

2375th Meeting**COUNCIL REGULAR SESSION****MINUTES**

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

FEBRUARY 21, 2023

Council Present: Councilors Robert Massey, and Rebecca Stavenjord, Council President Desi Nicodemus, and Mayor Lisa Batey

Council Absent: Councilor Adam Khosroabadi

Staff Present: Justin Gericke, City Attorney
Ann Ober, City Manager
Tim Salyers, Code Compliance Coordinator

Scott Stauffer, City Recorder
Luke Strait, Police Chief

Mayor Batey 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 Batey announced upcoming events, including the annual board and committee recruitment, a city manager open door session, a Ledding Library heritage lecture, the annual watershed wide clean-up event, a repair fair at the library, and noted that the city was looking for sponsors to support a 2023 Carefree Sunday event.

3. PROCLAMATIONS AND AWARDS

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

Kim Kellogg, MHS Principal, introduced Khaicjae Kaleiohi and Council congratulated them on their academic and extra-curricular activities. **Kellogg** provided an update on activities at MHS, including recognition of the MHS Special Olympics basketball team.

4. SPECIAL REPORTS

A. Celebrating Black Excellence Month – Report

Council President Nicodemus commented on MHS' Celebrating Black Excellence activities, offered advice to Black students, and introduced MHS Black Student Union (BSU) members Mariah Wells, Blain Ketema, Olivia Bordallo, and Octobio Jenkins. **Wells, Ketema, Bordallo, and Jenkins** remarked on celebrating Black excellence.

B. Clackamas Fire District #1 (CFD1) Levy – Report

Ober introduced Nick Brown, CFD1 Fire Chief, and Brian Stewart, CFD1 Assistant Fire Chief. **Brown** and **Stewart** explained why the district had referred a levy to voters at the May 2023 election. They discussed the district's staffing issues, wildfire response capabilities, and the district's plan to use the levy revenue to hire additional fire fighters.

The group discussed the lack of state and federal resources available for wildfires, how long it would take CFD1 to hire new firefighters if the levy were approved, and the

minimum staffing requirements for urban and rural fire stations. They noted the reimbursement funds the district receives from the county for non-fire 9-1-1 calls and how those funds can be used.

Brown reported that CFD1 was one of the only fire districts that had never gone out for an operating levy before. The group noted that levies must be renewed by voters every five years and **Brown** commented on the likelihood that the district would have to ask voters to approve another capital bond in the future.

Mayor Batey asked about fire district response protocols to emergency calls and **Brown** explained why the district responds differently than paramedic units.

5. COMMUNITY COMMENTS

Mayor Batey noted that Councilor Khosroabadi had been excused from the meeting.

Mayor Batey reviewed the comment procedures. **Ober** reported there was no follow-up from the February 7 comments. No audience member wished to speak to Council.

6. CONSENT AGENDA

It was moved by Councilor Stavenjord and seconded by Council President Nicodemus to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:

1. January 10, 2023, study session.
2. January 17, 2023, work session,
3. January 17, 2023, regular session, and
4. January 28-29, 2023, retreat.

B. Resolution 9-2023: A resolution of the City Council of the City of Milwaukie, Oregon, adopting the Council Communication Agreement.

C. Motion to confirm the 2023 Council committee assignments.

Motion passed with the following vote: Councilors Massey, Nicodemus, and Stavenjord and Mayor Batey voting “aye.” [4:0]

7. BUSINESS ITEMS

~~**A. Parks Levy Ballot Measure Referral – Resolution**~~ (removed from the agenda)

~~**B. Council Goals – Discussion**~~ (removed from the agenda)

8. PUBLIC HEARING

A. Fireworks Ban Adoption – Ordinance

Call to Order: **Mayor Batey** called the public hearing on the proposed amendments to the code to order at 7:25 p.m.

Purpose: **Mayor Batey** announced that the purpose of the hearing was to take public comment on the proposed fireworks ban ordinance.

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

Staff Presentation: **Salyers** introduced the proposed ordinance, noted previous Council discussions, and explained current and proposed firework restrictions.

Correspondence: **Stauffer** reported that three emails had been received on the topic.

Conduct of Hearing: **Mayor Batey** reviewed the hearing procedures.

Audience Testimony: **Carol Addison**, unincorporated Clackamas County resident, noted the importance of firework fundraisers for local non-profit groups and encouraged Council to not ban the sale of fireworks in Milwaukie that were legal in Oregon. **Mayor Batey** and **Addison** noted the location of non-profit firework stands.

Jason Trout, TNT Fireworks regional manager, noted there were two permitted firework sales locations in the city, underscored the importance of firework sales for non-profit groups, and encouraged Council to not adopt a total ban on all fireworks.

Staff Response to Testimony: **Salyers** noted that the city did not provide code enforcement services outside city limits where Addison resided.

Close Public Comment: **It was moved by Councilor Stavenjord and seconded by Councilor Massey to close the public comment part of the hearing on the proposed fireworks ban ordinance. Motion passed with the following vote: Councilors Massey, Nicodemus, and Stavenjord and Mayor Batey voting “aye.” [4:0]**

Mayor Batey closed the public hearing at 7:39 p.m.

Council Discussion: **Councilor Massey** remarked on the testimony received from non-profit groups, the confusing approach to firework bans in other cities and suggested that the public safety concerns of firework use outweighed the good work done by non-profit groups who fundraise through firework sales.

Councilor Massey expressed concern about the proposed \$1,000 fine for violating a firework ban. **Councilor Stavenjord** and **Mayor Batey** asked about the proposed fine amount. **Salyers** explained that \$1,000 would be the maximum fine amount and the municipal court judge would have discretion in reducing the fine amount. **Salyers** remarked on code enforcement staff’s approach to issuing citations.

Council President Nicodemus and **Councilor Stavenjord** agreed with Councilor Massey and expressed support for adopting the ordinance to ban fireworks, noting public safety and environmental concerns. **Mayor Batey** agreed with Council’s remarks.

The group discussed how much the fine amount should be for using fireworks, noting staff and the judge’s ability to apply lower amounts. It was Council consensus to leave the ordinance with a fine up to \$1,000.

Council Decision: **It was moved by Council President Nicodemus and seconded by Councilor Massey for the first and second readings by title only and adoption of the ordinance amending Municipal Code (MMC) Chapter 9.18 Fireworks to prohibit the sale, possession, and use of consumer fireworks. Motion passed with the following vote: Councilors Massey, Nicodemus, and Stavenjord and Mayor Batey voting “aye.” [4:0]**

Ober read the ordinance two times by title only.

Stauffer polled the Council with Councilors, Massey, Nicodemus, and Stavenjord and **Mayor Batey** voting “aye.” [4:0]

Ordinance 2225:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE (MMC) CHAPTER 9.18 FIREWORKS TO PROHIBIT THE SALE, POSSESSION, AND USE OF CONSUMER FIREWORKS).

9. COUNCIL REPORTS

A. Legislative and Regional Issues – Discussion

Stauffer provided an update on legislation being tracked by the city and the group discussed pending bills and whether Council needed to submit testimony on any issue.

The group reviewed two Council letters proposed by Mayor Batey and discussed the process for Council and staff to review, edit, and submit policy letters. It was Council consensus to wait to submit a letter in support of the bill addressing electric bike rebates and to submit the letter regarding the creation of a utility rate payer assistance fund.

Mayor Batey discussed the status of bills addressing the state REACH building code, hazardous railroad regulations, utility regulations, and federal broadband funding.

Ober reported that staff had learned about an Oregon Department of Transportation (ODOT) list about proposed street crosswalk closures and the group discussed the potential impact of the closures on the city's sidewalks.

Councilor Stavenjord reported providing testimony in support of a bill that would lower the voting age in Oregon to 16 and had attended several regional meetings.

Mayor Batey reported meeting with the chief executive officer (CEO) of Portland General Electric (PGE) regarding their request for a rate increase. **Batey** suggested that the CEO planned to present PGE's case at a Council meeting in the spring.

10. ADJOURNMENT

It was moved by Council President Nicodemus and seconded by Councilor Massey to adjourn the Regular Session. Motion passed with the following vote: Councilors Massey, Nicodemus, and Stavenjord and Mayor Batey voting "aye." [4:0]

Mayor Batey adjourned the meeting at 8:37 p.m.

Respectfully submitted,



Scott Stauffer, City Recorder