

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
OCTOBER 19, 2010**

CALL TO ORDER

Council President Chaimov called the 2088th meeting of the Milwaukie City Council to order at 6:58 p.m. in the City Hall Council Chambers.

Present: Council President Greg Chaimov and Councilors Deborah Barnes and Susan Stone

Excused: Mayor Ferguson and Councilor Loomis

Staff present: City Manager Bill Monahan and City Recorder Pat DuVal

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School Student of the Month

Council President Chaimov and Principal Mark Pinder recognized Jordan Delestatious as Milwaukie High School Student of the Month.

CONSENT AGENDA

It was moved by Councilor Stone and seconded by Councilor Barnes to approve the consent agenda consisting of:

- A. OLCC Application for Oregon Transfer, 9696 SE Omark Drive, new outlet; and
- B. City Council Work Session Minutes of June 15, 2010.

Motion passed with the following vote: Councilors Barnes and Stone and Council President Chaimov voting "aye." [3:0]

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Reinstating the Prohibition of Recreational Vehicles Parking in the Right-of-way in Residential Areas – Ordinance

Council President Chaimov announced this item was postponed to a future session.

B. Direction on Riverfront Board Appointments

Staff was directed to schedule interviews at the next available work session.

C. City Manager Report

Mr. Monahan reported he was pleased to be with the City of Milwaukie and to be working with its City Council and staff.

D. Council Reports

Councilor Barnes announced she and Councilor Chaimov would be doing live election night coverage at Sabin-Schellenberg.

ADJOURNMENT

It was moved by Councilor Stone and seconded by Councilor Barnes to adjourn the meeting. Motion passed with the following vote: Councilors Barnes and Stone and Council President Chaimov voting "aye." [3:0]

Council President Chaimov adjourned the regular session at 7:06 p.m.

Respectfully submitted,



Pat DuVal, Recorder

REGULAR SESSION

AGENDA

MILWAUKIE CITY COUNCIL OCTOBER 19, 2010

MILWAUKIE CITY HALL
10722 SE Main Street

2088th MEETING

REGULAR SESSION – 7:00 p.m.

1. **CALL TO ORDER**
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
 - A. **Milwaukie High School Student of the Month Jordan Delestatious**
3. **CONSENT AGENDA** *(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.)* **1**
 - A. **OLCC Application for Oregon Transfer, 9696 SE Omark Drive, new outlet** **2**
 - B. **City Council Work Session Minutes of June 15, 2010** **4**
4. **AUDIENCE PARTICIPATION** *(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.)*
5. **PUBLIC HEARING** *(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.)*
 - 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.)* 7

- A. **Reinstating the Prohibition of Recreational Vehicles Parking in the Right-of-way in Residential Areas – Ordinance** 8
Staff: Tim Salyers, Code Compliance Coordinator
B. **Direction on Riverfront Board Reappointments**
C. **City Manager’s Report**
D. **Council Reports**

7. **INFORMATION**

8. **ADJOURNMENT**

Public Information

- Executive Session: The Milwaukie City Council may meet in executive 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 City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities (ADA). If you need special accommodations, please call 503.786.7502 or email ocr@ci.milwaukie.or.us at least 48 hours prior to the meeting.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

3. CONSENT AGENDA



3 . A .



To: Mayor Ferguson and Milwaukie City Council

Through: Pat DuVal, Acting City Manager

From: Bob Jordan, Chief of Police

Date: October 5, 2010

Subject: O.L.C.C. Application – Oregon Transfer – 9696 SE Omark Drive

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Oregon Transfer – 9696 SE Omark Drive.

Background:

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



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: Warehouse

ACTIONS

- ☐ Change Ownership
- ☒ New Outlet
- ☐ Greater Privilege
- ☐ Additional Privilege
- ☒ Other _____

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: _____

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

OLCC USE ONLY

Application Rec'd by: [Signature]

Date: 9-28-10

90-day authority: ☐ Yes ☐ No

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

① Oregon Transfer Company ③ _____
② _____ ④ _____

2. Trade Name (dba): Oregon Transfer Company

3. Business Location: 9696 SE Omark Dr., Milwaukie, Clackamas, OR 97222
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: PO Box 2804 Portland OR 97208
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: 503-943-3500 503-943-3535
(phone) (fax)

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

7. If yes to whom: _____ Type of License: _____

8. Former Business Name: N/A

9. Will you have a manager? ☒ Yes ☐ No Name: Bert Looney
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Clackamas County
(name of city or county)

11. Contact person for this application: Catherine G. Watson 503-943-3534
(name) (phone number(s))
PO Box 2804, Portland OR 97208 503-943-3535 cathy.watson@oregontransfer.com
(address) (fax number) (e-mail address)

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 [Signature] Date 9/20/07 ③ _____ Date _____
② _____ Date _____ ④ _____ Date _____

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION JUNE 15, 2010

Councilor President Chaimov called the work session to order at 5:30 p.m. in the City Hall Conference Room.

Council Present: Council President Greg Chaimov, and Councilors Deborah Barnes, Susan Stone and Joe Loomis

Excused: Mayor Ferguson

Staff Present: City Manager Pro Tem Pat DuVal, City Attorney Bill Monahan, Resource and Community Development and Public Works Director Kenny Asher, Engineering Director Gary Parkin

Media: Bobby Allyn, The Oregonian

Negotiations with Clackamas County Service District #1 Regarding Future Ownership of Two NE Sewer Extension Sewer Lines

Mr. Asher said there was an issue with the District that needed to be resolved and staff needed Council's input to resolve it. The issue was that there are two segments of sewer line in the NE Sewer Extension project on Johnson Creek Blvd. and on Westfork, which will carry flow from Milwaukie customers and District customers. Staff had assumed for a long time that the City and District would come to an arrangement to share the pipes. They pipes did not need to be shared. An option would be to build redundant infrastructure side by side, which didn't make sense to staff. They tried to flush out what a shared pipe would be. In a shared arrangement there were 3 options. The first was shared ownership and some agreement on joint ownership with the City and District owning a percentage of the pipe. Second was the City owns both pipes and grant rights of usage to district through an IGA. Third option was that the District owns both pipes and grants usage rights to the City through an IGA. The District has told them that the only acceptable option is the third where they would own the pipes and grant the City usage through an IGA. They City's interest would be protected through an IGA. The district is looking to certify the first phase of their project shortly, and if an agreement isn't reached they will have to build additional infrastructure including a separate line and pump station to carry their flows. They were at a point where they would be able to provide the District with an answer, but they need Council's input to do that.

Councilor Barnes asked where the pipes are located.

Mr. Parkin replied with the JCB line within right of way was owned by the City, but County has jurisdiction. Properties on either side are within the county. They are in Dual Interest Area A until properties annexed to the City. Westfork is the boundary for the County and the City, and the Right of Way is in the County.

Mr. Parkin said both lines end up in Lents trunk line Portland for treatment.

Mr. Monahan said the District issue is that the lines won't end up in the City for treatment so if annexation took place it would not be the City taking over all of the collection system, as it was a transmission line to the Portland treatment system. He believed the County's policy to have ownership over trunk lines so they could have control over for long term maintenance.

Mr. Parkin said Mr. Monahan was right and with the amount of flow from CCSD it was their policy to maintain and take care of the pipe because they would be impacted the most if it was not taken care of properly. The trunk line was a different, but they wanted to take care of it for the same reason.

Mr. Monahan said he had been working with staff advocating a way for joint ownership, but in recent discussion the County made it very clear what their policy was and how they apply it. They have a need to be responsible for addressing any maintenance issues and would be responsible for insurance and long term potential replacement of the lines. They didn't talk about what the life of the line would be, but they were in agreement that if the City gave the District ownership they would allow through an agreement the opportunity for the City to put our amount of wastewater in the system to go to Portland and at the time of replacement there would be an ability for us to work with them to enhance the line. The plan placed the size of the line on the ultimate build out of that area under existing comp plans so there shouldn't be a need for upsizing unless there are changes to comp plan. The agreement that would be in place would memorialize the rights of the City to use the line and contribute to it.

Councilor Chaimov was concerned it would appear the City is paying to build a portion of something that would not end up as an asset. If the County has sole ownership there is an appearance of giving something away that we paid for.

Mr. Monahan said that was the issue that was brought up. The response back was that the agreement would specify our long term arrangement to have access to it. We would not only have access to the line that we built, but also the line that they built. We would have fulfilled our desire to have a system that handles the flows that would come from the area.

Councilor Stone asked if the County would be responsible for the maintenance, and if that would not relieve us from all costs.

Mr. Parkin said they would cover all maintenance costs, and there would be no service charge.

Councilor Stone was concerned that if we don't own the pipes at some point could the County say we not use them.

Mr. Monahan said the agreement would have to memorialize the level of contribution and expectation and their commitment to always allow us to use the line as long as we are transmitting waste water in that direction.

Mr. Parkin said that was the primary concern. It was ownership that gave you the rights.

Mr. Monahan said they discussed the concept of a license or an easement to have a recorded right to have the use of the line.

Councilor Chaimov said he would like staff to bring back the agreement so Council can see all of the issues involved. He asked if that would that work within the district timeframe.

Mr. Asher said he thought so. He said they could work up the IGA and bring it back and that would give the County enough of a signal so they wouldn't go in a different direction.

Councilor Stone asked if it would cost the City less money for construction. We would pay \$300,000 more to build a separate infrastructure.

Councilor Loomis said he was in favor if the agreement protected our rights for long term usage.

Council President Chaimov announced Council would go into Executive Session pursuant to ORS 192.660 (2) (H).

Councilor President Chaimov reconvened the work session at 5:48pm.

Sunrise Corridor Proposed Improvements

Councilor Chaimov gave a brief explanation and update of a map that had been provided by Mr. Parkin from the County. He understood that the parties would need to come up with \$30 million from the Feds for the project to be realized.

Councilor Barnes asked where the meeting was held and who called the meeting.

Councilor Chaimov replied that Representative Dave Hunt called a meeting at the ODOT building in NW Portland. It was attended by Clackamas County, Safeway, Fred Meyer, Oregon Iron Works, Providence, Happy Valley and representatives from the North Clackamas Chamber of Commerce. There were a couple of business that would be displaced by the project, but far less than the original plan and that was because it was substantially smaller than originally proposed.

Councilor Stone asked why they are only building a 2-lane road that would intersect with Hwy 224? Why build it at all if it is only 2 lanes.

Councilor Chaimov replied they felt the 2-lane road would make it substantially better than if they didn't build it. He thought they intended at some point to make it wider, but didn't have the money to do it at this time.

Councilor President Chaimov adjourned the work session at 5:52 p.m.

Pat DuVal, City Recorder

6. OTHER BUSINESS



6 . A .

To: Mayor and City Council

Through: Pat DuVal, City Manager Pro Tem
JoAnn Herrigel, Community Services Director

From: Tim Salyers, Code Compliance Coordinator

Subject: Ordinance Reinstating the Prohibition of Recreational Vehicles Parking in the Right-of-way in Residential Areas.

Date: October 7, 2010

Action Requested

Adopt an ordinance amending Title 10 of the Milwaukie Code prohibiting recreational vehicles from being parked in the right-of-way in residential areas.

History of Prior Actions and Discussions

May 18, 2010- City Council adopted Ordinance #2015 revising section 19.500, which eliminated 19.503.22G.

October 18, 1994- City Council adopted Ordinance #1773, the original recreational vehicle code.

Background

The Code Enforcement and Planning departments recently worked together to revise the recreational vehicle code section of the Milwaukie Municipal Code, Chapter 19.500 Off-Street Parking and Loading. During that process, it was determined that section 19.503.22G which stated, "No recreational vehicles or private pleasure crafts shall be parked or stored in the public rights-of-way," did not belong in the off-street parking code since it was an on-street parking issue. For this reason, this section was removed from the code update. Unfortunately, at that time staff neglected to place this section in another area of code.

The proposed ordinance would enter this neglected section into Title 10, Vehicles and Traffic (the on-street parking code). This ordinance is a “housekeeping” ordinance to fix the omission and reinstall the code section in its proper place.

The ordinance also revises some definitions in Title 10 to help enhance the effectiveness of enforcement for this section. The definitions of “right-of-way” and “Street” or “highway” have been clarified.

Concurrence

The Planning Director, City Attorney’s office, and police department all concur with the reinsertion of this code and the changes to the definitions.

Fiscal Impact

None

Work Load Impacts

Code Enforcement has been conducting enforcement for numerous years on this issue.

Alternatives

Deny the code amendment and request staff to continue researching options for addressing this issue.

Attachments

Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CREATING A NEW CODE SECTION 10.20.060 D AND AMENDING DEFINITIONS IN SECTIONS 10.04.320 AND 10.04.380 OF THE MILWAUKIE MUNICIPAL CODE REGARDING PARKING OF RECREATIONAL VEHICLES AND PRIVATE PLEASURE.

WHEREAS, there exists a need to prohibit parking of recreational vehicles and private pleasure craft in residential areas of the City to maintain safety of residential streets; and

WHEREAS, a recent code amendment repealed that prohibition.

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. A new section 10.20.060D of the Municipal Code of Milwaukie which will read as follows is hereby adopted:

10.20.060 D. It shall be unlawful for an owner, operator or other person in charge of a recreational vehicle or a private pleasure craft to park or store or permit or cause such vehicle to be parked or stored upon a public right-of-way within a residential zone.

Section 2. Section 10.04.320 of the Municipal Code of Milwaukie is amended to read as follows: (underlined language added)

“10.04.320 RIGHT-OF-WAY

“Right-of-way” means:

A. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other; or

B. An area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also “street”.

Section 3. Section 10.04.380 of the Municipal Code of Milwaukie is amended to read as follows: (~~language stricken through is deleted~~, language added):

10.04.380 STREET OR HIGHWAY

~~“Street” or “highway” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic~~ right-of-way lines for vehicular, bicycle and pedestrian traffic and includes the terms “road,” “roadway,” “highway,” “lane,” “place,” “avenue,” “alley” and other similar designations.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis, PC

Pat DuVal, City Recorder