

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
January 6, 2009**

OATH OF OFFICE

Municipal Court Judge Ron Gray administered the Oaths of Office to Councilors Greg Chaimov and Joe Loomis who were starting new terms that would expire at the end of 2012.

Mr. Swanson announced Mayor Bernard had resigned January 2, 2009 in order to become a Clackamas County Commissioner, so at this time Council President Loomis would preside over the meeting.

CALL TO ORDER

Council President Loomis called the 2045th meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

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

Staff present: City Manager Mike Swanson, Community Development and Public Works Director Kenny Asher

PLEDGE OF ALLEGIANCE

Mr. Swanson announced he had excused the City Attorney for the evening due to the light agenda.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**A. Interim Mayor Selection**

Mr. Swanson provided a brief overview. Mayor Bernard was elected Clackamas County Commissioner in the November General Election, and he resigned effective January 2, 2009. Section 19 of the Charter provided that a vacancy on the Council shall be filled for the remainder of the unexpired term if any at the next election following not less than 60 days upon the occurrence of a vacancy, but the Council by a majority of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office notwithstanding the quorum requirements of Section 21. It was the remaining Councilors' responsibility to appoint an interim Mayor. That interim position would be effective until the May election at which time Mr. Bernard's remaining term would be filled during the May election. Then the position would again stand for election when the term ended. The Council will need to make a decision on a qualified person by a vote of at least three of the members which constituted a majority of a four-member board and was also the Charter requirement that in order for a matter to pass it must have the equivalent number of affirmative votes that would be required if there were a full Council. The vacancy was a Council vacancy, but the Charter also provided a mayor was a member of Council. The Council did advertise the position, and at the second meeting in December interviewed three people. At the time the presiding officer was Council President Loomis. He noted at the end or beginning of each interview that the Council would make a decision this evening to appoint one of the three applicants or

one of the members of the City Council. The Council must appoint a qualified person who at the time of selection was a qualified elector of the State and must have resided in the City of Milwaukie the six months immediately preceding this date.

Council President Loomis had spoken with each councilor individually and tried to come up with a decision. Council did appreciate all those who applied. When he talked with Councilors about appointing a member of Council each had certain preferences and strengths. There seemed to be one person who in his opinion would fit the bill at this point, and that was Jeremy Ferguson. He nominated Mr. Ferguson.

Councilor Stone asked if someone from Council was nominated then there would only be a Council of four until May.

Mr. Swanson replied it would trigger a requirement to appoint a vacancy and fill whatever seat was vacated.

Councilor Stone understood that would start another process of appointing.

Mr. Swanson said the Council could make the decision tonight. There was no process set out. If someone were selected from the Council tonight he had a letter of resignation prepared without a name. They would execute the letter of resignation before being sworn in. The City Council could make the decision tonight and decide to take applications as it did with interim mayor. There was no outlined process other than a majority of the Council members.

Councilor Stone was concerned that if someone were appointed from the Council that there would be another vacant seat.

Mr. Swanson added the language in the Charter said the Council "shall" which made it mandatory. If the Council could not make a decision, staff would continue to put it on the agenda until the mandatory decision was reached according to the Charter.

Councilor Barnes appreciated those who had applied. She knew Mr. Ball and Mr. Ferguson, and they had both contributed a great deal to the City which she commended. They had done neighborhood work, Budget Committee, and general volunteer work. She was interested and had announced earlier she would like this position. She had spent the last six years working on City Council and had been very involved. If the City Council was unable to come up with an appointment from the three gentlemen, she would be more than happy to take on that added responsibility.

Councilor Chaimov was pleased the City had such highly-qualified, interested applicants. He thought it might be better for the Council in terms of continuity if one of the Councilors were selected as Mayor. However, he felt the Council would be well-served by a selection of one of the applicants. He understood Mr. Ferguson was not interested in running in the May election. His only hesitation in that regard was that the Council could potentially be reconstituting itself again in May and perhaps lose momentum. Mr. Ferguson's roots in the community were certainly deep and wide, and he would be welcome on the dais.

Council President Loomis asked if anyone else was interested in the Interim Mayor position. He was not interested in the position.

Councilor Stone would step up and fill the seat if asked.

Councilor Chaimov seconded the nomination of Jeremy Ferguson. Mr. Ferguson was appointed with the following vote: Councilors Barnes, Chaimov, and Stone and Council President Loomis voting 'aye.' [4:0]

Mr. Ferguson signed a letter of resignation from his position on the Budget Committee.

Councilor Chaimov encouraged Mr. Storm to apply for the vacant position on the Budget Committee.

Municipal Court Judge Ron Gray administered the Oath of Office for Mayor of Milwaukie to Jeremy Ferguson.

Mayor Ferguson thanked those who had encouraged him to apply for the interim position.

B. Harmony Road Campus

Shelly Parini, Clackamas Community College, **Michelle Healy**, North Clackamas Parks and Recreation District (NCPRD), and **Dan Johnson**, Clackamas County reviewed the master planning and visioning processes for the Harmony Campus. Since the visioning process they have been active in providing feedback to the community.

Ms. Healy reviewed the vision which was an overarching guide as to how to move forward on the site. The vision for the Harmony Campus was a model for sustaining the vitality of the economy, environment, and community in Clackamas County and the region. From the vision process a number of things had come out: provide lifelong learning, demonstrate sustainability, ensure environmental stewardship, support economic development, promote healthy living, elevate transit/transportation choices and access, and continue communication. There were three elements at this site related to NCPRD: the small neighborhood park at the entrance to the Aquatic Park, the addition of a fitness center, and 85-acres of open space.

Mr. Johnson reviewed the key elements of why the master plan effort was so important. It was clear that parking was going to be an obstacle with limited land area. To maximize the use of that area, a shared parking discussion had to occur including a structure. Second was better public transportation access and regional connections to light rail. They were looking to engage in a broader regional discussion that was occurring with the Transportation Management Association (TMA) of Clackamas County and how we maximize the investment in light rail. How do we create the connections? From the County's and citizens' perspectives, one of the biggest concerns was to provide additional transportation opportunities. Multi-modal accessibility. Connectivity from the campus to existing TriMet lines. Improved access via pedestrian and bike. Open space access was a big concern in the Harmony Road environmental impact statement (EIS) process. There was continued discussion over the size of any road way that might go through there and how to provide a connection or more importantly not block access to the regional asset. There were opportunities for education and natural studies. How do you provide pedestrian access to that amenity? There was an onsite discussion of infrastructure that needed to take place mainly in regards to stormwater, etc. How do we maximize investments? How can we work in a cooperative manner to provide the best alternatives to maximize the site while minimizing the impacts to the natural environment? Then there was the offsite discussion that needed to occur. That was the transition out of the Harmony Road EIS into this discussion of targeted, proportional improvements. They were no longer involved in the EIS process that planned for the 30-year horizon. It was planning for the fundable short term. Sunnybrook, connectivity, and transitioning from the 75-foot wide red line were all discussed. He thought they would make a smaller road that could still operate at an acceptable level of service and congestion relief for the current problems and provide additional capacity for long-term growth. In the current fiscal environment there was a great desire to be responsible and to partner and leverage funds to the extent feasible. Part of the discussion will be how we work together to leverage funds in an equal manner to develop the site appropriately. Essentially they were working on a number of goals and objectives to provide a plan to ensure development was taking place in a consistent manner identified in the visioning plan. The charge and challenge

CITY COUNCIL REGULAR SESSION – JANUARY 6, 2009

APPROVED MINUTES

Page 3 of 7

was to create a regional asset that had neighborhood value. Develop the built side of the campus while preserving and mitigating minimal impact to the natural environment. As a whole they heard from the community a lot of interest about integrating the Toy R Us and the ODOT property just east of the campus into the discussion. That was like the front door to this development, so how did one integrate the parking and operation into the campus as a whole in the short-term to provide connectivity and access. The master plan as a whole needed to balance livability and growth long-term while keeping the community's concerns in mind at all times. This effort was essentially to transition and get out to neighborhood groups and work in a collective fashion. There would be a master planning element beginning in February with additional public outreach. They would loop back around to the stakeholders like the Linwood Neighborhood Association with the refined information to share and include them in the master planning effort as it progressed. They were taking the opportunity to loop back around to make it the main focus of public input and discussion. From there the master planning process would kick-off with things like localized sustainability discussions on the campus side to make sure all the on-site participants were organized and working in a cooperative manner. From there it would be opened up into an open house and public process with a couple of meetings to get public response about the project and hear about the pluses and minuses. They would loop back around with the final product for the Council and County Commissioners.

Councilor Stone asked who was on the master planning group in terms of citizen and elected officials. Her second question was about the open space and how many acres it actually entailed and if there were any plans to look at some of that for equestrian purposes.

Ms. Healy replied the open space was about 85-acres. Some of the options were equestrian trails, but the challenge was how to get to the lower site with a horse and trailer as opposed to pedestrian only. That might be a challenge, but it was on the table.

Councilor Stone asked because having grown up in this area she used to ride horses down there, and she recalled the access was from 82nd Avenue. It was a narrow access road but was a place where one could ride. It would be great if it could be brought back.

Ms. Parini thanked Councilor Barnes and said one of the things that was unique was that she had continued to coach staff on the importance of communication and staying engaged. They were meeting with 24 different groups in a 45-day window of time. They were meeting not only with these groups to fit their schedules and presenting information in a variety of formats. She hoped most of the issues would be addressed in this manner before a public hearing. They wanted to take their time and have a 30-day comment period with displays all over the Harmony Community Campus so people can come in on their time. She was surprised at these neighborhood meetings how many people saw this as a great way to be reacquainted with the site. After the open comment period, and in April everyone will come back together to see the culmination of all the ideas. It was really a conceptual master plan of how the pieces of property would be used. She appreciated the community's interest and encouragement in making a unified approach. Hopefully things would come together in April in a celebratory manner.

Councilor Barnes met with Chris Runyon and he was pleased the process was less confrontational, but he still had some concerns. There were still concerns about an equestrian facility in the Three-Creeks Restoration area with its old growth forests. There were many interests to be weighed. Once the old growth trees were gone it was

hard to get them back, so the more we were able to save in our own backyards the better.

Ms. Parini said an invitation had been extended to the Tsunami Group to talk about its dream for the future of the area.

CONSENT AGENDA

It was moved by Councilor Stone and seconded by Councilor Chaimov to adopt the consent agenda.

- A. **Resolution 01-2009: A Resolution of the City Council of the City of Milwaukie, Oregon, Designating the First and Third Tuesdays of Each Month as the Regular City Council Meeting Date, Establishing the Time of Said Meetings, and Repealing Resolution 01-2008; and**
- B. **Resolution 02-2009: A Resolution of the City Council of the City of Milwaukie, Oregon, Designating the *Clackamas Review*, *The Oregonian*, and the *Daily Journal of Commerce* as the Papers of Record for the City of Milwaukie.**

Motion passed with the following vote: Councilors Barnes, Chaimov, Loomis, and Stone and Mayor Ferguson. [5:0]

AUDIENCE PARTICIPATION

Ed Parecki, Milwaukie business owner, made a statement in regards to last month's Council meeting where it voted to spend \$5 million on mitigation for the light rail project that may or may not be coming to town. He pointed out for the record that ex-Mayor Jim Bernard failed to declare his conflict of interest in the matter as he was supposed to do. That vote could be nullified in the future.

Councilor Stone said he had not declared conflict of interest about this subject at other meetings. She asked Mr. Parecki why he was saying he should do that now.

Mr. Parecki replied any time any discussion came up regarding the light rail he was supposed to have declared his conflict of interest. He did on many occasions but on more he did not. It was important to note for the record that in this last one he did not and he should have.

Councilor Stone asked Mr. Swanson if he had anything to add to that. Should that have happened?

Mr. Swanson reiterated the statute required that when person had a potential conflict of interest they announced publicly the nature of the conflict prior to taking any action or when met with an actual conflict refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue. The difference between the two was the difference between "should" and "would". He did not know if at this point they were down line long enough to be in actual conflict was defined as any action or decision with effect private pecuniary benefit or detriment to the person or the person's relative. The remedy in terms of the conflict was actually against the person who took the action and not against the decision itself. It would require a filing in front of the Ethics Commission. At this point they were moving forward with a new Mayor and in May would have an election. He did not know that the decision the Council made...it was not, by the way, appropriating \$5 million. That still had to be done by a future Council likely in 2011. He thought at this point it was a possibility. There was still a long way to go. He did not think that Mr. Bernard's participation would void that contract. He may have to answer to the Ethics

Commission if a complaint were filed. He did not believe it went to the actual agreement.

Councilor Stone understood it did not impact the decision that was made.

Mr. Parecki understood it would not nullify the agreement between the City and TriMet and Metro. It would be a problem later with the NEPA process.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Regional Committee Assignments

Councilor Chaimov discussed the need to reallocate regional committee assignments. He suggested in lieu of Mayor Bernard that Councilor Barnes attend the Clackamas County Coordinating Committee (C4) meeting later this week.

Mr. Swanson said regional assignments would be on the next City Council work session agenda and election of the Council President on the regular session agenda.

B. Council Reports

Councilor Barnes did a ride along on the snow plow/sander during the winter storm and praised staff's work.

Councilor Loomis commended staff for its work during the storm event and thanked them for plowing the Aquatic Park roadway. He attended Jim Bernard's swearing as Clackamas County Commissioner.

Councilor Chaimov appreciated the work done by City street crews and PGE. He would vote with the Sellwood Bridge Policy Advisory Group on February 6 for a recommendation on a new or refurbished bridge. He encouraged people to send him their opinions on the project.

Councilor Stone commented on the ice and snow storm. She thought the City staff was great but had to ask how they prioritized the streets. 32nd Avenue was a very well-traveled street, and it did not get plowed until the end of the week, and she wanted to know how that happened. It was really difficult. People were getting stuck coming out of the side streets onto 32nd Avenue. She would like to have a debriefing about how they made those decisions because she knew the need was great all over the City, but that was a very heavily traveled street that connected the neighborhood. It was days. Her husband finally shoveled their driveway on Christmas Day. The very next day they came by and moved the snow and shoveled more of it on the driveway. It was a big problem for the neighborhood.

Mr. Swanson offered to bring that back at the next meeting. He was contacted by a city manager recently appointed who moved up from California who did not realize. This was like a 100-year storm. Oftentimes the crews would be out there trying to clear the roads only to find they were having a difficult time getting ahead. There were days and days where it did not melt. The crews did a great job under very trying circumstances. The City did not have a lot of equipment in terms of snow removal because it would not be a wise expenditure as those events did not happen that often. We may never see anything like that again, so purchasing additional equipment to meet that challenge was not the best of expenditures. Given what they had to deal with, the crews did a very good job. He suggested bringing the route plan in.

Councilor Barnes said there was an emergency route plan that had to be followed. **Councilor Stone** wanted to know the priority because 32nd Avenue had a hospital.

ADJOURNMENT

It was moved by Councilor Barnes and seconded by Councilor Stone to adjourn the meeting. Motion passed with Councilors Stone, Loomis, Barnes, and Chaimov and Mayor Ferguson voting 'aye.'

Mayor Ferguson adjourned the regular session at 7:57 p.m.

Pat DuVal

Pat DuVal, Recorder

REGULAR SESSION

AGENDA

MILWAUKIE CITY COUNCIL January 6, 2009

MILWAUKIE CITY HALL
10722 SE Main Street

2045th MEETING

REGULAR SESSION – 7:00 p.m.

Oath of Office for Councilors Greg Chaimov and Joe Loomis – Administered by
Municipal Court Judge Ron Gray

- | | Page # |
|---|--------|
| 1. CALL TO ORDER
Pledge of Allegiance | |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | |
| A. Interim Mayor Selection (Council President Loomis) | |
| B. Harmony Road Campus (Shelly Parini) | |
| 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> | |
| A. Establish Council Meeting Dates for 2009 – Resolution | 2 |
| B. Designate Papers of Record for the City of Milwaukie – Resolution | 4 |
| 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> | |

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.)*

A. Council Reports

7. INFORMATION

8. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council may meet in executive session immediately following adjournment 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.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

3. CONSENT AGENDA

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DESIGNATING THE FIRST AND THIRD TUESDAYS OF EACH MONTH AS THE REGULAR CITY COUNCIL MEETING DATE, ESTABLISHING THE TIMES OF THE SAID MEETINGS, AND REPEALING RESOLUTION 01-2008.

WHEREAS, Section 20 of the Milwaukie City Charter requires the City Council to hold a regular meeting at least twice each month in the City at a time and at a place which it designates; and

WHEREAS, the Municipal Code Chapter 2.04.070 states that the City Council must provide notice of its regularly scheduled meeting times and locations; and

WHEREAS, the City Council adopted Resolution 01-2008, which set the work session and the regular meeting on the first and the third Tuesday of each month;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Milwaukie, Oregon:

Section 1: The regular City Council meeting will be held on the first and third Tuesday of each month at 7:00 P.M. in the Council Chambers at City Hall, 10722 SE Main Street or designated alternate location as required by the Public Meetings Laws of the State of Oregon.

Section 2. The City Council work session will be held on the first and third Tuesday of each month at 5:30 P.M. in the Conference Room at City Hall, 10722 SE Main Street or designated alternate location as required by the Public Meetings Laws of the State of Oregon.

Section 3. The City Council may recess and reconvene the work session after adjournment of the regular session if discussion of work session topics has not concluded; or the City Council may announce continuation of the unfinished item or items to a future work session.

Section 4. The City Council may schedule additional work sessions if deemed necessary by the members, and further the City Council may cancel any work sessions if there are insufficient agenda topics to warrant convening a meeting.

Section 5: The City Recorder is directed to provide notice to the public of all City Council meetings as required by law.

Section 6: Resolution No. 01-2008 adopted January 2, 2008 is repealed.

Section 7: This resolution is effective January 6, 2008.

Introduced and adopted by the City Council on January 6, 2009.

Joe Loomis, Council President

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

ATTEST:

By: _____
City Attorney

Pat DuVal, City Recorder

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DESIGNATING THE *CLACKAMAS REVIEW*, *THE OREGONIAN* AND *THE DAILY JOURNAL OF COMMERCE* AS THE PAPERS OF RECORD FOR THE CITY OF MILWAUKIE.

WHEREAS, ORS 192.620, Public Meetings Law Policy, requires an “Informed public aware of the deliberations and decisions of the governing bodies”; and

WHEREAS, ORS 193.010 defines a newspaper of general circulation, and ORS 193-020 defines a newspaper in which public notices may be published; and

WHEREAS, the *Clackamas Review*, *The Oregonian*, and *The Daily Journal of Commerce* meet the needs of the City and the requirements of State statutes,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Milwaukie, Oregon, designates the *Clackamas Review*, *The Oregonian*, and *The Daily Journal of Commerce* as the papers of record for the City of Milwaukie.

Introduced and adopted by the City Council on January 6, 2009.

This resolution is effective on January 6, 2009.

Joe Loomis, Council President

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

City Attorney