilmember Richmond** asked about those positions mentioned in Appendix B. **Richards** said that those positions referred to in Appendix B had not previously been in the bargaining unit.

It was moved by **Councilmember Sandusky** and seconded by **Councilmember Lomnicki** to approve the terms of a tentative agreement between City representative and the Milwaukie Employees Association, AFSCME, and authorizing the Mayor and City Manager to execute Addendum A establishing wage rates for the period July 1, 1990, through June 30, 1991. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond; no nays; no abstentions.

**Consider Findings for Ackerley Appeal, File No. AP-CI-90-02**

**Maggie Collins**, Community Development Director, presented the staff report in which the City Council was requested to adopt the findings submitted to support the denial of a Planning Commission decision. The Planning Commission had denied the request by Ackerley Communications to relocate a billboard from 10655 SE McLoughlin Blvd. to 3045 SE Harrison St.

It was moved by **Councilmember Sandusky** and seconded by **Councilmember Lomnicki** to adopt the findings supporting the Ackerley Communications appeal, File No. AP-CI-90-02. Motion passed 3 - 2 with the following vote: Mayor Hall, Councilmember Lomnicki, and Councilmember Sandusky aye; Councilmember Fitzgerald and Councilmember Richmond nay; no abstentions.

**Consider Date for First Council Meeting January, 1991 - Resolution**

**Dan Bartlett**, City Manager, presented the staff report in which the City Council was requested to adopt a resolution setting the first meeting for 1991 on January 8, 1991. The first Tuesday of the month is a national holiday. In order to install the new Council and to meet the requirements of two meetings each month, staff suggested that this date be set.

It was moved by **Councilmember Sandusky** and seconded by **Councilmember Lomnicki** to adopt the resolution setting January 8, 1991, as the first meeting for 1991. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.

CITY COUNCIL MEETING - NOVEMBER <sup>20 pad</sup> 6, 1990**RESOLUTION NO. 40-1991:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DESIGNATING THE FIRST REGULAR CITY COUNCIL MEETING OF JANUARY, 1991, ON TUESDAY, JANUARY 8, 1991.**

**Evaluation of City Attorney**

**Mayor Hall** announced that the issue would be discussed at the next meeting at which time a report will be prepared by the City Attorney Office.

**Council Vacancy**

The question of the Council position #1 vacancy will be discussed at a future work session.

**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 November 6, 1990. Motion passed 5 - 0 with the following vote: Mayor Hall, Councilmember Lomnicki, Councilmember Fitzgerald, Councilmember Sandusky, and Councilmember Richmond aye; no nays; no abstentions.**

**ADJOURNMENT**

**Mayor Hall** adjourned the meeting at 9:13 PM.

*Pat Duval*