

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
JUNE 18, 2002**

Call to Order

The 1888th meeting of the Milwaukie City Council was called to order by Mayor Bernard at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Mary King

Larry Lancaster

Staff present:

Mike Swanson,
City Manager

John Gessner,
Planning Director

Gary Firestone,
City Attorney

JoAnn Herrigel,
Program Specialist

Larry Kanzler,
Police Chief

Brion Barnett,
Associate Engineer

Alice Rouyer,
Community Development
Director

Kenneth Kent,
Associate Planner

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mayor Bernard recognized Estele Harlan upon her retirement as garbage hauler consultant. John Kaufman was congratulated on his retirement as Clackamas County Clerk and wished well on his new job as Multnomah County Elections Director.

CONSENT AGENDA

It was moved by Councilor King and seconded by Councilor Lancaster to approve the Consent Agenda that included:

1. City Council Minutes of June 3 & 4, 2002;
2. Resolution 13-2002: A Resolution of the City of Milwaukie, Oregon, Authorizing the City Manager to Sign an Intergovernmental Agreement (IGA) with the Metropolitan Area Communications Commission (MACC). The IGA Allows MACC to Administer the Day-to-Day Operational and Regulatory Aspects of Milwaukie's Cable Television Franchise with AT&T;
3. Amendment of Centennial Consultant Contract with Metropolitan Group; and
4. Award Contract for Downtown Traffic Plan.

Councilor King referred to the City Council work session minutes page 4 and said her comment should read "develop a communication plan to more effectively communicate goals and purposes with other civic leaders around the community."

The motion to adopt the consent agenda with the correction to the work session minutes passed unanimously among the members present.

AUDIENCE PARTICIPATION

PUBLIC HEARING

2002 – 2003 Budget Hearing and 2001 – 2002 Supplemental Budget

Mayor Bernard called the public hearing on the fiscal year 2002 – 2003 budget to order at 6:05 p.m.

The purpose of the hearing was to consider an ordinance and resolutions required to be enacted prior to the beginning of fiscal year 2002 – 2003. Mayor Bernard reviewed the conduct of the hearing.

Swanson provided the staff report in which the City Council was requested to adopt a resolution adopting the 2002 – 2003 budget, an ordinance electing to receive state revenue sharing, a resolution certifying services provided for state revenue sharing, and a resolution adopting a supplemental budget for fiscal year 2001 – 2002. The total budget approved by the Budget Committee is \$37,841,823.

Correspondence: None.

Testimony: None.

Questions of clarification: **Councilor Lancaster** noted the taxes were reduced for the Public Safety Building debt service and asked when the bond would retire.

Swanson replied the bond would retire in 2011.

Mayor Bernard closed the public testimony portion of the hearing at 6:12 p.m.

It was moved by Councilor King and seconded by Councilor Lancaster to adopt the resolution adopting the 2002 – 2003 budget, making appropriations, and levying and categorizing taxes. Motion passed unanimously among the members present.

RESOLUTION NO. 14-2002:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON, TO ADOPT THE BUDGET, MAKE APPROPRIATIONS, AND DECLARE AND CATEGORIZE THE AD VALOREM TAX LEVY FOR FISCAL YEAR 2002 – 2003.

It was moved by Councilor King and seconded by Councilor Lancaster to read the ordinance declaring the City's election to receive state revenues for the first time by title only. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.

It was moved by Councilor Lancaster and seconded by Councilor King to read the ordinance declaring the City's election to receive state revenues for the second time by title only. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.

It was moved by Councilor Lancaster and seconded by Councilor King to adopt the ordinance declaring the City's election to receive state revenues. Motion passed unanimously among the members present.

ORDINANCE NO. 1903:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE CITY'S ELECTION TO RECEIVE STATE SHARED REVENUES.

It was moved by Councilor King and seconded by Councilor Lancaster to adopt the resolution certifying services provided for state revenue sharing. Motion passed unanimously among the members present.

RESOLUTION 15- 2002:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CERTIFYING SERVICES PROVIDED FOR STATE REVENUE SHARING.

It was moved by Councilor King and seconded by Councilor Lancaster to adopt the resolution adopting a supplemental budget and amending appropriations for fiscal year 2001 – 2002. Motion passed unanimously among the members present.

RESOLUTION 16-2002:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO ADOPT A SUPPLEMENTAL BUDGET AND AMEND APPROPRIATIONS FOR FISCAL YEAR 2001 – 02.

Homewood Park Master Plan, CPA-02-01 and CPA-02-02

Mayor Bernard called the public hearing on the application filed by the City of Milwaukie and the Hector Campbell Neighborhood Association to incorporate the Homewood Park Master Plan as an ancillary document to the Comprehensive Plan and to amend the land use designation to order at 6:18 p.m.

The request was considered by the Planning Commission at its April 23, 2002 public hearing, and the Commission recommended approval of the amendments. Mayor Bernard announced this was a de novo hearing, and all persons wishing to speak on the proposal would be recognized by City Council. The testimony would be used by the City Council in coming to a decision on the proposal.

The purpose of the hearing was to consider the Milwaukie Planning Commission's recommendation to approve the request to incorporate the Homewood Park Master Plan and amend the Comprehensive Plan map. The applicable standards to be considered included Comprehensive Plan Chapter 2 – Plan Review and Amendment Process, Policy 7, Objective 1 and Milwaukie Zoning Ordinance Sections 1011.4 – Major Quasi-Judicial Review and 1011.5 – Legislative Actions.

Mayor Bernard reviewed the order of business. The applicant must prove that the amendment proposal conforms with all applicable criteria of the Comprehensive Plan and Zoning Ordinance. All testimony and evidence must be directed toward the applicable substantive criteria. Failure to address a criterion or raise any issue with sufficient detail precludes an appeal based on that criterion or issue. Failure to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow a response precludes an action for damages in circuit court. Any party with standing may appeal the decision of the City Council to the State Land Use Board of Appeals according to the rules adopted by that Board. Persons with standing are those who submit written comments or testify and sign the City Council hearing sign-up sheet on the information table in the hall. Mayor Bernard reviewed the conduct of the hearing.

Conflicts of interest and site visits: **Councilor King** and **Mayor Bernard** had visited the site. No conflicts of interest were declared.

There were no challenges to any Council member's impartiality or ability to participate in the decision.

Jurisdictional issues: There were no objections to the Council's jurisdiction to consider the matter.

Staff report: **Kent** presented the staff report in which the City Council was requested to adopt an ordinance amending the Comprehensive Plan by incorporating the Homewood Park Master Plan as an ancillary document and changing the land use designation from

low and medium density residential to public. The proposal has neighborhood support, and the applicant has demonstrated it can meet the approval criteria. The Planning Commission held a public hearing on April 23, 2002 and recommends the City Council approve the application.

Correspondence: None.

Testimony in support: None.

Testimony in opposition: None.

Neutral testimony: **Carolyn Troychak**, 10903 SE Home Avenue, Milwaukie, owns property adjacent to park site. She asked if the zone change was only within the park boundary.

Kent responded that was correct, and the change to the land use designation would not affect her property.

Mayor Bernard closed the public testimony portion of the Comprehensive Plan amendment at 6:25 p.m.

Council discussion: **Councilor King** commented this was one of the first properties acquired to fulfill the community goal of increasing public parks and open spaces, and she is pleased to see its development progressing.

Council decision:

It was moved by Councilor King and seconded by Councilor Lancaster to read the ordinance adopting the Homewood Park Master Plan as an ancillary document to the Comprehensive Plan and changing the land use designation from low and medium residential to public for the first time by title only. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.

It was moved by Councilor Lancaster and seconded by Councilor King to read the ordinance adopting the Homewood Park Master Plan as an ancillary document to the Comprehensive Plan and changing the land use designation from low and medium residential to public for the second time by title only. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.

It was moved by Councilor Lancaster and seconded by Councilor King to adopt the ordinance adopting the Homewood Park Master Plan as an ancillary document to the Comprehensive Plan and changing the land use designation from low and medium residential to public. Motion passed unanimously among the members present.

ORDINANCE NO. 1904:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NUMBER 1437, THE COMPREHENSIVE PLAN BY ADOPTING THE HOMEWOOD PARK MASTER PLAN (CPA-02-01) AS AN ANICLLARY DOCUMENT AND BY CHANGING THE LAND USE DESIGNATION OF HOMEWOOD PARK FROM LOW AND MEDIUM DENSITY RESIDENTIAL TO PUBLIC (CPA-02-02).

Any party with standing may appeal the decision of the City Council to the State Land Use Board of Appeals according to the rules adopted by that Board. The written decision will contain an explanation of the appeal rights.

Education Service District Post Occupancy Traffic Study

Mayor Bernard called the public hearing to order at 6:30 p.m.

Barnett presented the staff report in which the City Council was requested to review the traffic study submitted by Kittleson & Associates, Inc. on behalf of the Clackamas Education Service District (ESD). The applicant was required to perform a post occupancy study after the first year to determine if there were any problems at the site access points at Lake Road and 37th Avenue. The study found there were fewer trips generated than originally assumed during the application process, and no other problems identified. There were some resident reports of drivers illegally turning left from the site onto 37th Avenue.

Staff concurs with the Kittleson and Associates' findings that no further mitigation is required. ESD Director Campbell will draft a reminder to staff that turning left onto 37th Avenue is not allowed.

Mayor Bernard received comments that drivers are passing in the bike lane and suggested trimming branches near the signs might be required.

Councilor Lancaster thought enforcement would be most effective.

There were no further Council comments, and **Mayor Bernard** closed the public hearing at 6:35 p.m.

OTHER BUSINESS

Intergovernmental Agreement for State Transportation and Growth Management Grant

Gessner presented the staff report in which the City Council was requested to authorize the city manager to sign the agreement with the Oregon Department of Transportation

(ODOT) to implement a grant to study and plan the north industrial area. The City was awarded a \$116,000 grant for this project which he believes has great value in meeting the Community Goals. He briefly commented on the terms and conditions, scope of work, and employment base agreements.

Councilor King asked if there were any environmental issues in that area.

Gessner said there have been concerns, and an essential element of the study is to advise the City on environmental issues related to this development.

Councilor King requested updates on how this project and the downtown traffic management study is being coordinated.

Councilor Lancaster asked if these grant funds have already been dedicated in light of the state budget crisis.

Gessner reported the funds have already been budgeted. This is a one-year project with 7 tasks, one of which is to identify the regulatory environment. Issues, such as environmental cleanup, will likely be addressed at the time of development and be the burden of the developer.

It was moved by Mayor Bernard and seconded by Councilor King to authorize the City Manager to sign an intergovernmental agreement with ODOT to implement a \$116,405 grant for studying and planning the north industrial area. Motion passed unanimously among the members present.

Proposal to Annex the City to Clackamas County Fire District No. 1

Swanson provided the staff report in which the City Council was requested to adopt a resolution proposing annexation of the City to Clackamas County Fire District No. 1 (CCFD#1) for the purpose of receiving services from the District. The City currently contracts with the District for services. Milwaukie appropriates funds annually to purchase fire prevention and education services. He understands that 21 of the 23 Milwaukie firefighters that were transferred to the District are still there and have been well represented among those promoted.

The resolution begins the process leading to a November election to determine if the City will annex to the District. The reason for proposing this action is to assist the City in what Swanson predicts will be critical budget problems in fiscal year 2003 - 2004. The funds now allocated to pay the District for contract services would be freed up to help fund services currently being provided in the general fund. Property owners would be taxed directly by the District at its permanent tax rate of \$2.40 per \$1,000 valuation. Annexation would make Milwaukie a full partner in the District, and City residents would be eligible to run for at-large Board positions.

This proposed resolution is a petition to the District Board to annex the entire City to the District. The Board will make its decision on August 6, and, if approved, both the Milwaukie City Council and Fire District Board will place measures on the November ballot. District voters and Milwaukie voters must both approve the annexation in order for it to take place.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to adopt the resolution proposing annexation of the City to Clackamas Fire District No. 1 for the purpose of receiving services from the District. Motion passed unanimously among the members present.

RESOLUTION NO. 17-2002:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, PROPOSING ANNEXATION OF THE ENTIRE CITY TO CLACKAMAS FIRE DISTRICT NO. 1, FOR THE PURPOSE OF RECEIVING SERVICES FROM THE DISTRICT.

Board and Commission Appointments

Mayor Bernard, with the consensus of Council, made the following advisory board appointments: Teresa Bresaw to the Planning Commission; Sherri Dow to the Park and Recreation Board; and Dolly Macken-Hambright and Roger Cornell to the Traffic Safety Board.

Other

Mayor Bernard thanked 2002 Festival Daze Chair Sharon Van Horn and all those who worked on the event.

ADJOURNMENT

It was moved by Councilor Lancaster and seconded by Councilor King to adjourn the meeting. Motion passed unanimously among the members.

Mayor Bernard adjourned the meeting at 6:55 p.m.

Pat DuVal, Recorder