

## MINUTES

### MILWAUKIE CITY COUNCIL WORK SESSION JULY 6, 2004

**Mayor Bernard** called the work session to order at 5:40 p.m. in the City Hall Conference Room.

Councilors present: Barnes and Loomis.

Staff present: City Attorney Gary Firestone, Community Development and Public Works Director Alice Rouyer, Police Chief Larry Kanzler, and Engineering Director Paul Shirey.

#### Proposed Waiver of Sewer Connections for Annexed Properties

**Engineering Director Paul Shirey** provided the staff report. The proposed code amendment would give the engineering director the discretion to waive sewer connection requirements for annexed properties under certain circumstances. The staff report outlined criteria staff felt were reasonable.

**Mayor Bernard** said this is one of the tools to get people to annex. For example, if a house were annexed that has been on a septic system for 10 years that property would have to connect if the septic fails. They would not be able to repair it.

**Shirey** said the City actually wants them to maintain it. There is a requirement to connect if the septic system fails or requires repairs in excess of a yet to be determined dollar amount. He is gathering information on what amounts are reasonable for maintenance costs and will come back to Council with the dollar threshold.

City Council indicated support of the code amendments as provided, which it will consider for adoption on August 17, 2004.

**Mayor Bernard** had a question on the Johnson Creek Boulevard right-of-way vacation. He understood the difference between the two surveys left some confusion about where the property line actually was. Some titles showed the property line existed in a different place depending on the survey. He recalled the unused property would go back to the property owner. At what point does the title get adjusted? Does someone survey the land and put the markers in.

**City Attorney Gary Firestone** responded in this situation dedications originally were in favor of Clackamas County, so the County has to vacate. Under state law, the City has to concur on County vacations within the City. When the County vacation becomes effective, which is when the City concurs, the vacation document itself is filed and acts in effect as a deed. There is no deed per se, but there is a recorded vacation that acts to transfer the property to the adjoining owners.

**Mayor Bernard** asked if there would be markers.

**Firestone** replied it is whatever the survey attached to the vacation says.

**Shirey** said the action requested of the City Council is to concur. The County took the vacation action, and once the City concurs, then it becomes legal. The property corners will be identified by the City of Portland who built the project and provided the survey services for the project. The back of the sidewalk is the property line and right-of-way line, and he understood there were some questions about corners.

**Firestone** said the vacated property is what is legally described in the vacation document. The County has the legal description as well as the map. The only options the City has is to either concur in the vacation which gives the indicated property back to the property owners, or not concur which means the property will remain in County ownership.

**Mayor Bernard** said one of the other issues is that some of those people have money coming.

**Firestone** said as soon as the vacation is recorded, they become owners of the property and that will be indicated in the County records for that property.

**Mayor Bernard** understood some of the people have money in escrow.

**Gene Hatlelid** thought there was a lot of misinformation the City Council is making decisions on. Gross misinformation.

**Mayor Bernard** feels comfortable with the vacation after reading the document. He understands and remembers the direction. He does not see a problem with vacating it. His concern was that the County has the description of the land and asked if the property owners did.

**Firestone** said it is in the property owners' petition for the vacation.

**G. Hatlelid** said that is misleading. That petition was signed only because that was the only way they could get the property that was left over back. Every one is implying the residents requested this to come back. The only reason anybody signed that was because it was the only way they could get the property not used back. We did not make this request. They were told if they wanted it back – that is misleading. We did not request this. The description in his case overlaps – this map shows one 1917 survey. It does show the other survey, and it does not show where the property deeds and titles overlap onto these things. We are talking about some 20 feet that our deed and title and survey went out into what is now part of that street. When you give this little section back in order for somebody to figure out the size of our lot, they are going to have to take whatever survey in our system. Then they are going to have to take the

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1917 system and lay it in, and then subtract from that whatever you are giving back to us. What is left is going to be the land that we have.

**Mayor Bernard** said what is left is at the back of the sidewalk.

**G. Hatlelid** said our titles go into the middle of the street. That is the starting point for our title.

**Mayor Bernard** said that is not an issue the City Council deals with.

**G. Hatlelid** said it is because you said you were going to get our titles and stuff straightened out for us so we would have a description of our property.

**Mayor Bernard** said that is in fact what will happen.

**G. Hatlelid** said no – that is not what he said. He said they are going to describe this wedge of land they are going to give back.

**Firestone** said the effect of the dedication of the right-of-way with your vacation establishes where the property line is, which is more or less at the back of the sidewalk.

**G. Hatlelid** drew up a diagram of his property and survey markers. He wants clean deeds for this because it would cost them \$12,000 for a survey and get the deeds cleaned up. The property line has never been defined. The deeds do not say to the back of the sidewalk. They say 380' to a cast iron pipe that is not there.

**Mayor Bernard** said when it is vacated, the property will be part of his title.

**G. Hatlelid** said it would be an additional title.

**Mayor Bernard** has been involved with this for 3 years and was comfortable.

The group discussed Riverfest events.

The work session adjourned at 5:55 p.m.



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Pat DuVal, Recorder