

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
AUGUST 5, 2008**

CALL TO ORDER

Mayor Bernard called the 2035th meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Council President Joe Loomis and Councilors Deborah Barnes, Greg Chaimov, and Susan Stone

Staff present: City Manager Mike Swanson, City Attorney Bill Monahan, Community Services Director JoAnn Herrigel

PLEDGE OF ALLEGIANCE**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS****CONSENT AGENDA**

Councilors Chaimov and Stone requested that item C -- A Resolution of the City Council of the City of Milwaukie, Oregon, Assessing the Costs of Abatement of the Nuisance Located at 5115 SE Brookside Dr. and Entering the Same on the Docket of City Liens Pursuant to Milwaukie Municipal Code Section 8.04.200(D) -- be removed for discussion.

It was moved by Councilor Barnes and seconded by Councilor Chaimov to approve the remaining consent agenda items:

- A. City Council Minutes
 - 1. June 10, 2008 Work Session
 - 2. June 17, 2008 Work Session
 - 3. June 17, 2008 Regular Session
 - 4. July 1, 2008 Work Session
 - 5. July 1, 2008 Regular Session
- B. Resolution 70-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Acting as the Local Contract Review Board, Authorizing the City Manager to Execute Certain Contracts for Fiscal Year 2008 – 2009;
- D. Resolution 72-2008: A Resolution of the City Council of the City of Milwaukie, Authorizing Budget Appropriation for the Purpose of Purchasing Parking Management Package.

Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

Les Poole had filled out a form but was not present when his name was called.

Item pulled from Consent Agenda for discussion

Councilor Chaimov had asked the City Manager about the merits and demerits of increasing the interest on abatement liens from 6% to 9%. To him 6% did not seem sufficiently coercive.

Mr. Swanson responded statute now provided for a 9% interest rate in terms of a judgment. That particular section of the municipal code, 8.04.200 was adopted in 1964 when he imagined the statutory limit was 6%. This and other sections could be changed when there was a code rewrite next year. Staff would look at standardizing all the interest rates and put them in one section so they were easier to track over time.

Councilor Stone had a question about the total cost of the abatement. It added to the total of \$1,955.70 an additional \$770 for administrative staff time. Was that staff time overtime?

Mr. Swanson replied it was not necessarily overtime, but it would be time spent by Ms. Lander and/or Mr. Salyers.

Councilor Stone did not understand since their jobs were to abate nuisances. She asked why the citizen was being charged when staff was doing their job unless it was overtime.

Mr. Swanson replied the code provided in § 8.04.200 that the city recorder by registered or certified mail postage prepaid shall forward to the owner or person in charge of the property a notice stating the total cost of abatement including administrative overhead. This property was previously assessed a couple of years ago. The lien was satisfied in the 30-days, so nothing was charged in the end.

Councilor Stone just figured if it was above and beyond their regular duties in terms of their regular shift of 8 hours it would make more sense to charge the administrative cost. She understood the code provided for that but did not agree with it.

Mr. Swanson replied the Council could amend that section of the code if it wished. In 1964 when this was adopted the Council probably felt when someone did not act to abate the nuisance it was a policy decision to charge. This Council could decide to amend that portion of the code.

Councilor Stone would agree to with charging if it was overtime.

Mayor Bernard understood Mr. Salyers had about 400 cases going right now. Ms. Lander did parking. Why would one not charge an individual who failed to obey the law, otherwise the burden was put on the taxpayers?

Councilor Stone not saying they should not be charged for abating the nuisance. They hired a contractor to remove the stuff. Her point was that staff was getting paid an hourly wage anyway. This was part of their job description to do this. If it went above and beyond their regular hours of work in a given 8-hour day she agreed the person should be charged but not if it was within the 8-hour scope of time.

Mr. Swanson would argue if someone did to abate the nuisance it did demand a lot more time from staff which took away from handling the other 399 cases. Code enforcement talked with people and resolved as many problems as possible through gentle persuasion. Most people took care of the problem. It was only the most egregious ones that got to this point. Where it may take an hour or two to deal with another case, this case was 24 hours. There may be a lot of time not spent in dealing with other cases that were easily resolved.

Mayor Bernard observed there were numerous violations over the years. It took staff time away from all the other cases because they had to spend so much time on this one individual. He did not think it was fair for taxpayers to carry the burden of the enforcement on one particular person. This had been a continuing problem, and staff had visited numerous times and was probably not included in the abatement costs.

Mr. Swanson said it was a policy decision, and Council could direct staff to prepare a code amendment.

It was moved by Councilor Chaimov and seconded by Councilor Barnes to adopt the resolution authorizing a lien in the amount of City costs for abating the nuisance on the real property owned by Lisa Meidel. Motion passed unanimously. [5:0]

RESOLUTION NO. 71-2008:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ASSESSING THE COSTS OF ABATEMENT OF THE NUISANCE LOCATED AT 5115 SE BROOKSIDE DR. AND ENTERING THE SAME ON THE DOCKET OF CITY LIENS PURSUANT TO MILWAUKIE MUNICIPAL CODE SECTION 8.04.200(D)

AUDIENCE PARTICIPATION

• **Les Poole, Clackamas County**

Mr. Poole was the head of the North Clackamas Property Owners Association. He had a couple subjects he wanted to comment on. One of them was really positive. He no longer felt like he was going to be killed as he came onto McLoughlin Boulevard at the bottom or River Road. What a dramatic improvement. He was sure Councilor Chaimov lived in the neighborhood. It was light years of improvement. He noticed the day of the vote for light rail at Metro that very morning the tractors started working on the Cash Spot. We have had differences of opinion where parking ought to go. Buying the Cash Spot and getting that eyesore out of there and doing something with it he also strongly supported. He testified at Metro last week. He did not come into Milwaukie the week earlier. When he spoke at Metro it was of course about light rail. He would submit some information. He was interested in protecting Kellogg Lake and the parks. Since Dena Kronberg [Ms. Swanson] appeared on the horizon there has been a lot of questionable handling of the legalities involved there. It troubled him and still did. His attorney said he had a case, but Mr. Poole said he did not want to go there. With regard to light rail he did testify, nothing personal, but he felt Mayor Bernard probably should have recused himself. Unlike most land use situations or areas where we might have a question of possible need to recuse oneself when light rail came the property values were rezoned and went through the roof. The Mayor's property was in the alignment, in the corridor, he could not help but have a financial benefit. Nothing personal. When he spoke at Metro he commented about personal attacks. Attacks on him. Anonymous nonsense in the *Clackamas Review* blog page. Attacks on Ed Zumwalt. In the reverse, attacks on Councilors and people in general. We need to stay on the issue here. This thing was going to get kind of cute because we really did not know where we were going yet. We can pretend we do, but we do not. His big concern was simple. The cost to cross Kellogg Lake, squeeze the Trolley Trail, and eventually dump up to 1,000 cars on an acre at Park Street did not make sense. If anyone wanted to he would take them on a drive through there. You did not have to be a land use specialist or head of anything to understand there was no room for that. We were studying two alignments. The one to Park Street was going to cost so much citizens should be able to vote on it. Frankly, he did not want 1,000 cars dumped in Oak Grove. If we did not go to Park Street and stopped somewhere downtown where were those 800 – 1,000 cars going to go? When someone could give him an answer to that question, he would stop talking about it.

OTHER BUSINESS

Council Report

Councilor Chaimov attended Lewelling Neighborhood District Association meeting and visited and shopped at the New Century Players Yard Sale to show his appreciation to the group for loaning him a costume for the Milwaukie Daze Parade. He attended the Island Station neighborhood picnic with Councilor Barnes and Mayor Bernard.

Councilor Barnes said in addition to the events Councilor Chaimov mentioned she met with the new director of North Clackamas Stand for Children.

Councilor Stone announced the Ardenwald Concerts in the Park series every Thursday in August. She just returned from a hiatus to see Mickey Mouse.

Councilor Loomis had the opportunity to visit with Chief Bob Jordan and felt Milwaukie was very lucky to get him.

Mayor Bernard attended the Oregon Mayors' Conference in Pendleton and discussed issues similar between cities. He attended the Island Station Neighborhood picnic and would attend the Lake Road and Historic Milwaukie picnics.

PUBLIC HEARING

Garbage Rate Increase

Mayor Bernard called the public hearing on the garbage rate increase to order at 7:20 p.m. The purpose of the hearing was to hear public comment on the proposed increases. There was no correspondence on the matter.

Mr. Swanson distributed an amended attachment A in which the 90-gallon commercial cart rate was different from that in the packet.

Mayor Bernard noted Metro recently adopted an ordinance that required businesses to recycle a larger percentage.

Ms. Herrigel responded Metro Council was considering an ordinance, but it had not been adopted. The proposed City Council resolution would increase residential and commercial garbage rates to reflect increases in fuel rates and disposal costs and to achieve parity with Clackamas County rates and increasing miscellaneous drop box fees to reflect those increases. Each year the City received information from franchised garbage haulers on how much was spent and how much revenue was taken in. The information from the seven different companies was consolidated to make sure the combined system had an adequate rate of return. According to City code the rate of return range was between 8% and 12%, and the target was 10%. Generally speaking if the rate of return was around 10%, the haulers did not request an increase unless there was something specific coming up or something extraordinary was anticipated like fuel costs or Metro trip fee increases. This year's rate of return for consolidated system was 8.41%, which was fairly low. Metro was increasing its disposal facility tip fee by \$4.61 per ton. Fuel costs increased about 60% over the past year, and something like that was anticipated over the coming year. Parity issues were considered, and rates were modified. She proposed an increase of commercial and residential rates to reflect the increases just described for the Metro tip fee and fuel and in some cases to reach rate parity with the County. Some miscellaneous drop box fees needed to be modified to reflect fuel increases and to address parity. The County adopted these same rates on July 31. Attachment A as amended showed a rate for the commercial 90-gallon cart at 30-cents less.

Councilor Barnes thanked the haulers who helped out every year with the City cleanup. Last year when the Council adopted new rates she personally realized she had to find a way to reduce waste. Instead of using the biggest can available, she went to a much smaller size and was recycling more. She hoped people realized they could

do something similar. Overall her rates had dropped because she was no longer filling the monstrosity that she filled for the sake of filling. She took time to think it through. She asked why commercial was less than residential.

Ms. Herrigel replied yard debris collection was not included in the commercial rate.

Councilor Stone said the Council raised rates last October. Seeing that we were well underway in 2007 were there any projections for 2008.

Ms. Herrigel replied the projection was 9.06%.

Audience Testimony

- **Bryan Dorr, Milwaukie**

Mr. Dorr knew a fuel surcharge was part of the resolution. Diesel fuel prices at were \$4.75 per gallon. What if prices went down to \$3 and then went back up to \$3.25? The haulers may want an additional fuel surcharge. He wanted some kind of language regarding implementation of fuel surcharges.

Correspondence: No.

Additional Staff Comments

Ms. Herrigel appreciated Mr. Dorr's comments. It was not a surcharge but an anticipation of increases. The haulers provided this financial information on an annual basis, and a rate consultant could be hired to go through the financial report with a fine-toothed comb. If any of the anticipated costs did not reach their potential, then they would be adjusted back down. In addition to fuel and tip fees there were also insurance, labor, and equipment increases. It was all reviewed on an annual basis, and if rates of return were higher than the range they could be adjusted down.

Mayor Bernard understood there was no specific fuel charge anticipated. He commented this was one of the most highly regulated businesses he had seen and noted health insurance for his own employees went up 27%.

Mayor Bernard closed the public testimony of the hearing at 7:37 p.m.

It was moved by Councilor Chaimov and seconded by Councilor Stone to adopt the resolution increasing residential and commercial garbage rates to reflect increases in fuel and disposal costs and to achieve parity with Clackamas County rates and increasing miscellaneous drop box fees to reflect fuel prices with amended attachment A. Motion passed unanimously. [5:0]

RESOLUTION NO. 73-2008:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, INCREASING RESIDENTIAL AND COMMERCIAL GARBAGE RATES TO REFLECT INCREASES IN THE FUEL AND DISPOSAL COSTS AND TO ACHIEVE PARITY WITH CLACKAMAS COUNTY RATES AND INCREASING MISCELLANEOUS DROP BOX FEES TO REFLECT FUEL INCREASES.

ADJOURNMENT

It was moved by Councilor Barnes and seconded by Councilor Stone to adjourn the meeting. Motion passed unanimously. [5:0]

Mayor Bernard adjourned the regular session at 7:40 p.m.

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Pat DuVal

Pat DuVal, Recorder