

MINUTES**MILWAUKIE CITY COUNCIL WORK SESSION****October 7, 2008**

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

Council Present: Mayor Jim Bernard and Councilors Deborah Barnes, Greg Chaimov, Joe Loomis, and Susan Stone.

Staff Present: City Manager Mike Swanson, Library Director Joe Sandfort, Community Development & Public Works Director Kenny Asher, Senior Planner Susan Shanks.

Library Board Work Plan

Leading Library Board Chair Colleen Schacht and members of the Board discussed the 2008 – 2009 Work Plan. Accomplishments for 2007 – 2008 included formation of the Leading Library Foundation, the William Stafford Birthday Celebration, support of Library operations, and outreach to Neighborhood Associations and other groups. Priorities for 2008 – 2009 are dissemination of information about the proposed Library District, funding, and regional library issues. Pond House priorities included opening of the Booktique, promoting ongoing facility improvements to encourage City and Library-related gatherings, continue the Poetry Series, and encourage involvement in the Friends of the Library projects.

The Mayor and Council expressed appreciation for the Board's ongoing support of the City's Library.

Funding and Preliminary Engineering Service Intergovernmental Agreement with TriMet for the Portland-Milwaukie Light Rail Project

Mr. Asher was joined by Dave Unsworth to discuss 2 IGA's that followed on the decisions made during the summer to adopt the updated locally preferred alternative for the Portland-Milwaukie Light Rail Project along with the adopted umbrella agreement. The first was the funding IGA, which defined Milwaukie's financial commitment to the Light Rail project of \$5 million and the second was payment coming to the City in the form of a FTE, project engineer/planner to bring on staff to take care of the day to day project management. These were draft agreements and they would be back at the November 4 meeting with the final.

Mr. Unsworth gave an update on what TriMet had been working on since the Locally Preferred Alternative (LPA) adoption. On July 31, they submitted a substantial application to the federal partners to get into preliminary engineering that would allow moving forward with a couple of important steps. First was going from very conceptual engineering into preliminary, which was important because all of the dollars spent once in preliminary engineering started counting as local match. This was a substantial step for the federal partners. Second was when they go into final design done after the preliminary engineering, which was 30% of design. They were set and expect to get approval. A group of 10 from the Federal Transit Authority (FTA) come to Milwaukie and toured the downtown,

and Mr. Asher helped explain why this project was important. TriMet expected to get 60% of the funding from the FTA. They anticipated getting into the preliminary engineering in November or December. At that point they would hopefully ink an agreement and TriMet would have someone from the City of Milwaukie on board to help the City. That person would be looking out for the City's interest as well as TriMet. They want to be coordinated and saw this as a team effort, being successful and moving forward. There were many issues that they needed to get accustomed to in how the City applied the code from an environmental standpoint. They wanted to make sure they were in sync and did not lose track of that. They were starting a new series of meetings and they would be inviting folks from Milwaukie to participate on the technical advisory committee as they started moving forward.

Mr. Asher followed that up by saying up until now not just in the last SDEIS process, but on every light rail planning process in Milwaukie they had been planning processes in a sense of alternatives and environmental review. This was now an engineering and construction process. From staff prospective it felt very different. TriMet was in the lead as this is a capital project for TriMet. This was now really about getting the project design, getting questions resolved, getting a cost that was not just based on something conceptual. It now felt like they were in new water.

Mr. Unsworth said they would be introducing their project director for the segment. She was a Milwaukie resident and she was very familiar with design. They were moving forward on the financing front. They knew they had \$250 million from the state lottery bond, \$72 million from MTIP funds, \$100 million in interest and they were in conversations with the City of Portland about what its contribution would be. They were also talking with property owners who would see a clear advantage, which were OHSU and OMSI. There were other opportunities with Clackamas County as well as in-kind donations. First, they were going back to the state legislature and second, as they moved on the EIS and as it was published, they needed a financing plan. They wanted to look out for both TriMet and the City's interest to make sure the City had the staff to participate in the level it needed and to make sure they were doing things. The reason for the umbrella agreement was to hold TriMet's feet to the fire to make sure it was doing everything right and part of that was funding an engineering position at the City.

Councilor Barnes asked what the total local match TriMet was seeking?

Mr. Unsworth replied the total local share was around \$600 million. They did not have all the final commitments and would generally look for more money from those who had not already signed. Most of the alignment was in Portland.

Councilor Barnes asked how it was decided what each segment should contribute.

Mr. Unsworth responded that a good portion of it was in the City of Milwaukie, but asking Milwaukie for \$30-\$40 million dollars given its budget and size did not seem right. There was no magic about it. They were trying to get to the project to Park Avenue. They were trying to look under every stone to get it there.

Mr. Asher said it was a negotiation. Council should know that they hit on the number \$5 million early on and they thought it was the most that he and Mr. Swanson could conceivably come up with for the project. He agreed that the project would not get less expensive. Regardless of where people ended up the pressures would not decrease and there were timing issues. In the umbrella

agreement they wanted to, for state purposes, to get this done by the end of the year if possible. They also saw the project starting to take off in January and wanted to have this position in place. To get an engineer on board took a couple of months. It was important to take action in the next month or so because the pressures from OHSU and Portland would only keep mounting as the project went through preliminary engineering.

Councilor Chaimov asked where we would come up with \$5 million.

Mr. Swanson said he started wrestling with this in 2000 – 2001 and went through a number of different scenarios. He wanted to look for a scenario that did not require a tax increase because he knew light rail was a sensitive subject in the City. Mr. Palacios came on board 6 months ago and they began talking about what was achievable. The City was relatively debt free and the cost of funding \$5 million in debt was achievable out of the general fund. Currently, we were paying \$192,000 to the water fund to pay off the loan to purchase the riverfront property. He would be proposing a borrowing that would either complete or substantially complete the Riverfront Park project because he thought that both projects would go hand in hand and were both achievable. He had been fairly protective of that fund. Staff had been good about accomplishing a lot, but not going overboard in terms of asking for the sky. He did admit that in the last couple of weeks he did not know how the market would look at this. On one hand he would guess there would be some folks out there that would be looking for government securities to invest in, but there had been a couple that had been advertised recently in this area for which there had been no takers. He had been thinking about this for 6 years and in the last couple of weeks he didn't know what the effect of the federal level would have. One of the impacts if the Library District passed was that the County would provide \$1 million dollars in capital for each library. The City would receive more funding and would have a broader base of people to serve including those in the unincorporated areas. He could see us beginning to put aside a portion of the money that the Library was currently getting out of the general fund and establishing a capital reserve account and hopefully fairly soon look at a Library expansion. He would also look at a couple of other minor projects such as the courtroom remodel and JCB where space was not workable for professionals. PSB would be paid off, but that was funded from a separate existing property tax. It was fair to say we talked with TriMet early. Milwaukie was a small City that had not invested \$5 million in anything. He wanted to get on board early because it would only get more expensive. This had been bounced around for years, and he thought we could do it. We would be investing a substantial amount in the City simultaneously, but the thought they were good projects. The Riverfront was an expensive one. The last number he saw for undergrounding the utilities was \$3.5 million. They could do the Riverfront incrementally with grants over time, or we can do it. He was concerned but thought that we could invest and really make a difference in the City and do some projects that covered a broad base of people.

Mr. Asher said this obligation would be due under the terms of this agreement in June 2012. When they put forward the staff report in July there was an attachment that made the economic argument for this investment and what return the City might see. There were good reasons why the City would see returns for making investments in large capital improvements.

Mayor Bernard commented it was a 3:1 return on the dollar.

Mr. Unsworth said there was a commitment now. Money would be much further down the road if we were to get to an agreement. The funding IGA for the FTE

would be in the near term. Once they got into preliminary engineering that person would be on board hopefully through final design and construction as a 7-year position.

Mr. Swanson said this person was a City employee whose loyalty was to the City.

Mr. Unsworth said found having someone represent the City and understanding what the project was doing helped TriMet get through the City process and helped the City to be well represented.

Councilor Chaimov commented that the reason for asking Mr. Asher for the word version of the proposed IGA was to try wordsmithing the portion of the agreement that discussed TriMet's applying the \$5 million from the City. We were likely to get more community support for that expenditure if we could designate in some way in which those funds were to be expended. He would try to put together some suggestions for where that \$5 million might go. He had not finished thinking on that yet but would share those as soon as he had a chance.

Mr. Asher understood the concept but asked if it was doable right now. If tied to something he didn't know beyond a shadow of doubt what would be built and not in the gray area.

Mr. Unsworth said there were some other changes as things unfolded.

Councilor Stone asked how we arrived at that figure of \$5 million, and in the current economy what was to say that the figure would be more for Milwaukie? If we borrowed money for Riverfront Park we would borrow for this also? Why \$5 million and where was the guarantee that it would not be more?

Mr. Asher said the \$5 million was negotiated. TriMet had a finance consultant responsible for pulling all the pieces together. Over a year ago he had a conversation with the consultant and that consultant suggested \$10 million. He told the consultant it was just not there. \$5 million represented an amount that was important for the project and it was less than half a percent of the project. Every dollar counted and they were trying to get to Park Avenue and \$5 million from Milwaukie was money that didn't need to come from one of the other local partners. It was a large enough amount to make a difference and small enough for Milwaukie to achieve. The IGA was the assurance that it would only be \$5 million. When they did the MOU on the umbrella agreement one of the complaints from the community was that none of it was binding. That MOU was a framework that would set up the enforceable agreement through the IGA's. This was an example of that. They would sign the agreement with TriMet and it would seal the City's commitment at \$5 million and regardless of what happened in the project from that point forward the City contribution would be fixed. People could come back and ask, but it was not incumbent on the City to agree.

Councilor Stone had questions about the funding components and how they all added up to the grand total project cost. She wanted to know about the \$100 million in interest. Where did that come from and what did that mean.

Mr. Unsworth said they secured \$250 million from state and \$72 million MTIP dollars. Both the State and Metro would bond that. There were bonding costs associated with that. The federal government required that any bonding that went in would accrue those interest dollars and that would be part of the local match. It was included in the overall project cost so any borrowing that had to take place either for cash flow or to provide hard dollars get counted towards to project. They had to count them in on the cost, but they get 60% of that back

from the federal government those earnings netted out to about \$100 million. There was a lot of unknowns in the current bond market and a lot of unknowns about when the federal dollars come in so they hoped to sign a full fund grant agreement, which was TriMet's contract with the Federal government but there was no promise they would get \$100 million. It depended on how much was allocated each year. TriMet had to make some guesses way up front about dollars about what dollars would be coming in the year 2012-2017. They end up borrowing because the cost of inflation and any delay in the project costs so much it was better to borrow dollars up front to keep the project moving and it turns out to save money in the end. The cost of borrowing is counted in the overall project cost and is reimbursed at 60%.

Councilor Stone questioned the time frame in the IGA on pages 10 and 11 about the full funding grant agreement for the project from FTA approval.

Mr. Unsworth said the hope and intent was to have a fully-funded grant agreement in the summer of 2012.. If the project failed to move forward the City would want to get out of the \$5 million commitment, but it was only after 30 days.

Councilor Stone said June 2012 was a tentative date, and the final date was June 2014.

Mr. Asher explained June 2014 was the project deadline. It was allowing for 2 years.

Councilor Stone was curious when the FTA group visited Milwaukie were they told where the terminus would be?

Mr. Unsworth replied it was Park Avenue. The application to the federal government was all the way to Park Avenue. The application was based on that, and they were moving forward with that.

Councilor Loomis said he thought the FTE was a great idea since he knew the City did not have the staff to do that. He was still not convinced the City needed to donate money to the project or where it would come from. There were a lot of issues and he thought the Budget Committee should have some input since the money was coming from the general fund. He thought the Riverfront Park was more important the light rail. He would not guarantee he would support the \$5 million, but he would listen.

Mr. Asher asked if there was anything they could do to convince him about the merit of the investment of the contribution.

Councilor Loomis replied as already stated, Mr. Campbell provided that information, but it was a matter of opinion on certain things of what he personally felt an investment would bring. To him investment in the Riverfront Park would bring more economic resources to the City, and the City would be more accepting of doing that. He needed more convincing that light rail would be a big boom for us as far as borrowing the money.

Mr. Asher said he would do a pretty quick run down of what staff believed was the economic argument. Unfortunately, for someone in a Councilor's position they didn't really compare it to other hypothetical stuff because it was hypothetical. They would pull that out and see if they could convince Councilor Loomis.

Councilor Loomis said with the wordsmithing that Councilor Chaimov had said he was concerned that when you throw the money it funneled it to start and then when you get to the end there is no money left.

Councilor Chaimov said that was exactly what he was working on.

Councilor Barnes wanted to let Mr. Asher know that she and Councilor Chaimov will not be at the November 4 meeting.

Mr. Asher thought that maybe they could get it done in 2 weeks.

Mayor Bernard attended the Board of County Commissioners (BCC) work session and they supported funding to Park Avenue and were currently negotiating with TriMet.

Councilor Stone asked about attachment 2 on page 17 items 4 and 5. To support something like that especially in this economic time it was real important to send these kinds of things to the voters. It is a huge project and it was important that people get a chance to vote. They had consistently voted light rail down, and if it truly has changed then let it be known at the ballot box and she could support what he constituents say.

Progress Update on Transportation Code Amendment Project & Downtown Public Area Requirements

Mr. Swanson mentioned that Ms. Mangle was on maternity leave and it was always challenging when a Department Head had to be gone for a while. He wanted to recognize Ms. Shanks and the admirable job she had done as not only interim director but also continuing with her own work.

Mr. Asher said this was Ms. Shanks' project from the beginning and she had received help from engineering and other departments. She had also been processing annexations. She had been doing triple duty and Mr. Asher thanked Ms. Shanks.

Ms. Shanks said Council would be seeing more code amendment projects in the future. Staff was currently working on Title 13 amendments as well as parking lot/parking space standards. She expected to come back to Council either in December or January with actual recommended new code language. The umbrella project was the Transportation Code amendment project and within that was the Public Area Requirements Code section update that Council learned a lot about in the January appeal. She referenced a diagram in attachment 2 of the staff report. When projects came into the City they are evaluated against the current code to determine whether or not they trigger 19.1400, which was the City's main regulatory document for transportation improvement. Currently, whether it was a downtown project or a non-downtown project the trigger related to the permit value. They proposed that trigger was changed to an impacts based trigger. That was more in keeping with constitutional law and only exacting improvements when there were impacts to the transportation system, and the improvements that the City asks for are proportional. By changing to an impacts based trigger they would be cleaning up a mess that they had been dealing with their in the current code. They were proposing that if there were no impacts the project should not trigger any improvements. Currently, the applicability language that they were working on in the new code would leave it somewhat open so if a project potentially had additional trips or added additional square footage it would trigger the code but that wouldn't mean improvements would be required because they would still need to evaluate it for proportionality. They would not be excluding everything. They would be looking at everything that had an impact. If there were impacts there would potentially be improvements. They would be keeping separate street improvement standards for the downtown area. The downtown plan was a different streetscape than

seen in other cross sections for the rest of the City streets. They were not proposing to change that. City streets that are not in the downtown would be subject to the cross sections that would be provided in Chapter 1400. They were going to make them and view them with a little more flexibility. Right now they had a table that basically listed each type of street classification with little range and it didn't always work. They wanted to build in more flexibility with more ranges and they wanted to give engineering more discretion to look at the existing conditions and determine what was necessary for the area and build the cross sections from the ground up as opposed to taking an out of the box approach and applying it. They would propose that construct or FILO be an option in the downtown, which currently it was not. Other than the standards for downtown and non-downtown everything else would be the same including the option to have FILO and that gave a lot more flexibility to pull some money together to build a whole block face instead of portion. Engineering would also be making that determination for the guidelines as to when it was appropriate to request FILO versus build. Currently they were pulling projects into the whole process that potentially did not have impacts and staff struggled with requiring projects to do this. When they felt it is inappropriate they advised applicants that they could opt out because the code did not give staff that authority, so they would need to get variances and exceptions in order to move forward with their projects. That happened in a case that she handled a couple of years ago with a single family major remodel. The house was on an unimproved street so they had to go to planning commission to knock off all of the requirements through the variance adjustment exception process. It used a lot of staff time and resources. It took a lot of money and time from the property. That situation was extreme, but they ran across that kind of situation a lot with single family, small additions and tenant improvements. They had found the way the code currently exists for smaller type projects it placed more of a burden or process when it was unnecessary and inappropriate.

Ms. Shanks moved on to the Public Area Requirements. She knew that Council directed staff to look at changing that section of the code. She reviewed attachment 1 with the existing PAR language. Council had directed staff to look at that section of the code and make it more constitutional, balanced and consistent with the other code sections that pertain to public improvements. They had been wrestling with that in the context of this project, and it fit nicely. They were deleting a lot of language. They were taking away the trigger that pertained to the building permit value. They felt that would go a long way towards being more constitutional. They would be looking at only exacting improvements when a project had impacts. Even before they adopted any new code language they had to apply a proportionality analysis that would apply to downtown and non-downtown projects. With the addition of the proportionality analysis and the deletion of the value based triggers the code would be more constitutional and fair. Only the projects that had impacts would be looked at to potentially get improvements. Regarding consistency they would treat downtown the same and non-downtown with regards to the triggers, processes, and options for the standards that would be the only thing that would remain different. Right now that same project if it was outside of downtown may not trigger the code so that would help level the playing field. Regarding balance currently the burden is placed on the developer or private property owners to shoulder the building of other improvements the City has deemed proportional. Staff as well as Council recognized that there were more standards for downtown and they had more expensive elements. Medallions and ornate street lamps did not exist for any other cross sections other than in the downtown. Staff looked hard at how can

they could balance that and put less of a burden on property owners and developers. Staff talked about reducing the standards and asked themselves if that was the direction they wanted to go. Based on the direction from the downtown plans and staff's understanding from the community's investment in the plan that was created for downtown they found that was not the direction they wanted to go. The other option to balancing the scale would mean that the City would contribute public dollars for improvement in the downtown to create the vision that is detailed in the downtown plan. Right now in that regard she had been having discussions with Mr. Campbell and Mr. Asher about what that could mean. The one thing that was brought forward and that they would be asking Council about was urban renewal. They felt that was the one way they could balance the scales without reducing the standards. She knew that Mr. Campbell would be talking about that at a future work session.

Councilor Barnes would not want to see our standards dropped in any way. They had fought long and hard to get the beautification that was happening in downtown now. It would be detrimental to strip that back. She was glad to hear about urban renewal so it could be debated.

Ms. Shanks clarified if Council was comfortable and wanted to proceed with urban renewal it would not be part of the code section. The code amendments that staff brought to Council would not be a component because it was not a code fix. It was a different fix, and she wanted to make that clear.

Councilor Chaimov thanked Ms. Shanks and appreciated what had been done. He looked forward to the urban renewal discussion.

Councilor Stone was glad to see they were leaning in a new direction in terms of having the code be more impact based. She felt that was more fair. It was frustrating for Council to have appeals come before them and they could not do anything because of the way the code was written. She thought this made a lot more sense. Each project needed to be treated individually and not harp on the value of the project itself. She thought it would be good.

Councilor Loomis felt staff had done a great job and he was happy with it. He thanked Ms. Shanks for her work.

Mayor Bernard commented that they worked really hard on the downtown plan and the standards were very important at that time and they continued to be. In the neighborhoods sometimes there were issues with preserving trees, and he hoped that would be addressed with similar flexibility.

Ms. Shanks said they were very aware of that issue.

Mr. Asher said most of the applications that came in were outside of the downtown. Very few come in for the downtown. Ms. Mangle told him a couple of years ago that the entire code needed to be worked on, but section 1400 caused more grief for more people who were doing small projects.

Mayor Bernard adjourned the work session at 6:40 p.m.


 Pat DuVal, City Recorder