

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
September 20, 2011**

CALL TO ORDER

Mayor Ferguson called the 2110th meeting of the Milwaukie City Council to order at 7:06 p.m. in the City Hall Council Chambers.

Present: Mayor Ferguson, Council President Greg Chaimov and Councilors Dave Hedges, Joe Loomis, and Mike Miller

Staff present: Assistant to the City Manager Teri Bankhead, City Attorney Tim Ramis, City Recorder Pat DuVal, Finance Director Richard Seals, and Public Affairs Coordinator Grady Wheeler

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School Students of the Month

The City Council and Principal Mark Pinder recognized David Santillan-Delgado and Jonatan Santillan-Delgado as Milwaukie High School Students of the Month.

CONSENT AGENDA

It was moved by Councilor Chaimov and seconded by Councilor Hedges to adopt the consent agenda with the correction to the August 16, 2011 regular session minutes. Motion passed with the following vote: Councilors Chaimov, Hedges, Loomis, and Miller and Mayor Ferguson voting "aye." [5:0]

A. City Council Minutes:

1. July 19, 2011 Work Session;
2. July 19, 2011 Regular Session; and
3. August 2, 2011 Work Session

B. OLCC Application – Pacific Oil, 10966 SE McLoughlin Blvd. – change of ownership

Constitution Week Proclamation

Mayor Ferguson read a proclamation naming September 17 through 23, 2011 as *Constitution Week* in the City of Milwaukie.

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Resolutions Appointing John Fox, Ronald Palmer, and Jeffrey Dondino, MD to the Milwaukie Budget Committee

It was moved by Mayor Ferguson and seconded by Councilor Chaimov to adopt the resolutions appointing John Fox, Ronald Palmer, and Jeffrey Dondino, MD to the Milwaukie Budget Committee.

Councilor Hedges stated he would abstain from voting. As he had explained to Mr. Fox and Mr. Palmer, he had no issues with their appointments but was concerned the interview process had not been followed and not all applicants were treated equally.

RESOLUTION 83-2011:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING JOHN FOX TO THE MILWAUKIE BUDGET COMMITTEE

RESOLUTION 84-2011:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING RONALD PALMER TO THE MILWAUKIE BUDGET COMMITTEE

RESOLUTION 85-2011:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING JEFFREY DONDINO, MD TO THE MILWAUKIE BUDGET COMMITTEE

Councilor Chaimov suggested revisiting the process for interviews and appointments to advisory boards, commissions, and committees at the next study session.

D. Resolution Amending Resolution 22-2010 as to the Term of Office for Budget Committee Member Gabe Storm

It was moved by Mayor Ferguson and seconded by Councilor Hedges to adopt the resolution amending Resolution 22-2010. Motion passed with the following vote: Councilors Chaimov, Hedges, Loomis, and Miller and Mayor Ferguson voting “aye.” [5:0]

RESOLUTION 86-2011:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING RESOLUTION 20-2011 AS TO THE TERM OF OFFICE FOR BUDGET COMMITTEE MEMBER GABE STORM

B. Council Reports

Mayor Ferguson and Councilors provided an update on meetings they attended on behalf of the City.

ADJOURNMENT

It was moved by Mayor Ferguson and seconded by Councilor Chaimov by to adjourn the meeting. Motion passed with the following vote: Councilors Chaimov, Hedges, Loomis, and Miller and Mayor Ferguson voting “aye.” [5:0].

Mayor Ferguson adjourned the regular session at 7:33 p.m.

Respectfully submitted,

Pat DuVal, Recorder

REGULAR SESSION

Revised
AGENDA

MILWAUKIE CITY COUNCIL
SEPTEMBER 20, 2011

MILWAUKIE CITY HALL
10722 SE Main Street

2110th MEETING

REGULAR SESSION – 7:00 p.m.

- | | Page
No. |
|---|---------------------|
| 1. CALL TO ORDER
Pledge of Allegiance | 1 |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | 1 |
| A. Milwaukie High School Student of the Month – David Santillan-Delgado and Jonatan Santillan-Delgado
Presenter: Mark Pinder, Milwaukie High School Principal | |
| B. Constitution Week Proclamation | 2 |
| 3. CONSENT AGENDA <i>(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the “Consent” portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)</i> | 3 |
| A. City Council Minutes | |
| 1. July 20, 2011 Study Session | 4 |
| 2. August 2, 2011 Regular Session | 5 |
| 3. August 16, 2011 Regular Session | 11 |
| B. OLCC Application – Pacific Oil 10966 SE McLoughlin Blvd., change of ownership | 14-1 |
| 4. AUDIENCE PARTICIPATION <i>(The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie Municipal Code, only issues that are “not on the agenda” may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal Code, “all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous.” The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)</i> | |
| 5. PUBLIC HEARING
<i>(Public comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)</i> | |

- A. None scheduled.
6. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)* 15
- A. **Letter of Interest – Metropolitan Area Communication Commission Membership – Resolution** 16
Staff: JoAnn Herrigel, Community Services Director
- A. **Resolution Appointing John Fox to the Milwaukie Budget Committee** 16
- B. **Resolution Appointing Ronald Palmer to the Milwaukie Budget Committee** 18
- C. **Resolution Appointing Jeffrey Dondino, M.D. to the Milwaukie Budget Committee** 19
- D. **Resolution Amending Resolution 22-2010 as to the Term of Office for Budget Committee Member, Gabe Storm** 20
- E. **Council Reports**
7. **INFORMATION**
8. **ADJOURNMENT**

Public Information

- **Executive Session:** The Milwaukie City Council may meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2).
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

2.

PROCLAMATIONS,
COMMENDATIONS,
SPECIAL REPORTS,
AND AWARDS

PROCLAMATION

WHEREAS, September 17, 2011, marks the two hundred twenty-fourth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

NOW, THEREFORE, I, Jeremy Ferguson, by virtue of the authority vested in me as Mayor of the City of Milwaukie in the State of Oregon do hereby proclaim the week of September 17 through 23 as

CONSTITUTION WEEK

And ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN WITNESS WHEREOF, I hereunto set my hand this
20th day of September 2011.

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal, City Recorder

3.
CONSENT AGENDA

**MINUTES
MILWAUKIE CITY COUNCIL STUDY SESSION
JULY 20, 2011**

Mayor Ferguson called the study session to order at 7:09 p.m.

Council Present: Mayor Ferguson, Councilors Chaimov, Loomis, Hedges, and Miller

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Finance Director Richard Seals, Public Affairs Coordinator Grady Wheeler, and Community Development and Public Works Director Kenny Asher

Options and Issues Regarding City Facilities

Mr. Asher referred to the June 2009 Faithful and Gould “Facility Condition Assessment and Inventory” and October 2010 Ankrom Moison “Space Assessment Study.” The group considered the costs of deferred maintenance and efficiencies versus consolidation costs.

The findings included the condition and operation of existing facilities and efficiencies in workflow and energy consumption if the workplaces were co-located. The City would need approximately a 40,000 square foot building for its current business processes. City facilities were mostly in fair condition rather than good and undersized. Interface Engineering was looking into a LEED certification. By co-locating departments the City would have excess real estate like the current City Hall to offset costs. Expenditures for existing buildings were reviewed including candidates for repair and remodel such as painting, roof repairs, HVAC, electrical, and exterior improvements. He outlined estimated energy and efficiency savings over the next 20-years of growth.

Mr. Monahan discussed the feasibility of renting some square footage to help cover costs until the City grew into a new facility. More information would need to be gathered in terms of maintenance.

Councilor Miller asked if there had been any consideration of not selling City Hall.

Mr. Asher replied it was a way to offset costs and could be a consideration. He discussed replacing the parking lot and moving the Sunday Market to South Downtown. A civic center could be a catalyst to other development and redevelopment. He noted the facilities made it difficult to provide the highest level of service.

Mr. Monahan observed the facility weaknesses of City Hall resulted in inefficiencies.

The group discussed use of the city hall parking lot for a new building.

Mayor Ferguson adjourned the study session at 8:04.

Respectfully submitted,

Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
August 2, 2011**

CALL TO ORDER

Mayor Ferguson called the 2107th meeting of the Milwaukie City Council to order at 7:02 p.m. in the City Hall Council Chambers.

Present: Mayor Ferguson, Council President Greg Chaimov, and Councilors Dave Hedges, Joe Loomis, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Community Services Director JoAnn Herrigel, Associate Planner Brett Kolver, Assistant to the City Manager Teri Bankhead, Community Development and Public Works Director Kenny Asher, Civil Engineer Jason Rice, Engineering Director Gary Parkin, Public Affairs Coordinator Grady Wheeler, and Planning Director Katie Mangle

PLEDGE OF ALLEGIANCE**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**

Ed Zumwalt expressed his appreciation to those who volunteered at Festival Daze and presented Mayor Ferguson with a special “hook” to get people off the stage as the need arose. He urged the City Council consider installing a temporary dock while Riverfront Park was being constructed.

Mayor Ferguson and Councilors thanked Mr. Zumwalt for all of his work to make Festival Daze a remarkably successful community event.

A. National Night Out Proclamation

Mayor Ferguson read a proclamation naming August 2, 2011, as “National Night Out” in the City of Milwaukie and called upon all citizens to join the Milwaukie Police Department and the National Association of Town Watch in supporting the 28th annual event.

B. Main Street Sewer Main Grant Program and Decommissioning Schedule Update

Mr. Rice provided history on the project and updated the City Council on the status of the Main Street Sewer Main Grant Program. The goal had been to ultimately abandon the old line within a five-year period, and the City Council established a grant program to help properties connect. Of the six remaining properties, staff believed five would connect within the identified timeframe. Extending the deadline at this point would probably only present a delay, and staff recommended staying with the original deadline to prevent further delays. There has been no communication with the sixth, remaining property owner, and the next step may be direct personal communication.

Councilor Chaimov believed the City Council should accept staff’s original recommendation for the scheduled decommissioning of the line.

Mr. Rice replied it appeared the property owners were waiting for the deadline whenever that might be. He suggested it was in the best interest of the community to move forward with the current decommissioning deadline.

Mayor Ferguson agreed it made sense to uphold the original schedule.

C. Baseball Update

Mr. Asher provided an update on the City Council goal of pursuing minor league baseball as an economic development initiative in Milwaukie. This was an update on the five elements: public involvement, site control, securing a team commitment, facility development, and financing. To date, there was no formally sanctioned public outreach effort. He discussed the Oregon Department of Transportation (ODOT) property, an 8-acre site on McLoughlin Boulevard. He updated the City Council and audience on the recent discussions with ODOT. TriMet was also a partner in acquiring a small segment for the alignment, and the site was being appraised.

Staff continues to work with Mike Higgins, former Sr. Vice President of Portland's PGE Park on attracting a franchise and securing a team commitment for a 4,000-seat stadium to house a single A team in the Northwest League similar to the teams in Keizer and Eugene. He hoped to have a formal agreement in place by September 15 to move forward into the next phase. He had not personally reached out to any teams in the Northwest League and planned to become more active on that front this fall. Assuming that progress continues with ODOT and a baseball partner, he recommended City Council establish a baseball task force this fall.

No work had been done on facility development. However, Mr. Asher believed it would fit on that site, but no land use planning or transportation work had taken place to date. There were some ideas about co-locating that might benefit the community. Finally, no financing work had been done because it depended on a number of factors that had not fallen into place yet.

Councilor Hedges would rather try and fail rather than fail to try.

Councilor Chaimov felt the City was trying to do what the residents wanted which was to enjoy the amenities that came with density but without the density. People wanted to come to town for family-friendly activities such as baseball. It had been noted on many occasions that there were insufficient funds to make improvements such as sidewalks in the hinterlands. The best way to do that was to raise property values throughout the City. If this effort were to work out, it would pay extra dividends to the entire community by making Milwaukie a walkable and sustainable community and a place where people wanted to live.

Councilor Miller enjoyed the game as would other Milwaukie citizens. He was not as concerned about the success of the baseball franchise as he was about how the park would be used the other 9 months of the year. The City Council needed to hear from citizens about what they wanted.

Councilor Loomis felt this project was do-able. This was a fantastic location close to light rail, bike lanes, and highways. Baseball will come back to this region, and it was important to create and follow a plan with help from Milwaukie citizens and our regional partners.

Mayor Ferguson commented Milwaukie's greatest asset was its location in the region and accessibility by a variety of transportation modes. He supported moving to the next step and creating a task force.

Tim Salyers, Milwaukie, spoke in support of the endeavor as resident and voter.

Councilor Loomis commented on other possible uses of the facility including a community arts center.

CONSENT AGENDA

It was moved by Councilor Hedges and seconded by Councilor Chaimov to approve the consent agenda as presented:

CITY COUNCIL REGULAR SESSION – AUGUST 2, 2011

DRAFT MINUTES

Page 2 of 6

- A. **Resolution No. 73-2011**: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Award of Contract for On-Call Construction Inspection Services in the Amount of \$50,000 Per Year for Two Budget Years; and
- B. **City Council Minutes:**
1. June 21, 2011 work session
 2. July 5, 2011 work session

Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting “aye.” [5:0]

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. **Natural Resource Amendments to the Zoning Code and Comprehensive Plan – Ordinance and Resolution**

Mr. Kelver provided the staff report and reviewed the amendments made in response to the City Council’s comments and concerns expressed at the July 19, 2011 hearing.

Councilor Miller was concerned about the planting times for bare root and potted plants.

Mr. Kelver responded those were recommended planting times found in the Metro Model Code to provide direction to those who may lack of expertise.

Mayor Ferguson understood bare root trees could be planted between December and April 15 because they were dormant and that potted trees could be planted at any time.

Mr. Monahan understood Councilor Miller’s issue which seemed to be appropriate planting time during a calendar year and suggested something illustrative using a calendar year with colors indicating best planting times.

Ms. Mangle discussed the implementation and an education plan where this could be addressed.

Councilor Miller would agree to that so that it was perfectly clear.

Councilor Loomis did not see this issue was necessary for the Code.

It was moved by Councilor Chaimov and seconded by Councilor Miller for the first and second readings by title only and adoption of the ordinance amending the Comprehensive Plan Chapter 3 and the Milwaukie Municipal Code Title 19 Zoning Ordinance to protect the City’s natural resources File #s ZA 11-01 and CPA-11-01.

Councilor Loomis would have voted in favor only if the homestead exemption had been included. He also had concerns about future fees and felt there could be a property tax reduction for those being the most impacted.

Councilor Hedges was reluctant to vote affirmatively on this, but it was probably the best that could be done for the City of Milwaukie. He felt this was another Metro boondoggle.

Mayor Ferguson felt bound because of the Metro compliance issue.

Councilor Loomis said the City had the ability to make its Code somewhat less restrictive. He appreciated people's passion, but his concerns remained. There was a homestead exemption in the Metro Model Code.

Councilor Chaimov thanked those who had spent months participating in the code review process. The care in its crafting was evident. Even though certain views were not incorporated in the code, the expression of those views made a better code than it might have been.

Motion passed with the following vote: Councilors Hedges, Miller, and Chaimov and Mayor Ferguson voting "aye" and Councilor Loomis voting "no." [4:1]

Mr. Monahan read the ordinance for the first time by title only. The second reading of the proposed ordinance would be on August 16, 2011.

B. Revisions to Board, Commission, and Committee Terms – Ordinances and Resolution

Mr. Monahan provided the staff report on the proposed code amendments related to Board, Commissions, and Committees. The City Council identified a number of issues that included term limits and that the number of individuals appointed from a single household would be limited.

Mayor Ferguson suggested applying the household limitation to all boards, commissions, and committees.

Councilor Chaimov did not feel that limitation was necessary.

Councilors Hedges and **Miller** supported Mayor Ferguson's recommendation.

Councilor Loomis felt it should be up to the discretion of the City Council to make appointments and ensure a balanced advisory body.

Councilor Chaimov was not in favor of extending the household ban because the other boards and commissions do not take the same types of votes as the Budget Committee and Planning Commission.

Mayor Ferguson was concerned about perception and felt that the City Council should be held above criticism and beyond reproach. He felt having a limitation in place would be more prudent.

Councilor Loomis thought it came down to the discretion of the City Council. What about those who could not be married?

Mayor Ferguson replied it had nothing to do with marital status; two people could be roommates. He was seeking to have more diversity on advisory bodies.

It was moved by Councilor Miller and seconded by Councilor Loomis for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.10 to modify the limitations on reappointment for persons appointed to various City boards, commissions, and committees. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting "aye." [5:0]

Mr. Monahan read the ordinance two times by title only.

Ms. DuVal polled the City Council: **Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting "aye." [5:0]**

ORDINANCE NO. 2031:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.10 TO MODIFY THE LIMITATIONS ON REAPPOINTMENT FOR PERSONS APPOINTED TO VARIOUS CITY BOARDS, COMMISSIONS, AND COMMITTEES.

It was moved by Councilor Loomis and seconded by Councilor Miller for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.14 to modify terms of members of the Design and Landmarks Committee. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting “aye.” [5:0]

Mr. Monahan read the ordinance two times by title only.

Ms. DuVal polled the City Council: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting “aye.” [5:0]

ORDINANCE NO. 2032:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.14 TO MODIFY THE TERMS OF MEMBERS OF THE DESIGN AND LANDMARKS COMMITTEE.

It was moved by Councilor Hedges and seconded by Councilor Chaimov for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.16 to establish a limitation on the number of individuals from a household appointed to the Planning Commission. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting “aye.” [5:0]

Mr. Monahan read the ordinance two times by title only.

Ms. DuVal polled the City Council: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting “aye.” [5:0]

ORDINANCE NO. 2033:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.16 TO ESTABLISH A LIMITATION ON THE NUMBER OF INDIVIDUALS FROM A HOUSEHOLD APPOINTED TO THE PLANNING COMMISSION.

It was moved by Councilor Chaimov and seconded by Councilor Hedges for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.14 to establish a limitation on the number of individuals from a household appointed to the Budget Committee. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting “aye.” [5:0]

Mr. Monahan read the ordinance two times by title only.

Ms. DuVal polled the City Council: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting “aye.” [5:0]

ORDINANCE NO. 2034:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE

CHAPTER 2.16 TO ESTABLISH A LIMITATION ON THE NUMBER OF INDIVIDUALS FROM A HOUSEHOLD APPOINTED TO THE BUDGET COMMITTEE.

It was moved by Councilor Miller and seconded by Councilor Hedges to adopt the resolution clarifying the terms of office for certain board, commission, and committee members under Milwaukie Municipal Code Section 2.10.030.G. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting “aye.” [5:0]

RESOLUTION NO. 74-2011:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CLARIFYING THE TERMS OF OFFICE FOR CERTAIN BOARD, COMMISSION, AND COMMITTEE MEMBERS UNDER MILWAUKIE MUNICIPAL CODE SECTION 2.10.030G

A. Council Reports

Mayor Ferguson and Councilors provided an update on meetings they attended on behalf of the City and announced upcoming community events.

Mayor Ferguson announced the City Council would meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2)(h) to consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

ADJOURNMENT

It was moved by Councilor Chaimov and seconded by Councilor Hedges to adjourn the meeting. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting “aye.” [5:0].

Mayor Ferguson adjourned the regular session at 8:50 p.m.

Respectfully submitted,

Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
August 16, 2011**

CALL TO ORDER

Mayor Ferguson called the 2108th meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Mayor Ferguson, Council President Greg Chaimov and Councilors Dave Hedges, and Mike Miller

Excused: Councilor Joe Loomis

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Police Chief Bob Jordan, Associate Planner Brett Kelder, Assistant to the City Manager Teri Bankhead, Community Development and Public Works Director Kenny Asher, Planning Director Katie Mangle

PLEDGE OF ALLEGIANCE**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS****A. Recognition of Milwaukie Police Cadets**

Chief Jordan introduced the Milwaukie Police Cadets and their advisors and discussed the Cadet's excellent performance at a recent statewide competition. **Sgt. Marl** and **Officer Swyers** provided an overview of the City's Program, and the Cadets briefly discussed their awards.

B. Visit by Congressman Kurt Schrader

Congressmen Schrader was present to give an overview of the recent session and to listen to concerns and comments from the Milwaukie City Council and residents. He understood there was currently community interest in baseball among other issues.

C. Metro Update from Councilor Carlotta Collette

Metro Councilor Carlotta Collette provided a quarterly update on Metro topics particularly relevant to the City of Milwaukie including Metro Council redistricting, the 2011 – 2012 adopted budget, and the *It's Our Nature* campaign.

D. Update on Light Rail Station Building Joint Development Offering

Mr. Asher and **Jillian Detweiler**, TriMet, provided an update on the joint offering intended to result in the development of the Milwaukie Light Rail Station Building on the Triangle site near 21st Avenue and Lake Road. This was identified as a Council goal to help revitalize the downtown and was an important project as the South Downtown Plan evolved. In 2008, the City entered into a 10-year memorandum of understanding (MOU) with TriMet that among other things committed the two parties to working together on a joint development project on the triangle site. The light rail project required acquisition of the property located at 21st Avenue and Lake Road for the MAX station. Of that the 8,600 square-foot triangle site not being used for light rail or pedestrian facilities was available for development. Mr. Asher discussed the project milestones that began with property acquisition March 2012 and finally execution of a development agreement January 2013.

Ms. Detweiler discussed the transit oriented development (TOD) program and Federal Transit Authority (FTA) guidance to help fulfill the promise that transit was an

CITY COUNCIL REGULAR SESSION – AUGUST 16, 2011

DRAFT MINUTES

Page 1 of 4

investment that helped shape the community. The program was most successful when a community had a vision, so this Plan was a great help.

Councilor Miller commented on public area requirements (PAR) issues and expressed concern with the MOU fee waiver language and the possibility of setting a precedent related to fees on building applications. He understood it would be a City Council decision in the future, but as one Councilor, he did not agree with doing that.

Mr. Asher replied the PAR grant program had been identified this year as being necessary and appropriate to provide relief in order to attract a tenant. The MOU only says that City Council would have the opportunity to evaluate the situation as it had on the Main/Monroe building.

Councilor Hedges asked what the chances were in the current economic climate that someone would want to build something like this.

Mr. Asher responded other things that were going on that all mattered and noted there was more interest from developers. Whether that project was affordable in this market was another question.

Ms. Detweiler felt the shell could be achieved under an owner occupant program that might serve small retail, a bike shop, and professional offices. She added the site was owned by Union Pacific along with some private ownership.

CONSENT AGENDA

It was moved by Councilor Chaimov and seconded by Councilor Miller to approve the consent agenda consisting of:

- A. **Resolution No. 75-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Assessing the Costs of Abatement of the Nuisance Located at 11932 SE 35th Avenue and Entering the Same on the Docket of City Liens Pursuant to Milwaukie Municipal Code Section 8.04.200(D);**
- B. **OLCC Application, Dotty's 10843 SE Oak Street, a new outlet;**
- C. **City Council Minutes of the June 28, 2011 Study Session; and**
- D. **Resolution 76-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Monty Schroeder to the Milwaukie Citizens Utility Advisory Board.**

Motion passed with the following vote: Councilors Miller, Chaimov, and Hedges and Mayor Ferguson voting "aye." [4:0]

AUDIENCE PARTICIPATION

Diane Quick, Milwaukie. She addressed Lake Road construction and the number of cars, bicycles, and trucks going by. She requested a meter that measured speed be installed along with a stop sign on Somewhere. She thanked Ed Zumwalt and Dave Aschenbrenner for their work on Festival Daze and particularly their spouses.

Yvonne Lazarus, Clackamas County, told Mayor Ferguson he should recuse himself from decisions related to light rail.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

- A. **Natural Resource Amendments to the Zoning Code and Comprehensive Plan – Ordinance, 2nd Reading and adoption and Resolution**

Mr. Monahan provided background on the ordinance.

CITY COUNCIL REGULAR SESSION – AUGUST 16, 2011

DRAFT MINUTES

Page 2 of 4

It was moved by Councilor Chaimov and seconded by Councilor Miller for the second reading by title only and adoption of the ordinance amending the Comprehensive Plan Chapter 3 and the Milwaukie Municipal Code Title 19 Zoning Ordinance to protect the City's natural resources File #s ZA 11-01 and CPA-11-01.

Motion passed with the following vote: Councilors Miller, Chaimov, and Hedges and Mayor Ferguson voting "aye." [4:0]

Mr. Monahan read the ordinance for the second time by title only.

Ms. DuVal polled the Council: Councilors Miller, Chaimov, and Hedges and Mayor Ferguson voting "aye." [4:0]

ORDINANCE NO. 2036:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE COMPREHENSIVE PLAN CHAPTER 3 AND THE MILWAUKIE MUNICIPAL CODE TITLE 19 ZONING ORDINANCE, TO PROTECT THE CITY'S NATURAL RESOURCES (FILE #S ZA-11-01 AND CPA-11-01)

Mayor Ferguson read the Land Use Board of Appeals (LUBA) appeal information.

It was moved by Councilor Hedges and seconded by Councilor Miller to adopt the resolution setting fees for services. Motion passed with the following vote: Councilors Miller and Hedges and Mayor Ferguson voting "aye" and Councilor Chaimov voting "no." [3:1]

RESOLUTION NO. 77-2011:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SETTING FEES FOR SERVICES

B. Board, Commission, and Committee Household Restrictions – Ordinance

Mr. Monahan provided the staff report on the proposed code amendments related to Board, Commissions, and Committees.

Councilor Chaimov would vote in favor of the motion but vote "no" for the final vote.

Mayor Ferguson wanted to make it clear these code amendments did not apply to Neighborhood District Associations.

It was moved by Councilor Hedges and seconded by Councilor Miller for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.10 to establish a limitation on the number of individuals from a household appointed to a specific City Board, Commission, or Committee. Motion passed with the following vote: Councilors Miller, Chaimov, and Hedges and Mayor Ferguson voting "aye." [4:0]

Mr. Monahan read the ordinance two times by title only.

Ms. DuVal polled the City Council: Councilors Miller, Chaimov, and Hedges and Mayor Ferguson voting "aye" and Councilor Chaimov voting "no." [3:1]

ORDINANCE NO. 2037:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.10 TO ESTABLISH A LIMITATION ON THE NUMBER OF INDIVIDUALS FROM A HOUSEHOLD APPOINTED TO A SPECIFIC CITY BOARD, COMMISSION, OR COMMITTEE

C. City Council Goals Update

Mr. Monahan provided an update on the City Council goals and proposed his next report be in January.

D. Council Reports

Mayor Ferguson and Councilors provided updates on meetings they attended on behalf of the City and announced upcoming community events.

Mayor Ferguson announced the City Council would meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2)(c) to deliberate with persons designated by the governing body to negotiate real property transactions.

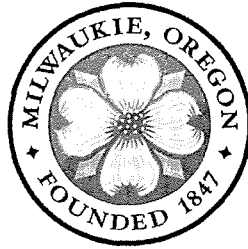
ADJOURNMENT

It was moved by Councilor Chaimov and seconded by Councilor Hedges to adjourn the meeting. Motion passed with the following vote: Councilors Miller, Chaimov, and Hedges and Mayor Ferguson voting “aye.” [4:0].

Mayor Ferguson adjourned the regular session at 8:50 p.m.

Respectfully submitted,

Pat DuVal, Recorder



Agenda Item: 3.B.



To: Mayor Ferguson and Milwaukie City Council
Through: **Bill Monahan, City Manager**
From: Bob Jordan, Chief of Police *BJ*
Date: September 12, 2011
Subject: **O.L.C.C. Application – Pacific Oil –10966 SE McLoughlin Blvd.**

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Pacific Oil – 10966 SE McLoughlin Boulevard.

Background:

We have conducted a background investigation and find no reason to deny the request for liquor license.

POLICE DEPARTMENT
3200 SE Harrison Street
Milwaukie, Oregon 97222
P) 503 786 7400 / F) 503 786 7426
www.cityofmilwaukie.org



OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION



Application is being made for:

LICENSE TYPES

- Full On-Premises Sales (\$402.60/yr)
Commercial Establishment
Caterer
Passenger Carrier
Other Public Location
Private Club
Limited On-Premises Sales (\$202.60/yr)
Off-Premises Sales (\$100/yr) with Fuel Pumps
Brewery Public House (\$252.60)
Winery (\$250/yr)
Other:

ACTIONS

- Change Ownership
New Outlet
Greater Privilege
Additional Privilege
Other CFW

P11514
L153140

CITY AND COUNTY USE ONLY

Date application received:

The City Council or County Commission:

(name of city or county)

recommends that this license be:

- Granted
Denied

By: (signature) (date)

Name:

Title:

OLCC USE ONLY

Application Rec'd by:

Date: 9-9-11

90-day authority: Yes No

90-DAY AUTHORITY

Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

APPLYING AS:

- Limited Partnership
Corporation
Limited Liability Company
Individuals

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

- 1. Scott T. Sommerzet
2. Pacific Oil LLC

2. Trade Name (dba): Pacific oil LLC

3. Business Location: 10966 SE McLaughlin Blvd Milwaukie Clackamas OR 97222

4. Business Mailing Address: SAME

5. Business Numbers: 503 653-6909 SAME

6. Is the business at this location currently licensed by OLCC? Yes No

7. If yes to whom: AM KANSO Type of License: Off premises sales w/ Fuel Pumps

8. Former Business Name: AM KANSO

9. Will you have a manager? Yes No Name: Scott T. Sommerzet

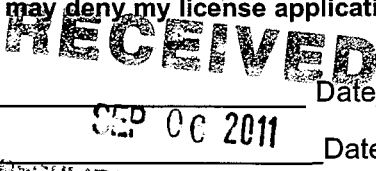
10. What is the local governing body where your business is located? Milwaukie

11. Contact person for this application: Scott T. Sommerzet 503 317 7557
4462 Elmwood Dr. West Linn OR 97068 N/A PacificOilLLC@gmail.com

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

1. Scott Sommerzet Date 8-31-11
2. Date





OREGON LIQUOR CONTROL COMMISSION
LIMITED LIABILITY COMPANY QUESTIONNAIRE

● See section 2 of Guide for help with this form

790182-98 / 8-1-11

Please Print or Type

LLC Name: Pacific Oil LLC Year Filed: 2011

Trade Name (dba): ~~same~~ Pacific Oil LLC

Business Location Address: 10910 SE McLaughlin Blvd.

City: Milwaukie Ore ZIP Code: 97222

List Members of LLC:

Percentage of Membership Interest:

1. Scott T. Sommeret
(managing member)

100%

2. _____
(members)

3. _____

4. _____

5. _____

6. _____

(Note: If any LLC member is another legal entity, that entity must also complete an LLC, Limited Partnership or Corporation Questionnaire. If the LLC has officers, please list them on a separate sheet of paper with their titles.)

Server Education Designee: _____ DOB: _____

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Signature: Scott Sommeret
(name)

Owner
(title)

Date: 8-31-11

RECEIVED

SEP 06 2011

1-800-452-OLCC (6522)
www.oregon.gov/olcc

REGULATORY FIELD SERVICES (rev. 12/07)
Oregon Liquor Control Commission



OREGON LIQUOR CONTROL COMMISSION
BUSINESS INFORMATION

Please Print or Type

Pacific Oil LLC

Applicant Name: Scott F. Sommerfeld

Phone: 503 317-7557

Trade Name (dba): Pacific oil LLC

Business Location Address: 10966 SE McGloath Ln Blvd

City: Milwaukie Ore

ZIP Code: 97222

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 5 to 11
Monday 5 to 11
Tuesday 5 to 11
Wednesday 5 to 11
Thursday 5 to 11
Friday 5 to 11
Saturday 5 to 11

Outdoor Area Hours:

Sunday [blank] to [blank]
Monday [blank] to [blank]
Tuesday [blank] to [blank]
Wednesday [blank] to [blank]
Thursday [blank] to [blank]
Friday [blank] to [blank]
Saturday [blank] to [blank]

The outdoor area is used for:

- Food service
Alcohol service
Enclosed, how

The exterior area is adequately viewed and/or supervised by Service Permittees.

(Investigator's Initials)

Seasonal Variations: Yes No If yes, explain:

ENTERTAINMENT

Check all that apply:

- Live Music, Recorded Music, DJ Music, Dancing, Nude Entertainers, Karaoke, Coin-operated Games, Video Lottery Machines, Social Gaming, Pool Tables, Other:

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday to
Monday to
Tuesday to
Wednesday to
Thursday to
Friday to
Saturday to

SEATING COUNT

Restaurant: Outdoor:
Lounge: Other (explain):
Banquet: Total Seating:

OLCC USE ONLY
Investigator Verified Seating: (Y) (N)
Investigator Initials:
Date:

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: Scott F. Sommerfeld

Date: 8-31-11

1-800-452-OLCC (6522)
www.oregon.gov/olcc

(rev. 12/07)

6.
OTHER BUSINESS



Agenda Item: 6.A-D
Date: September 20, 2011

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Appointment of John Fox, Ronald Palmer, and Jeffrey Dondino, M.D. to the Milwaukie Budget Committee

Prepared By: Teri Bankhead
Dept. Head Approval: Bill Monahan
City Mgr. Approval: Bill Monahan
Reviewed by City Manager: 9/9/11

Issue Before The Council

Recommendation to appoint John Fox, Ronald Palmer, and Jeffrey Dondino, M.D. to the Milwaukie Budget Committee

Staff Recommendation

Make appointment to the three vacant seats on the Milwaukie Budget Committee

Key Facts & Information Summary

Three vacancies currently exist on the Budget Committee. Seven applications were initially received. Two applicants withdrew their applications before interviews and the remaining five were interviewed by Mayor Ferguson, Councilor Chaimov, and Finance Director, Richard Seals. John Fox and Ronald Palmer are recommended for full term appointments of three years, to expire in 2014. Dr. Dondino is recommended to fill the two year vacancy remaining on position #3, to expire in 2013.

This matter also corrects committee member Gabe Storm's term of office. Resolution 22-2010 erroneously set March 31, 2014 as the expiration date for his term. Under state law, that is a year too long. The correct date should be March 31, 2013. A proposed Resolution amends Resolution 22-2010 to correct this.

Other Alternatives Considered

n/a

City Council Goals

No associated goal

Attachment List

n/a

Fiscal Notes

n/a

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING JOHN FOX TO THE MILWAUKIE BUDGET COMMITTEE.

WHEREAS, a vacancy exists on the Milwaukie Budget Committee; and

WHEREAS, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

WHEREAS, John Fox possesses the necessary qualifications to serve on the Milwaukie Budget Committee.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That John Fox is appointed to the Milwaukie Budget Committee.

SECTION 2: That his term of appointment shall commence immediately and shall expire on March 31, 2014.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on September 20, 2011.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING RONALD PALMER TO THE MILWAUKIE BUDGET COMMITTEE.

WHEREAS, a vacancy exists on the Milwaukie Budget Committee; and

WHEREAS, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

WHEREAS, Ronald Palmer possesses the necessary qualifications to serve on the Milwaukie Budget Committee.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Ronald Palmer is appointed to the Milwaukie Budget Committee.

SECTION 2: That his term of appointment shall commence immediately and shall expire on March 31, 2014.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on September 20, 2011.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING JEFFREY DONDINO, MD TO THE MILWAUKIE BUDGET COMMITTEE.

WHEREAS, a vacancy exists on the Milwaukie Budget Committee; and

WHEREAS, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

WHEREAS, Jeffrey Dondino, MD possesses the necessary qualifications to serve on the Milwaukie Budget Committee.

Now, therefore, the City of Milwaukie, Oregon resolves as follows:

SECTION 1: That Jeffrey Dondino, MD is appointed to the Milwaukie Budget Committee.

SECTION 2: That his term of appointment shall commence immediately and shall expire on March 31, 2013.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on September 20, 2011.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
AMENDING RESOLUTION 22-2010 AS TO THE TERM OF OFFICE FOR BUDGET
COMMITTEE MEMBER GABE STORM**

WHEREAS, Mr. Storm currently sits on the Budget Committee and is a member in good standing; and

WHEREAS, Resolution 22-2010 appointing Mr. Storm to the Committee contains an incongruity under Oregon law, specifically that under ORS 294.336 the term of office is three years; and

WHEREAS, in accordance with state law Mr. Storm's term of office must end three years from his appointment in 2010.

Now, therefore, the City of Milwaukie, Oregon, resolves as follows:

SECTION 1: Resolution 22-2010, section 2, is amended to read as follows: "That his term of appointment shall commence immediately and shall expire on March 31, 2013."

SECTION 2: All other parts of Resolution 22-2010 shall remain valid and unaltered by this Resolution.

SECTION 3: This resolution takes effect immediately upon passage.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney