

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
MARCH 6, 2001**

Call to Order

The 1857th meeting of the Milwaukie City Council was called to order by Council President King at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Larry Lancaster
Brian Newman

Jeff Marshall

Staff present:

Martha Bennett,
Assistant City Manager
Tim Ramis,
City Attorney

Alice Rouyer,
Planning Director
Michelle Gregory,
Neighborhood Services Manager
Jim Colt
Police Sergeant

PLEDGE OF ALLEGIANCE

CONSENT AGENDA

Council President King wished to discuss item C – *Oregon Department of Transportation Grant Application for 42nd Avenue Improvements* -- during the Other Business portion of the agenda.

It was moved by Councilor Lancaster and seconded by Councilor Newman to adopt the Consent Agenda consisting of:

- A. City Council Minutes of February 19 & 20, 2001;
- B. Amend City of Portland Purchase Order for Sewage Treatment; and
- D. City Manager Pro Tem Contract.

Motion passed unanimously.

AUDIENCE PARTICIPATION

Ed Zumwalt, 10888 SE 29th Avenue, and **Jim Bernard**, 12255 SE 41st Avenue, reported the Milwaukie Jr. High Historic Preservation Corporation now has its 501C3 designation. There has been an excellent response from stakeholders, and several important meetings are scheduled over the next few week. Zumwalt urged the Council to consider his suggestion of relocating the library to the Jr. High site. Bernard said the group would accept pledges, but the corporation would not accept funds until it has reached an agreement with the School District.

PUBLIC HEARING

Exclusion Zone Modifications

Council President King called the public hearing to order at 6:07 p.m. The purpose of the hearing was to consider an ordinance amending Code Chapter 9.20 relating to the exclusion area within the City of Milwaukie. She reviewed the conduct of the hearing.

Staff Report: **Gregory** presented the staff report in which the City Council was requested to adopt an ordinance modifying the downtown exclusion ordinance. The proposal is to expand the zone to address some of the issues identified by the City Hall Park/Transit Area problem solving group. The amendment is not intended to compromise public's right to free association.

The city attorney reviewed relevant case law and made recommendations which were incorporated into the document under consideration. The proposed ordinance provides an absolute right to a variance under certain circumstances including the right to travel, work, go to school, and seek health care. The proposed ordinance also deletes reference to exclusion based on skateboarding, rollerblading, and offensive littering although people can still be cited for these activities.

Staff met with the Historic Milwaukie Neighborhood District Association (NDA) to inform them of the proposed amendment affecting a portion of that neighborhood. Members were supportive of the changes.

Gregory reviewed the possible actions the City Council could take. Staff recommended Council amend the existing ordinance language to reduce the likelihood of its being found unconstitutional and to expand the current exclusion zone.

Council President King suggested including both sides of Washington Street in the Milwaukie High area as part of the zone.

The group discussed curfew in Milwaukie.

Councilor Newman referred to variance #3 related to attending a "bona fide education institution located in the core area and transit zone." Does this mean one would be required to leave the zone if not attending class or sanctioned activity?

Ramis said the variances give the police chief and city manager discretion in a variety of situations during certain time periods. A bona fide activity would be attending class and taking into account the person needs sufficient time to enter and leave the zone. The timing is specified in the exclusion action.

Correspondence: None.

Testimony on the Proposed Amendment: None

Close Public Testimony: **Council President King** closed the public testimony portion of the hearing at 6:22 p.m.

Discussion and Decision: **It was moved by Councilor Newman and seconded by Councilor Marshall to read the ordinance amending Chapter 9.20, Exclusion, for the first time by title only with the boundary changed to include both sides of Washington Street in the zone. Motion passed unanimously. The ordinance was read for the first time by title only.**

It was moved by Council President King and seconded by Councilor Lancaster to read the ordinance amending Chapter 9.20, Exclusion, for the second time by title only with the boundary changed to include both sides of Washington Street in the zone. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor Lancaster and seconded by Councilor Marshall to adopt the ordinance amending Chapter 9.20, Exclusion, with the boundary changed to include both sides of Washington Street in the zone. Motion passed unanimously.

ORDINANCE NO. 1884:

AN ORDINANCE AMENDING CHAPTER 9.20, EXCLUSION, OF THE MILWAUKIE MUNICIPAL CODE.

OTHER BUSINESS

Lewelling Community Park Annexation

Ken Martin, contract staff for annexations, presented the staff report in which the City Council was requested to adopt an ordinance approving annexation file AN-01-01. The property is located at 9781 SE Stanley Avenue. Action includes withdrawing the parcel from the Clackamas R.F.P.D. #1, Clackamas County Service District for Enhanced Law Enforcement, and Clackamas County Service District #5 for street lights. The proposal incorporates including the adjacent rights-of-way of Willow Street and Stanley Avenue. The property will be designated low density residential, R-10.

It was moved by Councilor Newman and seconded by Councilor Lancaster to read the ordinance annexing a tract of land into the Milwaukie city limits for the first time by title only. Motion passed unanimously. The ordinance was read for the first time by title only.

It was moved by Councilor Newman and seconded by Councilor Lancaster to read the ordinance annexing a tract of land into the Milwaukie city limits for the second time by title only. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor Lancaster and seconded by Councilor Newman to adopt the ordinance annexing a tract of land into the Milwaukie city limits. Motion passed unanimously.

ORDINANCE NO. 1885:

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A CERTAIN TRACT OF LAND INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM TERRITORY OF CLACKAMAS COUNTY R.F.P.D. #1, CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT, AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS.

Intergovernmental Agreement with Clackamas River Water

Bennett presented the staff report in which the City Council was requested to authorize the Council President to sign an intergovernmental agreement (IGA) with Clackamas River Water to share resources. This agreement sets up the framework to discuss future water storage and supply issues.

It was moved by Councilor Marshall and seconded by Councilor Lancaster to authorize the Council President to sign an intergovernmental agreement with Clackamas River Water. Motion passed unanimously.

Advisory Board Appointment

Council President King, with Council consensus, made the following appointments: to the Urban Forestry Ad Hoc Committee: Betty Chandler, Roger Cornell, Mart Hughes, Paul Munn, and Gary Nebergall.

Oregon Department of Transportation Grant Application for 42nd Avenue Improvements

Bennett said staff was requesting authorization to apply for an Oregon Department of Transportation (ODOT) grant to construct curb, sidewalk, and storm improvements on both sides of 42nd Avenue between Johnson Creek Boulevard and Olsen Street. She understood there was interest in a separation between the street and sidewalk; however, the work will be done in a constrained area. The total project cost is estimated at \$330,000. This is a key sidewalk link in the Transportation System Plan. If the grant is awarded, there will be public outreach to the neighborhood and schools.

Councilor Marshall asked if this grant would force sidewalks on both sides of the street.

Bennett responded 42nd Avenue is designated a collector street with heavy volumes, so staff is looking at sidewalks on both sides of the street. The design would not be locked in until a contract is signed with ODOT.

It was moved by Councilor Newman and seconded by Councilor Lancaster to authorize the submittal of the grant application and sign an endorsement letter of support of the proposed project to be included with the application.

EXECUTIVE SESSION

Council President King announced an executive session on pending litigation pursuant to ORS 192.660.

ADJOURNMENT

Council President King adjourned the meeting at 6:35 p.m.

Pat DuVal, Recorder