



COUNCIL REGULAR SESSION

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

2377th Meeting

MINUTES

MARCH 21, 2023

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

Staff Present: Jennifer Garbely, Assistant City Engineer
Justin Gericke, City Attorney
Brett Kelper, Senior Planner
Ann Ober, City Manager

Peter Passarelli, Public Works Director
Scott Stauffer, City Recorder
Laura Weigel, Planning Manager

Mayor Batey called the meeting to order at 6:09 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Batey announced upcoming activities, including the city's annual board and committee recruitment, a city manager open door session, Earth Day events, and a prescription drug drop-off and document shredding event. **Councilors Stavenjord and Khosroabadi** wished all Milwaukians a peaceful Ramadan.

3. PROCLAMATIONS AND AWARDS

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

Kim Kellogg, MHS Principal, introduced Norah Schmidt and Council congratulated them on their academic and extra-curricular activities.

B. Welcome Home Vietnam Veterans Day – Proclamation

Stauffer commented on the Welcome Home Vietnam Veterans event the community held on March 18 and thanked the veterans service groups who supported the event for their work. Council received reports on veteran support programs and projects from **Jerry Craig** with American Legion Post 180; **Phyllis Hines** with the Susannah Lee Barlow Chapter Daughters of the American Revolution (DAR); **Siri Bernard**, Milwaukie Historical Society; **Tina Kennedy**, Fort Kennedy; **Robert Haltiner**, Disabled American Veterans (DAV); **Gus Bedwell**, Clackamas County Veterans Service Office; and **Christina Wood**, the Mission Continues. **Mayor Batey** proclaimed March 29, 2023, to be Welcome Home Vietnam Veterans Day in Milwaukie.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

Mayor Batey reviewed the comment procedures. **Stauffer** noted that no audience member wished to address Council.

6. CONSENT AGENDA

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

~~A. City Council Meeting Minutes: (removed from the agenda)~~

- ~~1. February 14, 2023, study session,~~
- ~~2. February 21, 2023, Work Session, and~~
- ~~3. February 21, 2023, Regular Session.~~

B. An Oregon Liquor and Cannabis Commission (OLCC) application for Eastside Distilling, 2150 SE Hannah Harvester Drive – Name Change.

Motion passed with the following vote: Councilors Khosroabadi, Massey, Nicodemus, and Stavenjord and Mayor Batey voting “aye.” [5:0]

7. BUSINESS ITEMS

A. Meek Street Project Property Purchase – Resolution

Garbely provided an overview of the Meek Street Stormwater Project, noted the need to improve the stormwater infrastructure in the area around Harrison, Meek, and Oak streets, and the long-term effort required to acquire the property from the railroad.

Mayor Batey thanked staff for their work on the project and noted that the requested action was for the city to buy property and approve a property easement.

It was moved by Councilor Stavenjord and seconded by Councilor Khosroabadi to approve the resolution authorizing the acquisition of property and easements from the Union Pacific Railroad (UPRR) Company. Motion passed with the following vote: Councilors Khosroabadi, Massey, Nicodemus, and Stavenjord and Mayor Batey voting “aye.” [5:0]

Resolution 16-2023:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE ACQUISITION OF PROPERTY AND EASEMENTS FROM THE UNION PACIFIC RAILROAD (UPRR) COMPANY.

Mayor Batey recessed the meeting at 7:41 p.m. and reconvened at 7:48 p.m.

8. PUBLIC HEARING

A. Downtown Design Review (DDR) Adoption – Ordinance

Call to Order: **Mayor Batey** called the continued public hearing on the proposed DDR code amendments, File #ZA-2022-003, to order at 7:49 p.m.

Purpose: **Mayor Batey** announced that the purpose of the hearing was to take public comment on the proposed DDR code amendments.

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

Staff Presentation: **Kelver** provided an overview of the multi-year effort to review and update the DDR code, provided a comparison of the current and proposed code, and noted issues addressed by the Design and Landmarks Committee (DLC) including unclear discretionary review types, aligning processes, limiting street-facing blank walls, and reorganizing how the DDR code is arranged.

Kelver reported that the Planning Commission had recommended Council adopt the proposed DDR code changes and noted several minor adjustments to the ordinance that staff had made since the ordinance had been posted for the hearing. **Kelver** noted Council's decision-making options and the relevant approval criteria.

Mayor Batey asked about the blank-wall issue and a proposed public art program. **Kelver** commented on the inclusion of art in downtown and the recent use of blank walls. **Batey** and **Kelver** noted development requirements related to blank walls and how public art murals are reviewed by the Arts Committee.

Councilor Khosroabadi and **Kelver** remarked on why a public art option requirement had not been proposed, noting the difficulty in defining a mural in clear and objective terms. **Gericke** noted issues related to requiring art on private property. **Kelver** observed that staff wasn't against a public art program but believed the DDR code was not the right place for such a program.

Mayor Batey, **Kelver**, and consultant **Elizabeth Decker** discussed the proposed changes to right-of-way (ROW) weather protection requirements. They commented on the proposal to increase the allowed height of the ground floor of commercial buildings to 15-feet to accommodate heating, air conditioning, and ventilation (HVAC) systems.

Correspondence: Staff reported that one set of written comments had been received.

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

Audience Testimony:

Greg Hemer, Milwaukie resident, suggested the city would not need to judge art in public spaces and encouraged Council to add an art program to the proposed DDR code changes. **Mayor Batey** and **Hemer** noted that Hemer's proposal did not include or identify a body to review a public art proposal.

Jacob Sherman, Milwaukie resident, thanked staff for their work on the DDR code and proposed changes to the DDR code related to art and artistic elements in open spaces. **Mayor Batey** and **Sherman** commented on artistic elements and **Councilor Massey** and **Sherman** noted that the Planning Commission had voted to recommend Council adopt the proposed DDR code although some commissioners had sent a letter encouraging Council to add a public art program. **Batey** and **Sherman** noted that the Commission had not spoken to the Arts Committee about the program.

Staff Response to Testimony:

Mayor Batey noted that Council had previously discussed a public art program.

Gericke remarked on the need for clear and objective criteria in the DDR code and why an arts program could not meet that criteria and suggested that state law did allow cities to adopt an art program on private property. The group commented on whether Council could enact a tax or fee for an arts program, whether the DDR was the right vehicle for an arts program, and the challenges of identifying criteria for public art.

Gericke, **Ober**, and **Weigel** remarked on what the city could do to develop an arts program, noting the impact such a program would have on staff workload.

Questions from Council to Staff:

The group commented on the legality of Hemer's arts program proposal, the challenges of requiring public art on private property, and what is the appropriate vehicle for an art on private property program.

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

Mayor Batey closed the public hearing at 9:02 p.m.

Council Discussion:

Mayor Batey agreed that Hemer’s proposal was not clear and objective and should not be included in the proposed DDR code changes.

Councilor Massey suggested Council continue the hearing to another meeting to allow time to gather more information about whether the city could levy an art tax. Council discussed whether more information would inform Council’s vote on the proposed DDR program and noted the proposed code changes included other references to art.

Council President Nicodemus and Mayor Batey suggested Council adopt the DDR code at the present meeting and revisit public art at a future meeting. Councilor Massey did not believe a continuance would cause an issue.

Ober observed that creating an arts program would require a years’ worth of community outreach and noted what staff would do if Council postponed adoption of the DDR code.

Councilors Stavenjord and Khosroabadi wanted the city to consider an arts program and did not believe the proposed DDR code adoption needed to be delayed. Gericke and Khosroabadi commented on how an arts tax could be added to the code later.

Councilor Massey supported adopting the DDR code at the present meeting. Mayor Batey and Massey noted there were development projects waiting for an updated DDR code and the group commented on keeping an arts program on the city’s radar.

Council Decision: It was moved by Council President Nicodemus and seconded by Councilor Khosroabadi for the first and second readings by title only and adoption of the ordinance amending Municipal Code (MMC) Title 19 Zoning Ordinance for the purpose of updating and reorganizing the Downtown Design Review process (File #ZA-2022-003). Motion passed with the following vote: Councilors Khosroabadi, Massey, Nicodemus, and Stavenjord and Mayor Batey voting “aye.” [5:0]

Ober read the ordinance two times by title only.

Stauffer polled the Council with Councilors Khosroabadi, Massey, Nicodemus, and Stavenjord and Mayor Batey voting “aye.” [5:0]

Ordinance 2226:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE (MMC) TITLE 19 ZONING ORDINANCE FOR THE PURPOSE OF UPDATING AND REORGANIZING THE DOWNTOWN DESIGN REVIEW PROCESS (FILE #ZA-2022-003).

9. COUNCIL REPORTS

A. Council Goals Adoption – Resolution

Mayor Batey explained that the goals resolution would be moved to a future meeting.

10. ADJOURNMENT

Councilor Khosroabadi wished Iranians a happy Persian new year!

Mayor Batey announced that after the meeting Council would continue an executive session meeting started before the regular session pursuant to Oregon Revised Statute (ORS) 192.660 (2)(h) to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

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

Mayor Batey adjourned the meeting at 9:25 p.m.

Respectfully submitted,



Scott Stauffer, City Recorder

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