

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION NOVEMBER 3, 2003

Mayor Bernard called the work session to order at 5:30 p.m. in the City Hall Conference Room.

Councilors present: Barnes, Lancaster, Loomis, and Stone.

Staff present: City Manager Mike Swanson, Planning Director John Gessner, Engineering Director Paul Shirey, and Civil Engineer Brion Barnett.

Information Sharing

1. **Councilor Barnes** provided an update on current efforts to form a community theatre.
2. **Mayor Bernard** announced the Farmers Market would contribute \$1,000 to Celebrate Milwaukie, Inc.
3. The group briefly discussed changing the November 18 meeting date in order to attend the opening of North Clackamas School District's Schellenberg Center; the feasibility of implementing a PGE privilege tax; and traffic congestion at the intersection of Harmony Road and Linwood Avenue.

Consider Meeting Date of Second Council Meeting of November

City Manager Mike Swanson said there is a conflict with the regular session on November 18 and dedication of North Clackamas School District's dedication of the Schellenberg Center. The Charter requires the Council hold 2 regular meetings each month, so the question is when to hold that meeting. There are few work session topics on the November 17, so the regular session could be called to order at 6:00 p.m. followed by the work session. He discussed rescheduling the water and sewer rate hearing. The sewer rate issue, in any event, would be delayed because the consolidation study is nearly finished, and some of that information will be brought into the rate consideration. Although the water and sewer rates are not linked, Council had indicated it wished to consider them simultaneously.

Councilor Loomis was in favor of considering both the water and sewer rates at the same meeting.

Mayor Bernard complimented the Johnson Creek Facility staff on its work on the Bob's Red Mill project. The contractor particularly appreciated the work done by Bonnie Lanz, Tom Larsen, Brion Barnett, and the water and sewer staff. City

Manager Mike Swanson was instrumental in facilitating contacts between staff, the business owner, and the construction contractor.

McLoughlin Boulevard Improvements Project, Introduction of Design Team and Project Next Steps

Civil Engineer Brion Barnett introduced Project Manager Walt Bartell of David Evans and Associates, Inc. (DEA). Planning Commission members present were Chair Donald Hammang, Brent Carter, Howard Steward, Rosemary Crites, and Teresa Bresaw.

Bartell reviewed the history of the project, which he has followed since 1991 as Oregon Department of Transportation (ODOT) assistant region manager. He has worked with DEA for about 2 years and is glad to see the project at the point of being implemented. Subconsultants on the project team are Archeological Investigations NW which is responsible for the historic study of the properties along the waterfront; Cascade Earth Sciences is responsible for the Level 2 Hazmat work dealing with site contamination; Pavement Services, Inc. who will design the pavement; Geo Design, Inc. responsible for issues related to the detention facilities and retaining walls; and Jeanne Lawson & Associates that will handle the public involvement process. Final plans should be ready by the end of summer 2004.

Responding to a comment from Councilor Lancaster about a pedestrian underpass, **Barnett** said a pedestrian/bike bridge would cost about \$5 - \$10 million. The project is at the point of implementing boulevard improvements once the final design is completed. He discussed the role of the Public Advisory Committee (PAC) that involves key stakeholders including the Riverfront Board, boating community, treatment plant, business representatives, and technical advisors. The purpose of establishing this type of group is to ensure all concerns are addressed in one forum and to streamline the process as much as possible. The PAC is charged with endorsing a final alternative to the City Council in February or March 2004. There will be public open houses throughout the project to keep the general public informed and offer an opportunity for input. Council will be asked for direction at its first March meeting so DEA can begin its design work. The Planning Commission will consider the project as it relates to the Willamette Greenway in April or May. The public open houses planned for July and August will show the project in its more finished stages before the design is finalized. Plans will be sufficiently complete in August/September 2004 to identify such things as refined cost estimates, traffic detours, and business impacts. Although the federal funds are available, there must be a request to have appropriate funds obligated at each phase. The City is responsible for matching funds during the course of the project. The estimated cost to the City is about \$220,000. An additional \$50,000 - \$60,000 will go to property acquisition once the ultimate west line of the project is established.

Mayor Bernard asked if certain elements such as the street lighting identified in the Downtown Riverfront Plan would be included.

Bartell responded that they are.

Barnett said it is important that Milwaukie has an adopted Plan, and these elements will be part of the design work negotiated with ODOT in a maintenance agreement.

Bartell hopes that traffic will not have to be detoured from McLoughlin Boulevard and that it can be staged based on certain restrictions in the contractor's work schedule. He discussed minimizing project costs by salvaging concrete under the current asphalt layer.

Barnett said the intent is to avoid detouring traffic through downtown.

Councilor Stone asked if Pavement Services, Inc. would look at different kinds of surfaces to designate crosswalks.

Bartell said, if the City wants a crosswalk treatment, there are certainly things that can be considered but would not normally be seen in a pavement design report. Pavement Services considers actual axle loading, and ODOT will require testing, traffic data, and a road design that will be good for 20 years.

Barnett added Pavement Services, Inc. would look at the structural aspect but noting aesthetic. He assured Council that treatments would be considered within the constraints of the project budget.

Hammang did not believe the Commission had any questions at this time and added he believed all members looking forward to the project.

Bresaw asked if there would be a sprinkler system in the median strip.

Barnett said irrigation is normal and will be considered in the greater maintenance agreement with ODOT.

Bartell added normally a drip system is installed.

Other

Councilor Barnes reminded people that Centennial Dogwoods could be picked up on Saturday, November 8.

Rotary Sign Donation

Councilor Stone understands this issue came before the Design and Landmarks Commission (DLC) last month, and Gessner explained this review was not within the Commission's guidelines. In speaking with one of the members, she understands they all expressed an interest in changing the ordinance to be able to look at these types of signs. She referred to evaluation criteria for graphic design and signage that she believes was given to DLC members in October. She understands a code amendment will be considered.

Mayor Bernard does not believe the ordinance is on the Council's agenda in the near future but felt it could be considered. The Commission does not really have jurisdiction at this time.

Councilor Stone is looking at it strictly from a professional artistic viewpoint in terms of sign design and criteria. Although she does not know about the Planning Commission, she knows there are DLC members who are architects and graphic arts designers who know a lot about sign design. She would like to see them be able to review signs.

Mayor Bernard said an ordinance could certainly be considered in the future.

Councilor Stone asked the criteria used when the City Council selected a design at its last meeting. She asked what the rush was on the sign. Will the sign be up by December 31? It seems like there is a real push.

Mayor Bernard said the Rotary Club is ready and wants to move on the project. Club members have been working on this project for about 2 years. The Milwaukie Downtown Development Association began looking at signs some time ago, and at this point the Rotary has volunteered to pay for it. They would simply like to wrap up the project. He thinks the sign is great, and he is ready to go with it. Council discussed it at the last meeting and felt it was a much better design and were ready to go with it.

Councilor Stone was concerned because this is going to be a highly visible sign. She is also concerned about the dimensions. She still thinks it is a good idea to send it to DLC. She asked if the Planning Commission had seen the design, and if it had not, should it?

Mayor Bernard believed at this point it is the Council's decision, and the design does not have to go to the Planning Commission.

Swanson clarified that the municipal code outlines standards to which people and designers must adhere. Those criteria are developed so people have some kind of independent guidelines when investing in a sign. The City does not add any criteria other than those set out in the code, and these are what people are expected to follow. It is always permissible to change or add to the criteria as long as it is done through the code. The Planning Commission does not review

individual designs. The DLC does have review of internally illuminated signs in the downtown. When considering a sign application, staff looks at the proposal and compares it with standards in the code. If the sign does not meet those standards, then the staff will not issue a permit and the applicant is advised of the variance procedure. The DLC has the responsibility to grant variances from the sign code in the downtown zone. Other than that, a separate body does not review each sign except for those, which are internally illuminated. Additionally, such things as pole toppers and neighborhood welcome signs go through the planning department and are weighed against the code. The City Council, by adopting ordinances, sets the standards.

Councilor Stone understands staff is looking more at sign dimension and not looking at them artistically.

Swanson said it is difficult to set artistic standards. There are problems with turning down signs based on a lack of artistic merit and not applying standards. We are not allowed to do that. Standards have to be reasonable and guide judgments with decisions measured against the standards in the code. Creating new expectations is unfair to applicants. Artistic merit is a difficult area because artistic taste can vary so greatly. Other issues such as size, illumination, placement, and moving parts are standards upon which decisions can be based. Making determinations on artistic merit are difficult. Signs are a form of speech and are afforded a different status because of Constitutional protections. Sign ordinances sometimes regulate too much and are seen as interfering with one's freedom of speech and do not hold up legally when challenged.

Councilor Stone said the DLC certainly measures artistic merit with the downtown design plan in terms of what it will look like. The members are experts in architecture and graphic arts, so that is very important to them. She thinks it is not out of the question for the DLC to look at things like this. It is a matter of just changing the ordinance.

Gessner said the DLC was interested in seeing additional signs particularly downtown if limited only to municipal signs. The direction given to staff was to look at the legal and administrative issues and report back to the DLC to determine if a formal request should be made to Council. Staff will spend some time on this issue and report back to Council. Due to workload and staffing issues, this may not be for some time.

Councilor Stone asked if there is a target date.

Mayor Bernard commented the City has standards for review. At some point he would like to make the decision, and he is comfortable with the sign. One person who saw this design suggested putting "river city" on it, but other than that, people have responded positively. He would like to make a decision so the Rotary can carry on.

Councilor Stone asked if the sign was being made right now. The City has these experts in art on a commission, and she wants to see them utilized and make sure a good choice is being made. She does not see anything wrong with waiting.

Councilor Barnes suggested voting on the design.

Councilor Barnes moved to accept the sign the way it is and request the Rotary to begin work. **Mayor Bernard** seconded the motion.

Councilor Loomis feels this is basic, but, if another Councilor has a problem, it should be discussed further. The first sign was too much. The current simple design is better and will probably raise fewer issues. He asked if the DLC would review only public signs or would business signs be included. He understands the proposed sign meets current standards.

Mayor Bernard said this sign went through the planning department, and it meets existing standards.

Councilor Loomis would be in favor of public signs going through the DLC but not business signs that meet City standards.

Swanson said it is very difficult to set an objective standard on art and grafted on that is the freedom of speech issue.

Gessner added those difficulties are well represented in today's sign ordinance. The Planning Commission has the authority to review community service overlay and conditional use signs. The code does tie the Commission's hands when it comes to review of actual design or content.

Councilor Lancaster's only concern with sending the design to the Commission is that unless it is simply applying the standards, there is no other reason to look at it other than for artistic value. This puts the City in a bad place. He thinks doing it that way could create a problem. The alternatives would be for the DLC, rather than staff, to apply the standards on an objective basis or continue with current practice.

Councilor Loomis understands the DLC would provide a recommendation.

Councilor Stone said that is correct.

Mayor Bernard pointed out the sign already meets the standards.

Councilor Loomis said the DLC is made up of citizens and represent Milwaukie. The Council wants something everybody likes and finds attractive. If a sign is for

a private business that meets the standards, the DLC and Council do not have a right to tell the applicant it should be green or red. If it is a public sign representing all of us, he thinks the DLC recommendation would have some weight in the Council's decision.

Councilor Stone asked if it would make a difference if this sign were one the City was purchasing versus one being donated in terms of artistic standards. The DLC has the experts. The Council members are not experts. She would not know anything about the typography of the sign. The size is also important. She does not want people to drive by and say, "You can't even read it. Why is there a sign there?" There has been a lot of ridicule in the past about the "art" previously displayed in that area. She wants to present the City in its best light.

Mayor Bernard was involved in the art display. Some were critical while others thought it was fantastic. What was important was that people saw the art and took notice of Milwaukie. Although he was not involved in the selection, he thought there were some great pieces of art around town. He asked what the process is for approving the neighborhood pole toppers.

Gessner believes it has been handled by neighborhood services and public works. Pole toppers are exempt signs and are not subject to specific design standards in the code.

Councilor Barnes commented this is an example of Milwaukie neighborhoods making their own decisions. She called for the question.

Motion passed 3 – 2 with the following vote: Mayor Bernard, Councilor Barnes, and Councilor Lancaster aye; Councilor Loomis and Councilor Stone nay.

Update on Johnson Creek Boulevard Project

Engineering Director Paul Shirey said signage indicates the project will be complete on November 30, and that is when the road will re-open. As he has explained to residents, there was a good reason why the City of Portland extended the contract by one week. The contractor wants more time because of the slowness of the utilities. Unless Portland approves an additional extension, the contract calls for liquidated damages to accrue at \$700 a day. The sidewalks, curbs, and driveways are slowly coming together. The rock base is down, and the initial asphalt portion is a 5-day job. Typically, the top layer of asphalt does not go on until everything else is done, however, it is sensitive to temperature and weather conditions. Depending on the weather, the top layer may or may not be done, but the road would be usable without it. The objective is to get the job done, but the road may open with only the base layers and completed spring 2004.

The group discussed the improvements. **Councilor Loomis** asked how long the street would be closed to put on the top layer.

Shirey said that would be about a 2-day job done under traffic. The fences are weather dependent but are not crucial to opening the road.

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

Pat DuVal
Pat DuVal, Recorder