

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION

NOVEMBER 9, 2006

Mayor Bernard called the work session to order at 5:31 p.m. in the City Hall Conference Room.

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

Staff Present: City Attorney Gary Firestone, Resource and Economic Development Specialist Alex Campbell, Transportation Liaison Gavin Hales, and Community Services Director JoAnn Herrigel.

Update on Street Maintenance Funding Plan Development

Mr. Campbell understood the decision would be difficult, so he targeted his remarks to some of the more controversial aspects. He briefly reviewed the July 18 discussion. The case that something needed to be done was clear. The City streets were an asset worth \$60 million to \$70 million. Preventative maintenance was five-times more cost effective than rebuilding after the streets had eroded. It was important to address the problem and establish a program to do it right. Overlaying a degraded street was not a long-term solution, but funding it was a real problem. The street fund purchasing power had decreased about 40% over the past decade.

He would review the basic proposal that was shared with the community this fall, discuss the tradeoffs related to the revenue proposals, report on the outreach efforts, and ask for Council's suggestions for refining the recommendation before the December meeting.

The proposal as outlined in the staff report was the best guess and was a basis for discussion. He felt it would be helpful to structure the outreach discussion by having a concrete proposal for people to wrestle with. Three revenue tools were identified to raise funds for street maintenance. The first was the PGE privilege tax to pay for street lighting. Currently street lighting was paid out of the street fund, so that move would free up approximately \$300,000 for maintenance. The other revenue tools were the street utility fee and the gas tax. The street utility fee as proposed would be based on the charge of \$0.35 each month per daily trip generated per engineering estimates. Staff had a data set of all the buildings and the land uses to determine where the fee would need to be set to generate \$700,000. On the residential side it came out to about \$3.35 per single-family household. There were a number of examples in the staff report of the fees for commercial uses. The fee would be calculated on a monthly basis but charged on a bi-monthly basis on the residents' utility bills. The third element was a \$0.02 cent per gallon gas tax on gasoline sold within the City. It was clear that the privilege tax was truly a tax that could be used for anything in the City. People typically think of fairness in terms of raising revenue. There was the service basis and the ability to pay, and the privilege tax was more like the ability to pay. The street utility fee and the gas tax legally would be thought of as taxes but actually was tracked by usage.

In the staff report he outlined how much Milwaukie residents would be charged versus non-residents including businesses, governmental agencies, non-profits, and entities of that nature. About 2/3 of the privilege tax would be paid by non-residential users. There were several big power users, and one alone would pay about 1/3 of that tax. About 58% of the street utility fees would fall on the non-residential users.

The other part of the program had to do with the types of projects that would be done to improve the quality of street surfaces in Milwaukie. Preventative maintenance would be the first priority including crack sealing and other treatments. The more expensive and longer-term solutions were overlay projects where old asphalt was ground off and two inches of new asphalt were added. That kind of rehabilitation project added about 10 years of life on a local street. The final category was rebuild projects, which were very expensive. Staff recommended enough money to rebuild and correct the major arterial and collectors in Milwaukie over a 10-year period. Staff learned over the past few months that it was crucial to find more resources for inspection related to the quality of asphalt, construction, and utility cuts.

The big concern on the revenue side was that the privilege tax would be very expensive for large energy users. The utility fee impacted those businesses in town that generated a lot of trips like retail, fast food, and banks. There was also a concern about the fee amount for residential. The School District would be charged approximately \$20,000 a year. He was not sure how the gas tax would play out, but there would clearly be an impact on local gas stations. Mr. Campbell distributed a graphic on the outreach including mailings and flyers for the upcoming open house. The key questions were listed in the staff report.

Mayor Bernard requested that as many Councilors attend these open houses as possible to hear people's comments. Clackamas County was the only county in the Metro area that did not have some kind of transportation fee or tax. Consequently there was always an issue with matching funds since the County had little or no money. One of the region wide questions was why did Clackamas County not take care of itself. The biggest weakness to the County road maintenance fee proposal was outreach. He had not heard a lot from the citizens other than that the lighting portion of the fee seemed reasonable.

Councilor Barnes understood it would be approximately \$55 annually for a residence if you added up the \$1 privilege tax, \$40 for the street utility fee, and about \$10 for the local gas tax. She suggested putting it in those terms to make it sound less overwhelming. Just give people the bottom line.

Councilor Collette agreed that would be a good approach and make it more clear for the average person in Milwaukie. Let people see how much comes from each of the three initiatives.

Mr. Campbell met with North Clackamas School District Superintendent Ron Naso and Joe Krumm to let them know about the proposal. He did not know if the District would support it, but Mr. Naso did understand the importance of reinvesting in the City. The District had a lot of schools in Milwaukie, so it was important that the population remain strong. The District supported the proposal in principle, and it was unlikely they would oppose it. Precision Castparts would pay a significant portion of the PGE privilege tax, so there was some balance.

Councilor Barnes noted it was important that follow up phone calls were made to ensure people had gotten written materials.

Councilor Stone agreed with Councilor Barnes and asked why this had to happen right before Christmas. It was only a little over a dollar a week if the numbers were accurate. The City was looking at everyone who used the roads to contribute. It was her experience in the past when 32nd Avenue was rebuilt much of the damage was from TriMet buses. Where was TriMet in all of this because they impacted the streets heavily? What would happen if the County implemented a similar fee? Would Milwaukie's fees stay and would there be a cap once maintenance was up to speed? How many years would it take before the need for maintenance fees leveled off?

Mr. Campbell said if the City got another revenue source there would be a strong incentive to for a future Council to hold back on the fee. This Council could make that explicit within any ordinance that was adopted. The other question was what happened over time absent other revenue. Staff was trying to think in terms of 10 years. In 10 years one extreme was that the City repaired almost all of the significant streets in town, but there were still some local streets that needed significant work. The other was that there was a built-in 4.5% inflation assumption, but if inflation were higher purchasing power would be eroded. That decision could be left up to a future Council or there could be something in the ordinance that forced the decision.

Councilor Stone commented on collecting money to have in reserve for street maintenance much like what Council looked at with utility fees. She thought that it should be revenue neutral so there was not an overabundance of funds. She would like to see it used as it came in and not have a slush of funds.

Mr. Campbell noted there were several millions in deferred maintenance.

Councilor Loomis did not like any of the options. People were aware there was a problem. If there was a good campaign and people were told what their money would be spent on then they would accept the idea and vote that way. He always had an issue with the privilege tax from the standpoint that the City took in nearly \$1 million in franchise fees from PGE. That money was for PGE's using the right-of-way. He thought the money should come out of that fund. The street utility – the citizens were paying to go from their house to the school. Just tell people what they need to pay and what it is for. This was too confusing. He brought the local gas tax up three or four years ago, and people in this room were not supportive of it. That was when gas was about \$1.50 per gallon; now it was \$2.30. He would prefer a levy where the citizens had the opportunity to vote. He was convinced they would not say no if the City worked hard. He suggested talking to the people who got the School District bond measure passed because they obviously knew how to get the job done. You need to work at it and communicate the message. The message was pretty easy. The money was for the roads, and these were the roads that were going to be fixed. The money was dedicated to that, and people would support it. This was too confusing. It seemed like the City was not going to let people vote on this, and it was just going to be implemented.

Councilor Barnes commented the District had hundreds if not thousands of volunteers who went door-to-door. Milwaukie did not have that number of volunteers who would go door-to-door to raise taxes for street repair. She would love to see that, but she did not think this was a top priority like schools.

Councilor Loomis did not think it would be harder to sell. The School District had a much larger area of maybe 100,000 people.

Councilor Stone certainly did not like implementing a tax. This was taxing them again. This was confusing. The City should just have said this was what was going to be needed. This trip generation thing sounded confusing and almost petty. The City needed to get right down to it and say this was what was needed. She agreed with Councilor Loomis. She did not like to see taxes imposed on people, and that was what this felt like. The City did need to look hard at how to fund street maintenance because it was a problem. As long as people knew there was a problem out there and they were convinced of it, which seems like outreach had done, she did not think they would have any issues if it was presented to them in a clear, concise way.

Mayor Bernard used the example of the fire district annexation, which everyone knew was the right thing to do. Until taxes were cut to pay that difference it did not happen. There was a good campaign the first time, and the second time only a handful of people including Mr. Swanson, a few Fire District people, and he campaigned. The only reason it passed was because the information mailers were good.

Councilor Stone suggested a survey in *The Pilot*.

Mr. Campbell noted there was an online survey, but he recommended that the Council not base policy upon that.

Councilor Loomis followed up on the annexation. It passed the second time because it was not clear the first time. It spelled out exactly what would happen. People did not have to be convinced there was a road issue. They drove on the streets everyday.

Mayor Bernard thought the campaign was better, and it was revenue neutral.

Mr. Campbell addressed the utility fee and how it was charged. If it was done on a property tax basis businesses like Albertson's or McDonald's or Safeway that contributed a large proportion of the trips and road surface wear, then they would not be paying their fair share. The intent of the trip generation was to allocate the charges in some way that reflected the use of the streets. He asked for Council direction on continuing forward on a proposal similar to the one being worked on thus far in December.

Councilor Barnes asked why TriMet was not charged.

Mayor Bernard said TriMet was a taxing entity that received funding from businesses.

Mr. Campbell said one way TriMet would be affected would be when it had a permanent address such as a transit center or park-and-ride in town.

Councilor Stone observed that TriMet was using the streets as a transit center right now.

Mr. Campbell replied the City was not charging TriMet any kind of fee.

Councilor Collette asked if there were a fixed residential fee.

Mr. Campbell responded that the fee would be explicit for single- and multi-family residences in the ordinance.

Councilor Collette recommended it be called a street maintenance fee to make it clear that the fee would be used to maintain local streets.

Councilor Loomis asked for a cost per thousand if the Council wanted to put a levy on the ballot.

City Council Work Session – November 9, 2006

Approved Minutes

Page 4 of 7

Councilor Stone wanted the estimated cost of putting the matter on the ballot. She thought that should be explored.

Mr. Firestone said there would need to be a double majority if it were a property tax.

A member of the audience noted that the City allowed overloaded vehicles on its streets and asked if the Council had thought about an ordinance that limited the loads. The Council might also consider a fee for studded tires.

Quiet Zone Research

Mr. Hales reported 31 trains used the Union Pacific mainline each day as it passed through the City. Because of federal regulations each was required to sound its horn at least 16 times in the City limits. The result was a nearly continuous train horn noise as each train passed through. The City continued to receive frequent comments concerning the impact of train horn noise on Milwaukie residents. One such letter described the impact: "in late June we moved from Portland to Milwaukie. By mid-July we were ready to move right back out again. The reason is the incessant train horns." Staff also looked at the impact from a sound engineering perspective. He indicated the impact area on a City map and reviewed some statistics on sound levels. About 4/5 of a mile away from the source, the horn volume reached approximately 65 decibels. This was typical of a residential use next to an airport. At approximately 1/3 of a mile the level reached 75 decibels and considered by FTA generally unacceptable for residential use. 70 decibels was equivalent to the sound volume of a gas lawn mower 100 feet away. The impact at 100-feet from the line reached 104 decibels that was considered unsafe to the human ear if it was heard continuously.

Newly finalized regulations allowed for the establishment of a quiet zone which was a section of rail line in which operators did not sound their horns except in emergencies. The federal ruling required that any new quiet zone include at least one-half mile of rail line and that supplementary safety measures (SSM) be installed at all crossings. SSMs were engineering improvements that reduced the risk of collision by preventing careless movement across the crossing. Milwaukie looked at three SMS types. The first was raised concrete dividers with reflectors separating lanes of traffic at a cost of approximately \$100,000 to \$125,000. The second was the installation of two additional gates to supplement existing gates in preventing movement across the tracks at approximately \$250,000 per crossing. The last option was grade separation. The purpose of the SMSs was to prevent people from weaving between the gates.

In 2005 staff prepared a report that was supplemented by a consultant's report that recommended the City seek funding initially for improvement to the 37th Avenue/Oak Street crossing and later expand the zone to include Harrison and Harmony. The second alternative involved the installation of both four quadrant gates and median barriers at those crossings. Based on the new federal rules and reassessment of quiet zone strategies, staff believed it might be possible to install median barriers at Harrison, 37th, and Oak instead of using the four-quadrant gate solution. The primary benefit was that it costs less. The estimated total cost to implement the quiet zone was between \$565,000 and \$900,000. These costs were based on a strategy that addressed all four crossings. At present the County was considering grade separation at Harmony Road that would lower the estimated costs by approximately \$150,000.

Mayor Bernard suggested adding this to the utility fee because it affected many residents and businesses. He thought Albertson's would be interested because it would significantly reduce the amount of train noise in the area.

Councilor Stone asked how train noise had affected Albertson's business.

Mayor Bernard thought the noise level in the back and in the parking lot was very high.

Councilor Stone thought that would make it too complicated and make the levy fail.

Councilor Collette agreed many people were affected by the horns but was concerned this would complicate the issue. She asked if any funding options had been identified in 2005.

Mr. Hales replied the federal process was the result of long and contentious discussion between various jurisdictions that had implemented quiet zones early on and the railroads. While it gave cities the opportunity to establish zones and clarified that in a way that previous legislation did not make it very easy. However, it also removed the railroad from any financial responsibility. There were no federal grant or support programs for this sort of effort. He spoke with people from the Oregon Department of Transportation (ODOT) rail and while there were grant programs for pedestrian safety improvements there was nothing for quiet zones at present.

Councilor Stone suggested in establishing a quiet zone the crossings would have to be even safer. Could the collision between the car and train have been prevented with something like this? Could it be slanted toward public safety rather than something like an annoyance.

Mr. Hales said that would be worth exploring and the upside with these measures was improved safety.

Councilor Barnes asked if this could be considered a capital improvement project.

Councilor Stone how many complaints had come to the City.

Mr. Hales would have to check with Mr. Swanson in terms of phone calls. A City wide outreach would provide better information. From the people he talked to there was a lot of support, and many did not realize this was an option.

Mr. Firestone added it took several years for the federal regulations to come into effect, and they worked on them for years.

Councilor Collette thought it was also a health issue because of the decibel level, and the City had the responsibility to combine the safety and hearing issues. She felt the Council should take this on.

Councilor Stone thought if hearing loss was an issue then she thought the railroad should bear some responsibility.

Mr. Firestone explained the horns were a federal requirement for safety reasons.

Councilor Barnes asked Mr. Hales to keep a log and ask people how long they have lived here. To some who lived nearby it was a background noise.

Mayor Bernard said many people at the Farmers' Market have made comments, and he thought there would be strong support for a quiet zone in Milwaukie. He would like to hear from people who were concerned.

Councilor Stone asked if there was any data showing that quiet zone methods made crossings safer.

Mr. Hales said as part of the federal program about 40 test studies were done in the northwest. They determined that the risks had gone down substantially using the SSM methods.

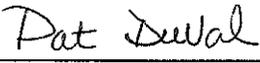
Mr. Campbell noted this was an issue in the redevelopment of both the Murphy and MacFarlane sites.

Councilor Loomis asked if the problem was with the horns or the track.

Mr. Campbell replied it was probably both. The zoning on each property currently required a substantial residential component.

Mayor Bernard announced the City Council would meet in executive session pursuant to ORS 192.660(2)(h) to consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

Mayor Bernard adjourned the work session at 6:33 p.m.



Pat DuVal, Recorder