



COUNCIL REGULAR SESSION

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

2352nd Meeting

MINUTES

FEBRUARY 15, 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
Justin Gericke, City Attorney
Vera Kolas, Senior Planner
Ann Ober, City Manager

Peter Passarelli, Public Works Director
Natalie Rogers, Climate & Natural Resources Manager
Scott Stauffer, City Recorder

Mayor Gamba called the meeting to order at 6:02 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Gamba announced upcoming community activities, including a North Clackamas Park habitat enhancement event, a women's history month heritage lecture, a bilingual poetry reading, and a managing mason bees' demonstration.

3. PROCLAMATIONS AND AWARDS

A. Milwaukie High School (MHS) Outstanding Student Achievement – Award

Carmen Gelman, MHS Principal, introduced Monty Woods and Council congratulated them on their academic and extra-curricular activities.

B. MHS Update – Report

Gelman reported that the school's graduation rate had increased the last three years amid building construction and the COVID-19 pandemic and discussed equity and culture training and conversations being developed for the next school year.

C. Japanese American Incarceration Day of Remembrance – Proclamation

Councilor Falconer and the Milwaukie Historical Society's **Jacob Sherman** introduced the proclamation. Milwaukie resident **Kay Endo** spoke on the experiences of Japanese Americans who were incarcerated during World War II. **Mayor Gamba** proclaimed February 19, 2022, to be Japanese American Incarceration Remembrance Day.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

Mayor Gamba reviewed the public comment procedures and **Ober** reported that there was no follow-up report from the February 1 community comments.

Kiran Das Bala, Milwaukie resident, remarked on non-city related personal matters.

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 18, 2022, Work Session, and
2. January 18, 2022, Regular Session.

B. Resolution 14-2022: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing a Court amnesty program from May 1 to July 30, 2022.

C. Resolution 15-2022: 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 an agreement for professional planning services for the Housing Capacity Analysis and Housing Production Strategy reports.

D. Resolution 16-2022: A resolution of the City Council of the City of Milwaukie, Oregon, authorizing an engineering services contract with Tetra Tech, Inc. to provide professional services for the SCADA system upgrade.

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

City Manager Updates – Report

Ober provided an update on plans to return to in-person meetings as daily COVID-19 case numbers continued to decline. It was Council consensus to hold in-person meetings beginning March 1, 2022.

Ober noted an ongoing discussion about a regional approach to houselessness and reported that staff supported the city participating in such an approach. **Mayor Gamba** believed the only concerns raised had been related to the proposal for large-scale shelters and **Ober** observed that Council supported signing such a letter.

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 amendments to the code, file #ZA-2021-002, to order at 6:56 p.m.

Purpose: **Mayor Gamba** announced that the purpose of the hearing was to take public comment on the proposed tree code amendments as part of a multi-meeting hearing on the Comprehensive Plan code implementation project.

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

Staff Presentation: **Rogers** reviewed changes made to the tree code amendments since Council’s last hearing on the topic and addressed comments made by community members at the last hearing, explaining how the city’s 40% tree canopy coverage goal had been set. **Councilor Batey** and **Rogers** remarked on what planning zones would be covered by the proposed tree code. **Council President Hyzy** suggested that the canopy goal map presented by staff be made available to the public and **Rogers** highlighted online interactive mapping tools the public could access.

Rogers explained that the Cereghino Farms subdevelopment had not been built to meet the city's tree canopy goal because it had been developed under county standards before being annexed into the city. **Rogers** asked if Council had any questions.

Councilor Batey and **Rogers** discussed what the city would require on a lot being developed if no trees were being removed. They noted that the city would not require all tree work to be certified by an arborist and remarked on why the proposed fees for tree work on private property were higher than the fees for removing trees in the public right-of-way (ROW). The group commented on how the code would determine if a tree on a property line was a public or private tree and how the tree canopy credit would be assigned to a property owner if a tree was partially in the ROW.

Councilor Batey and **Passarelli** remarked on why the proposed code used a 12-inch tree diameter to trigger certain requirements.

Audience Testimony:

Stephan Lashbrook, Milwaukie resident, suggested there should be a simple no fee permit structure for removing dead trees, agreed with a neighbor that there should be exceptions for trees planted for harvesting, and expressed support for the tree code.

Correspondence: **Stauffer** and **Rogers** reviewed the correspondence received by Council regarding the proposed tree code.

Conduct of Hearing: **Mayor Gamba** reviewed the hearing testimony procedures.

Audience Testimony (continued):

Neil Schulman, North Clackamas Watershed Council (NCWC) Executive Director, expressed support for the proposed tree code and urged Council to adopt the tree code.

Sherman, Planning Commissioner, expressed support for the proposed tree code.

Staff Response to Testimony: **Rogers** suggested staff could continue to work on a no-fee dead tree permit. **Councilor Batey** and **Rogers** noted that determining if a tree was truly dead required a certain level of arborist experience. **Passarelli** believed the city's urban forester could be asked to determine if a tree was dead.

Questions from Council to Staff: **Councilor Batey** asked about including an exemption for harvest trees and **Passarelli** reported that the city's Tree Board had discussed harvest tree exemptions. The group remarked on tree harvesting and the challenges of writing a clear code that dealt with gray areas such as agricultural trees.

Councilor Falconer asked when the tree permit process would be launched. **Rogers** reported that the city was in the process of acquiring a new permitting system to support tree and other permits. **Ober** noted that Council needed to adopt the code before staff could implement a permitting process. **Passarelli** added that staff were working on a public engagement plan to inform the public about the new code.

The group discussed how Council should proceed with all the tree, housing, and parking code packages at the current and future hearings, noting Council interest in starting deliberation, taking comments, and getting through the staff reports.

Audience Testimony (continued):

Carol Dean Butcher, Milwaukie resident, expressed concern about the proposed tree code and asked about permit fees. **Mayor Gamba** explained that the fees had been included in the meeting packet and encouraged Butcher to review that document.

The group noted that a comment had been typed into the Zoom chat by **Marcy** regarding the ability of property owners to thin trees. **Rogers** explained that the proposed tree code would allow for tree thinning through a \$50 application fee.

Close Public Comment: **It was moved by Councilor Falconer and seconded by Council President Hyzy to close the public comment part of the hearing on the proposed tree code amendments. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]**

Mayor Gamba closed the public hearing at 8:02 p.m.

Mayor Gamba recessed the meeting at 8:02 p.m. and reconvened at 8:06 p.m.

Council Discussion: **Mayor Gamba** and **Council President Hyzy** discussed the definition of tree crown used in the proposed code and **Passarelli** suggested staff would review the definition. **Councilor Batey** asked that staff also look at the definition of diameter at breast height (DBH).

Mayor Gamba and **Ober** noted that the proposed code referred to a planning manager, a title that could change, and agreed that the position should be referred to as the “city manager’s designee.”

Mayor Gamba cited a section of the proposed code referring to clearing trees in the ROW and suggested it be clarified to ensure that lines of site are maintained. **Passarelli** noted that the proposed code had used the city’s existing code language.

Mayor Gamba cited a section of the proposed code referring to dead or diseased trees on private land and suggested that the section be clarified to explain how the city would find out about dead trees. **Passarelli** reported that the language was in the current code and that to-date such reports of dead trees had been from neighbors not city staff.

Mayor Gamba cited a section of the proposed code referring to trees on affordable housing properties and remarked that the code made it sound like the city didn’t think trees were as important for low-income people. The group discussed how to incentivize street trees on affordable housing properties while not creating more challenges for developing affordable housing.

Mayor Gamba asked if Council wanted to reduce or remove fees for tree mitigation standards for affordable housing. **Councilor Falconer** suggested it was hard to consider the tradeoffs between trees and housing without considering the housing code amendments. **Council President Hyzy** suggested Council deliberate on non-housing related tree code items at the current meeting and wait for the other code packages before discussing the housing related tree code items. **Councilor Batey** noted Council could revisit the tree code after hearing the housing code and expressed support for reducing but not removing the mitigation fees for affordable housing units. **Passarelli** noted that the proposed fee structure for affordable housing would reduce tree preservation fees by 50%. **Councilor Nicodemus** wanted to hear the housing and parking code amendments before deliberating on the tree code. **Council President Hyzy** and **Mayor Gamba** remarked on how to proceed with deliberations at the current hearing.

Mayor Gamba suggested that part of the proposed tree code’s public ROW section was confusing. **Passarelli** commented on the intent of the section. **Council President Hyzy** remarked that much of the proposed code was confusing and suggested that tools be

developed to help the public understand what the code requires. **Passarelli** noted staff planned to run an outreach campaign regarding the tree code when it was adopted.

Mayor Gamba and **Rogers** discussed why the ROW section of the proposed code did not make street trees part of a housing development, noting the benefits of street and yard trees. **Councilor Batey** remarked on why street trees may be less valuable, and **Mayor Gamba** commented on the benefit of street trees. **Passarelli** suggested the goal of the code was to enhance the city's other tree planting requirements. **Councilor Falconer** agreed about the value of street trees and understood why the city would not require them if there were other ways to increase the tree canopy.

Councilor Falconer and **Mayor Gamba** remarked on how Council would consider all three code amendment packages given how much the policy choices overlapped.

The group commented on scenarios where the tree and housing policies would conflict. They noted there were guides that indicated how big a tree's canopy would get at full growth and remarked on whether property owners would intentionally plant trees they knew would need to be removed in a few years.

Mayor Gamba cited a section of the proposed code referring to the number of trees to be planted when replacing a tree with a DBH over 18-inches and suggested the code needed more visuals to explain the requirements.

Mayor Gamba remarked on the importance of street trees.

Councilor Batey expressed concern about the use of the word "contiguous" in the section of the proposed tree code referring to soil health and noted there was a gap in the code section numbering. **Rogers** explained that some of the code numbering had been brought from the existing code and some sections had been left empty to allow space for future code changes.

Councilor Batey suggested it might be better to use the term "fees-in-lieu-of-planting" in sections of the proposed code relating to canopy standards. **Passarelli** noted staff could look at using the phrase in the proposed code.

Council President Hyzy remarked on the complexity of code language in the proposed code which was causing the public to be concerned, and suggested the city needed to do a better job of relaying the intent of the code to the public. **Rogers** reported staff had heard the same concern and agreed that outreach and advocacy to explain the code once adopted would be important. **Passarelli** agreed that staff would review the code to simplify language where possible and **Councilor Batey** noted that certain language was required by state law.

Mayor Gamba thanked staff for their work on the code. **Rogers** suggested other cities were watching Milwaukie's process as a model for improving their tree codes.

Mayor Gamba and **Ober** remarked that Council's intention was to continue the tree code hearing to March 15, 2022.

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

B. Comprehensive Plan Implementation, Housing and Parking Code Amendments – Ordinance and Resolution

Call to Order: **Mayor Gamba** called the public hearing on the proposed housing and parking amendments to the code, file #ZA-2021-002, to order at 9:04 p.m.

Mayor Gamba announced that Council would continue the hearing to March 1, 2022.

Continue Hearing: **It was moved by Councilor Falconer and seconded by Council President Hyzy to continue the hearing on the Comprehensive Plan housing and parking code amendments, file #ZA-2021-002, to a date certain of March 1, 2022. Motion passed with the following vote: Councilors Falconer, Batey, Nicodemus, and Hyzy and Mayor Gamba voting “aye.” [5:0]**

Mayor Gamba and **Ober** noted expectations for staff reports, public comment, and Council deliberation on the code amendment hearings on March 1 and March 15.

9. COUNCIL REPORTS

Mayor Gamba and **Council President Hyzy** commented that the reach building energy code bill would not be adopted by the legislature during the 2022 session.

Council President Hyzy reported that Oregon Department of Transportation (ODOT) hearings on the proposal to charge tolls on the Interstate-205 bridge at Oregon City would be happening soon. **Councilor Batey** noted that ODOT had announced upcoming signal changes on Hwy 224.

Ober reminded Council and the public that the next Council meetings, including the code hearings, would be held in person at city hall.

10. ADJOURNMENT

It was moved by Councilor Nicodemus and seconded by Council President Hyzy 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 9:11 p.m.

Respectfully submitted,



Scott Stauffer, City Recorder