



COUNCIL REGULAR SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

2351st Meeting

MINUTES

FEBRUARY 1, 2022

Council Present: Councilors Lisa Batey, Angel Falconer, Desi Nicodemus, Council President Kathy Hyzy, and Mayor Mark Gamba

Staff Present: Joseph Briglio, Community Development Director
Kelly Brooks, Assistant City Manager
Bonnie Dennis, Finance Director
Justin Gericke, City Attorney
Vera Kolias, Senior Planner
Keith McClung, Assistant Finance Director
Ann Ober, City Manager

Peter Passarelli, Public Works Director
Natalie Rogers, Climate and Natural Resources Manager
Scott Stauffer, City Recorder
Laura Weigel, Planning Manager
Courtney Wilson, Urban Forester

Mayor Gamba called the meeting to order at 6:08 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Gamba announced upcoming activities, including opportunities for the public to comment on the Milwaukie Redevelopment Commission's (MRC's) five-year urban renewal plan, a heritage lecture, how to nominate individuals for the city's volunteer of the year award, and natural habitat enhancement work events.

3. PROCLAMATIONS AND AWARDS

A. Celebrating Black Excellence Month – Proclamation

Councilor Nicodemus, the Milwaukie Historical Society's **Greg Hemer**, and Milwaukie resident **Sabina Spicer** introduced the proclamation and remarked on the importance of celebrating Black excellence. **Mayor Gamba** proclaimed February to be Celebrating Black Excellence Month in Milwaukie.

4. SPECIAL REPORTS

A. Fiscal Year (FY) 2021 Audit – Report

Dennis introduced Tonya Moffit, partner with Merina + Co. the city's audit firm, and Mack Stilson, chair of the city's Audit Committee. **Moffit** explained how the audit was conducted, noted that the city had received awards for its financial statements, and reported that the city's audit for FY21 was clean, the highest result that can be given.

Stilson thanked Merina + Co., the Audit Committee, and finance department staff for their work to ensure the integrity of the audit process and report.

The group acknowledged that Merina + Co. would no longer be conducting audits and the city would issue a request for proposals (RFP) to find a new audit firm.

5. COMMUNITY COMMENTS

Mayor Gamba reviewed the public comment procedures and **Ober** reported that there was no follow-up report from the January 18 community comments. It was noted that no audience member wished to address Council.

6. CONSENT AGENDA

It was moved by **Councilor Batey** and seconded by **Councilor Falconer** to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:

1. January 4, 2022, work session, and
2. January 4, 2022, regular session.

B. Resolution 11-2022: A resolution of the City Council of the City of Milwaukie, Oregon, making an appointment to the Arts Committee.

C. Resolution 12-2022: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing a contract with GreenWorks, P.C. for community engagement, design, and development services for Balfour Park, Bowman-Brae Park, and Scott Park.

D. Resolution 13-2022: A resolution of the City Council of the City of Milwaukie, Oregon, nominating Wilda Parks to serve as the city's representative to Milwaukie Community Center / Community Advisory Board (C/CAB).

Motion passed with the following vote: **Councilors Falconer, Batey, Nicodemus, and Hyzy** and **Mayor Gamba** voting "aye." [5:0]

7. BUSINESS ITEMS

A. None Scheduled.

8. PUBLIC HEARING

A. Comprehensive Plan Implementation, Tree Code Amendments (continued) – Ordinance and Resolution

Call to Order: **Mayor Gamba** called the continued public hearing on the proposed tree code amendments, file #ZA-2021-002, to order at 6:40 p.m.

Purpose: **Mayor Gamba** announced that the purpose of the hearing was to take comment on the proposed code as part of the Comprehensive Plan implementation.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Rogers** reviewed the proposed code amendments, noting changes made since the January 18, 2022, Council hearing and clarifying aspects of the code related to tree preservation credits and tree removal permits and fees. **Council President Hyzy** and **Rogers** noted that no permit or fee would be required to remove a tree smaller than six inches in diameter or for pruning a tree.

Rogers and **Mayor Gamba** discussed residential non-development situations where a permit and fee would be required to remove a tree. The group remarked on how the city would provide guidance to private property owners in identifying replacement tree types, treating sick trees, and connecting property owners with planting assistance programs. They noted that the city would not buy, treat, or plant trees on private property.

Rogers, Councilors Batey and Falconer, and Council President Hyzy continued to discuss residential non-development situations where a permit and fee would be required to remove a tree, noting that property owners would be able to appeal a permit decision to the city manager. **Councilor Nicodemus, Rogers, and Mayor Gamba** commented on how often and why property owners removed healthy trees. **Council President Hyzy and Rogers** noted that removing invasive tree species would not require a permit or fee and thinning trees would only require the standard permit fee.

Councilor Nicodemus and Rogers commented on other cities' tree codes and whether they had led to an increase in the number of tree removal permits being applied for.

Rogers and Mayor Gamba noted when accessory dwelling unit (ADU) construction would require tree permits. **Rogers and Passarelli** reviewed how tree canopy would be measured using a tree species list and what fees would be assessed based on the type of development and trees being removed. The group discussed residential development situations where permits and fees would be assessed.

Rogers and Passarelli presented the proposed and alternate mitigation fee structures aimed at penalizing developers who remove large parts of the tree canopy. **Councilor Batey and Rogers** remarked on using tree canopy loss to determine a mitigation fee.

Rogers discussed the proposed residential development tree canopy standards meant to preserve the canopy through intentional plantings. **Councilor Batey, Passarelli, and Rogers** remarked on the possibility of developers planting but not caring for trees over time and the requirement to obtain financial bonds to protect tree plantings.

Rogers explained how the proposed canopy standards accounted for the preservation of significant trees. **Councilors Falconer and Batey and Rogers** remarked on the need to discuss the proposed tree code along with the housing code changes to weigh the costs of preserving trees with the need for more housing. **Mayor Gamba** suggested Council was getting into the deliberation part of the hearing.

Rogers discussed residential development tree removal situations where permits and fees would apply and what mitigation steps a developer could take to avoid fees while preserving the existing tree canopy. **Rogers** suggested the goal of the tree code was to make sure that trees were considered and incorporated into development projects.

Rogers reviewed the proposed tree code enforcement fees and how affordable housing developments could avoid the financial impacts of mitigation fees. **Rogers** noted next steps in the Council hearing process on the proposed tree code.

Correspondence: No additional correspondence had been received on the tree code.

Mayor Gamba recessed the meeting at 8:00 p.m. and reconvened at 8:08 p.m.

Conduct of Hearing: **Mayor Gamba** reviewed the public comment procedures.

Audience Testimony:

Neil Schulman, North Clackamas Watershed Council (NCWC), expressed support for the proposed tree code and remarked on how the city and NCWC could work with developers to build new housing and save trees. **Schulman** suggested that the proposed code should retain the city's tree canopy standards, that the alternate mitigation fee schedule introduced by staff should be adopted, and that the city work with NCWC to develop strong development tree planting plans.

Ted Labbe, Urban Greenspaces Institute (UGI), agreed with Schulman, suggested that the proposed code was unique among city codes in the region, and urged Council to adopt the proposed tree code and middle housing code changes.

Paul Anderson, Milwaukie resident, remarked that the city's 40% tree canopy goal was unrealistic and suggested that charging fees meant to help the community meet an unachievable outcome was not right. **Anderson** added that forgoing residential housing spacing requirements to protect trees was not a good idea.

Micah Meskel, Portland Audubon Society, and member of the Comprehensive Plan Implementation Committee (CPIC) commended the city for working on the proposed tree, housing, and parking code changes and agreed with Schulman and Labbe. **Meskel** suggested changes to the proposed tree code to further protect significant large heritage trees and the proposed housing code to better retain the tree canopy and replace trees lost to construction. **Meskel** commented on partnerships the Audubon Society had sought with private property owners to maintain existing trees.

Mayor Gamba commented on continuing the hearing to the next regular session and Council expressed support for the plan to take further testimony.

Staff Response to Testimony: **Rogers** commented on the feasibility of the city reaching the 40% tree canopy goal, noting how the goal had been developed through and remarking on how the goal would be balanced with construction needs on a development project-by-project basis.

Rogers responded to the proposal to change the code to further protect large heritage trees, noting that staff supported such a program and planned to investigate such a program after the code was adopted. **Mayor Gamba**, **Rogers**, and **Councilor Batey** remarked on whether the tree code could be adjusted to include additional large tree protections to protect heritage trees until the city had a heritage tree program.

Council President Hyzy asked about bonding for a tree and **Passarelli** explained when and how a property owner or developer would secure a warranty bond to ensure that newly planted trees are protected or replaced. **Councilor Batey** commented on personal experiences in seeking a bond for new plantings. **Councilor Batey** and **Passarelli** noted that bonding details would be in the Master Fee Schedule.

Audience Testimony (continued):

Anderson suggested the 40% tree canopy goal had not been tested and many properties would not be able to meet the goal and would have to pay a lot of fees.

Anthony Allen, Milwaukie resident, thanked the city for the work on the tree code and agreed with Anderson that the tree code seemed unfair to smaller property owners that would not be able afford fees imposed by the code. **Mayor Gamba** clarified that the canopy goal would only be triggered if a property were developed. **Rogers** concurred with Mayor Gamba, reported that many properties in the city were already at or near the canopy goal, and commented on what the community could do to meet the goal.

Stauffer noted that Anderson had expressed interest in speaking again and **Mayor Gamba** explained the public hearing comment process, noting opportunities for public comments to be made at future hearings on the tree code. **Rogers** noted that community members could email their questions to staff.

Mayor Gamba reviewed the plan to hear an updated staff report and take further comments at the next hearing on the proposed tree code.

Continue Hearing: It was moved by Council President Hyzy and seconded by Councilor Falconer to continue the hearing on the Comprehensive Plan Code Amendments, file #ZA-2021-002, to a date certain of February 15, 2022. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

9. COUNCIL REPORTS

None.

10. ADJOURNMENT

It was moved by Councilor Nicodemus and seconded by Councilor Falconer to adjourn the Regular Session. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Mayor Gamba adjourned the meeting at 8:57 p.m.

Respectfully submitted,



Scott Stauffer, City Recorder

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