

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION
JANUARY 17, 2006

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

Council Present: Councilors Barnes, Collette, Loomis, and Stone.

Staff Present: City Manager Mike Swanson, Community Development/Public Works Director Kenny Asher, and Engineering Director Paul Shirey.

Budget Committee Interview

The Council interviewed Jeremy Ferguson for a vacant position on the Budget Committee.

Council Process

Mr. Swanson asked if there were any questions or comments about the previous work session.

Councilor Collette appreciated Mr. Swanson's bringing the ordinance regarding conduct of the Council meetings because she felt it would help. She understood the City of Lake Oswego had requested a copy as that Council was experiencing some disruptive meetings.

Mr. Swanson addressed several agenda matters that had occurred that afternoon. Mr. Firestone was ill, and John Pinkstaff would attend the meeting. Mr. Swanson had asked him to review the North Clackamas Parks District application as he understood there would be some public testimony on that matter. Staff also requested that the Norm Scott decision be continued to the February 7 meeting. He noted that staff had contacted the appellant and other interested persons regarding the continuance. Tom Glogau would present the audit, but Mr. Taylor would not be present.

Mr. Swanson would discuss the City's relationship with Clackamas County Service District #1 (CCSD#1) and other issues related to real property negotiations in executive session. He recommended reconvening the work session at 6:15 p.m. to discuss the Clearwater decision.

Mr. Swanson provided material on procedural matters and copies of *Robert's Rules of Order*. It was important to understand why some of the rules existed to ensure the process was open and accessible. Though some were arcane, many were important to read for background. He distributed copies of "Meeting Protocol City Council Milwaukie" which contained the Charter and Council rules that outlined meeting conduct and procedures including citizen communication. The manual contained information about executive sessions, public meetings, public records, and land use hearings.

Councilor Stone thought the Council needed to look at how it was doing its meetings. She disagreed with Mr. Swanson's comments that this was the Council's meeting. She felt it was an honor to sit in the Mayor and Council seats. Because the citizens put them there, it was more their meeting. She did not want it to be construed by the public that the Council was trying in any way to limit them from coming before the Council and being able to speak to the Council.

Mr. Swanson discussed the questions posed to Councilor Barnes. If one looked at the section of the code that the group discussed last week, it said someone who came to speak spoke to the Council as a body. Did that limit what could have been done that night? No, but it did change the format. Instead of one person's jabbing questions, that person would speak to the whole Council about the issue. There was no intention of limiting what people said, but there was an intention of preserving decorum. One would see portions of the rules talked about the Council's decorum. It was a two-way street. It was about maintaining some kind of decorum and respect for the institution. It was a pretty extreme situation to call someone down.

Councilor Stone thought everyone should take a lesson from the English because they did their Parliament so well and got to the point.

Councilor Loomis understood that when Council started having the Saturday meetings it was in public because of the law. The Council meeting got out of hand during audience participation. People understood they would not be stopped from talking, but they could be civil and still get their points across. Both the Council and audience needed some help.

Mayor Bernard announced the Council would go into executive session at 5:50 p.m. pursuant to ORS 192.660 (2)(e) – real property transactions and (h) – consultation with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed. The work session reconvened at 6:41 p.m.

Clearwater Decision

Mr. Swanson updated the City Council on the January 12, 2006, Clackamas County Board of Commission's (BCC) decision that was made in time to pull the measure from the ballot. The BCC took action to cancel the Clearwater contracts, and there was a question whether the body could unilaterally do that. The BCC also authorized the creation of the Clackamas County Service District #1 Advisory Committee by adopting an amended Board Order. Instead of the ten members, five voting and five non-voting, there were seven voting members with the three chief petitioners being the original members. A super-majority of five would be needed to forward a recommendation to the Commissioners. The three original members, the chief petitioners, would have a voice in appointing the other four members by forwarding a list of seven nominees to the Commissioners who would make the final selection. The scope of work required that the Advisory Committee also coordinate and seek input from other advisory committees appointed by the Commissioners, customers, and cities. The Portland State University (PSU) Consensus Center would assist the Advisory

Committee in reaching its decisions. The work must be completed by September 2006 or an extension requested.

Comments made by the Board members and one of the chief petitioners, Mr. Knapp, were to the effect that the process would eventually be inclusive and collaborative. Tim Ramis, City Attorney, made comments at the BCC hearing on behalf of the City of Milwaukie who was the "suit from Milwaukie" as mentioned in Andy Parker's *Oregonian* column. Mr. Ramis asked how a committee from CCSD #1 could speak for the larger area? Clearwater was basically a CCSD #1, Tri-City, and Milwaukie effort. The unilateral cancellation of the contract was problematic. Mr. Ramis suggested the Board look at paragraph 8 of the contract and consider how to amend those contracts. He stated that the County had set up a committee of conflict rather than one of collaboration. Mr. Swanson recommended, in the words of Ronald Reagan, trust but verify. He would attend the committee meetings so that the group would either have to purposefully neglect Milwaukie or invite it to participate. CCSD #1 staff was directed to take the steps necessary to cancel the contract, but no one knew what those steps were because they had not occurred yet. Mr. Swanson would likely discuss possible legal action with the Council in the future. Milwaukie would not wait for a year and would participate if the process were opened up. He believed the BCC had a desire to do that from a political perspective because the cities would be quite angry with them.

Councilor Collette clarified that all of the committee members had to be from CCSD#1. One-third of the people would wag the dog.

Mr. Swanson said the people on the committee would have to drive a change to an inclusive and collaborative process.

Mr. Shirey reported that eight people attended the recent open house, and there were four Milwaukie residents. Two attendees were clearly allied with the petitioners, and there was several staff from Water Environment Services (WES) along with Jon Mantay. Staff was there to discuss what had occurred at the BCC meeting and seemed reluctant to talk about anything else. Mr. Mantay shared that the County would hire John Lange, former Bureau of Environmental Services (BES) Director, for technical support in working with the committee as WES staff had little credibility in the eyes of the petitioners.

Mr. Swanson observed that WES staff was treated rather roughly in the process including some harsh comments that Andy Parker made in his column. Mr. Swanson felt that WES staff did a great job in trying to include people, but now they would be constantly doubted.

Mr. Shirey added the committee would not be working with a new study because there was no time. There were five options proposed in the technical report, and Clearwater was the name applied to the consolidation option. The committee would look at those five options to determine which it liked best. They were formerly on records as liking the second option that kept Kellogg and expanded Tri-City to handle the new growth to the east.

Mr. Swanson said it was important to remember that Milwaukie had two goals. The first was to make certain there was efficient, cost-effective wastewater treatment, and the second goal was to get rid of Kellogg. The City was no less committed to that first goal than anyone else. Milwaukie could not afford to always be identified with the Kellogg decommissioning and not the treatment issue.

Councilor Stone thought people might be able to stomach that more if sewer rates were not going up because of it.

Councilor Loomis was fairly hopeful after the town hall because there would be people outside of WES used as information sources. That would lead them to final answer with correct facts, and hopefully they would see that Clearwater was the best option. Getting the waterfront back was a perk, but it would not be free.

Councilor Stone asked if there was a sense of how open-minded the three petitioners were.

Mr. Swanson replied trust but verify.

Councilor Stone observed that the committee as it seemed heavily weighted.

Mayor Bernard adjourned the work session at 6:54 p.m.



Pat DuVal, Recorder