

## MILWAUKIE CITY COUNCIL MEETING

May 7, 1979

7 p.m.

COUNCIL CHAMBERS1336th Meeting

The one thousand three hundred thirty-sixth meeting of the Council of the City of Milwaukie, Oregon, was held at 7 p.m. on the 7th day of May, 1979, with the following councilpersons present:

Mel Paulson	Joy Burgess
Robert Ewald	Mayor Allen Manuel
Anne Nickel (left meeting at 9 p.m.)	

Also present:

Harold L. Schilling, City Mgr.	Cyrus Nims, Planning Direct.
Donald Oblander, Finance Direct.	Myer Avedovech, City Att'y
Steven Hall, P.W. Director	Dorothy E. Farrell, Sec'y

The invocation was given by Steven Hall, and the Pledge of Allegiance was recited.

CONSENT CALENDAR

- a) Approval of minutes - April 16 and 24, 1979 meetings
- b) Progress pay estimate - pump station
- c) Time schedule for Urban County grant applications
- d) Meeting report on McLoughlin improvements
- e) Letter re swimming pool ordinance
- f) Application for Senior Citizen Advisory Council

It was MOVED by Nickel, SECONDED by Burgess, to accept the Consent Calendar. Mrs. Burgess requested that items b, c and d be removed for discussion.

b) Manager and Public Works Director recommend payment of progress pay estimate No. 1 on pump station and appurtenances, in the amount of \$99,281.73, to Lord Brothers Contractors, Inc. Mrs. Burgess requested that this item be delayed for discussion along with memo from Public Works Director on resolution authorizing interfund loan.

c) Council has received copy of tentative time schedule for third-year Community Development Block Grant Program for fiscal year 1979-80. Mrs. Burgess questioned the time frame as being too tight. Staff was asked to find out if the schedule is the latest, up-dated time schedule.

d) Bill Ockert, MSD, has written report of his presentation to City Council on April 16, concerning McLoughlin Boulevard. It was Council consensus to write another letter to MSD concerning the Council's concern that the sequoia trees on McLoughlin be saved.

d) Edward L. Hendricks, M.D., Oregon Chapter, American Academy of Pediatrics and the Oregon Pediatric Society, has written letter dated April 9, concerning proposed swimming pool ordinance.

e) Doris V. Olsen, 3161 SE Balfour, has submitted application for appointment to Milwaukie Senior Citizens Advisory Council. Item (b) was withdrawn for later discussion, and on the motion to accept, MOTION CARRIED unanimously.

NEIGHBORHOOD COUNCIL REPORTS.

I. Neighborhood Council Coordinator has written memo, dated May 1, concerning Neighborhood Council activities.

2. Executive Board of Neighborhood Council 3 has written letter, dated April 27, concerning the Neighborhood Council program.

#### BUDGET COMMITTEE VACANCY

Pete Walker, 5344 SE Park, said he feels the Budget Committee should have ten members, and that an appointment should be made immediately to fill the vacancy.

It was MOVED by Nickel, SECONDED by Manuel, to nominate Shirley Brown for the Budget Committee. MOTION FAILED to pass with the following roll-call vote: AYES: Nickel and Manuel. NOES: Paulson, Burgess and Ewald.

#### CORRESPONDENCE

1. It was Council consensus to ratify May 24 and 31 as dates for joint meetings with Planning Commission on the Comprehensive Plan.
2. Planning Commission would like to discuss with City Council the subject of inclusion of Kellogg Lake in the Willamette Greenway. It was Council consensus that this item be on the agenda at the May 24 joint meeting.

#### PUBLIC HEARING - WILKINS APPEAL OF PLANNING COMMISSION DECISION ON VR-79-5

At their meeting on March 27, 1979, the Planning Commission did not grant VR-79-5, request to construct a 40 ft. x 24 ft. garage building with a rear variance of 7 ft., a side yard variance of 2 ft., on property located at 3122 SE Balfour. Charles Wilkins, applicant, has appealed to the City Council.

Public hearing was declared open at 7:45 p.m. Jon Stein of Planning Department gave staff report. No correspondence was received either for or against the appeal.

Speaking in favor:

Charles L. Wilkins, 3122 SE Balfour

Public hearing was declared closed at 8:05 p.m.

It was MOVED by Burgess, SECONDED by Ewald, that City Council overrule the Planning Commission and allow the side and rear variances for reasons as discussed by Council, and because it would provide better utilization of the owner's property; because owner has obtained approval of adjacent property owners; and there has been no objection raised. Points raised in discussion by Mrs. Burgess are: application is unique in that it is the most proper utilization of land; it would be bureaucracy to build a structure that did not allow use by providing access to each of garage doors; backyard is small and placement of building is logical, sensible because of access and aesthetic value reasons; to build building in the center of a back yard would be poor planning, would eliminate enjoyment of the back yard; it would have benefits to applicant, and wouldn't create adverse effects; adjacent property owners have approved; if approving variance sets a precedent, that is acceptable to allow better utilization of land. MOTION CARRIED with the following roll-call vote: AYES: Paulson, Burgess and Ewald. NOES: Nickel and Manuel.

It was MOVED by Burgess, SECONDED by Paulson, that the City Council ask the Planning Commission and planning staff to work toward

drafting some amendments to the zoning ordinance to make land area more adaptable to proper utilization and use. The motion was withdrawn, and it was MOVED by Burgess, SECONDED by Ewald, that the City Council, jointly with the Planning Commission, proceed to see whether or not there can be amendments, revisions and changes in the present zoning ordinance to update it. MOTION CARRIED with the following roll-call vote: AYES: Paulson, Burgess and Ewald. NOES: Nickel. ABSTAIN: Manuel. City Attorney was asked to prepare a legal opinion on ex parte contact, by the next Council meeting.

(Nickel left meeting at 9 p.m.)

PUBLIC HEARING - EDISON STREET L.I.D. - ORDINANCE NUMBER

On April 2, 1979, Council passed Resolution 7-1979, declaring the intention to improve Edison Street from SE 37th to SE 40th Avenue. Notice posted and published as required. Public hearing was declared open at 9:15 p.m. No written remonstrances have been received. Letter dated April 23 was received from Merritt Robinson, Merrco Enterprises Inc., 611 Main Street, asking questions about the project. That letter was answered by Public Works Director on May 3. Staff report was given by Public Works Director. No one appeared to speak either for or against the project. Public hearing was closed at 9:20 p.m.

It was MOVED by Burgess, SECONDED by Paulson, to read (AN ORDINANCE PROVIDING FOR CONSTRUCTION OF AN ADEQUATE STORM SEWER, STREET, WATERLINE EXTENSION AND ALL OTHER APPURTENANCES TO STREET CONSTRUCTION ON EDISON STREET FROM 37TH AVENUE TO 40TH AVENUE, IN THE CITY OF MILWAUKIE, OREGON) the first time by title only. MOTION CARRIED unanimously by those present. The ordinance will be on the next agenda for second reading.

It was MOVED by Burgess, SECONDED by Paulson, that the engineering work be allowed to commence on the construction prior to final adoption of the ordinance. MOTION CARRIED unanimously by those present.

COMMUNITY CORRECTIONS PROGRAM SUB-LEASE REQUEST

Clackamas County Community Corrections is requesting sub-lease from city to allow construction of a 40-bed residential treatment facility for sentenced male and female offenders as an alternative to county jail incarceration, on property leased by city from OLCC between McBrod Avenue and Johnson Creek, south of present state Work Release Corrections Facility. Conditional use request C-79-5 is being processed through Planning Commission. Parks and Recreation Commission has sent memo, dated May 2, with ideas and concerns.

Joanne Baker, 12232 SE 36th, said the board of Neighborhood Council 1 supports the request for conditional use. The matter will be on the NC 1 meeting agenda for Monday, May 14.

It was MOVED by Burgess, SECONDED by Ewald, that the City Council approve the concept of a 40-bed residential treatment facility, and direct staff to prepare a sub-lease. Councilpersons expressed

concern about: not having more time for making decision, because of county's deadline for starting project in order to receive state funding; whether or not search for sites was exhaustive; the trend of Milwaukie being chosen for this type of program. MOTION CARRIED with the following roll-call vote: AYES: Paulson, Burgess and Ewald. NOES: Manuel. It was Council consensus that the sub-lease contain a prohibition against expansion, a restriction against the facility being used for other than county citizens, and a provision that the architect work with the Parks and Recreation Commission on their concerns.

#### PROPOSED SWIMMING POOL ORDINANCE

City Attorney has prepared a proposed swimming pool ordinance, incorporating provisions from ordinance of other jurisdictions. It was Council consensus to discuss changes at a work session, and notify interested citizens of the date it will be held.

#### ORDINANCE NUMBER - SEWER AND WATER RATE REDUCTIONS

It was MOVED by Burgess, SECONDED by Paulson, that (AN ORDINANCE REPEALING ORDINANCE NUMBERS 1371 AND 1413 AND ESTABLISHING SEWER AND WATER RATE REDUCTIONS FOR CERTAIN LOW-INCOME UTILITY CUSTOMERS, AND DECLARING AN EMERGENCY) be read the first time by title only. MOTION CARRIED unanimously by those present. The ordinance will be on the next agenda for second reading.

#### RESOLUTION NUMBER 9-1979 - WATER RATES

It was MOVED by Burgess, SECONDED by Paulson, to read Resolution Number 9-1979 (A RESOLUTION REPEALING RESOLUTION NUMBER 37-1977, AMENDING RESOLUTION NUMBER 65-1968, ESTABLISHING RATES FOR WATER USE AND ESTABLISHING A REDUCED WATER RATE FOR LOW INCOME HOUSEHOLDS) by title only. MOTION CARRIED unanimously by those present. It was MOVED by Burgess, SECONDED by Paulson, to adopt Resolution 9-1979, with staff to add the ordinance number in the body of the resolution after the ordinance is adopted. MOTION CARRIED unanimously by those present.

#### DATES FOR JOINT WORKSHOPS ON COMPREHENSIVE PLAN

May 24 and May 31 are dates for joint workshops with Planning Commission on Comprehensive Plan.

#### PROGRESS REPORT ON COMMUNITY CENTER

Manager gave progress report on Community Center. Council has received copies of April 25 and May 3 letters from Englund, Plummer & Associates to Community Development Director, and memo from Chairman of Community Center Advisory Council. It was Council consensus that the Manager be authorized to sign off on the plans for the Center. Plans will be available for Council review by 3 p.m. Friday, May 11.

#### RESOLUTION NUMBER 10-1979 - ANNEXATION OF 5555 SE KING ROAD

At their meeting April 24, 1979, the Planning Commission voted to deny petition for annexation A-78-6 (Al Carrick, petitioner) for property at 5555 SE King Road, and to forward their recommendation to the City Council. It was Council consensus to discuss policies on annexation at a work session.

It was MOVED by Burgess, SECONDED by Ewald, that the City Council approve the annexation request, and that Resolution Number 10-1979 (A RESOLUTION APPROVING A REQUEST FOR ANNEXATION TO THE CITY OF MILWAUKIE) be read by title only. MOTION CARRIED unanimously by those present. It was MOVED by Burgess, SECONDED by Ewald, to adopt Resolution 10-1979. MOTION CARRIED unanimously by those present.

(Meeting recessed at 10 p.m., reconvened at 10:05 p.m. with all present.)

#### AAA KITCHEN EQUIPMENT GRANT CONTRACT

Clackamas County Area Agency on Aging contract with city on grant for kitchen equipment for Community Center was delivered at noon May 4. Manager said there are problems with the way the contract is drafted. It was Council consensus that if it is necessary, because of time constraints, the Manager is authorized to sign the contract and bring it to Council for ratification at the next meeting.

#### MEMORANDUM ON WATER RATE IMPLEMENTATION

Finance Director has written memo, dated May 4, concerning water rate implementation. It was Council consensus that the new water rates will be in effect for the billing period beginning June 1, 1979.

#### MEMO RE GARBAGE RATES

Finance Director has written memo, dated May 3, concerning garbage rates. Council will consider policy questions at a work session, and a representative of the garbage collectors will be notified of the date.

It was MOVED by Manuel, SECONDED by Ewald, to extend the meeting for five minutes. MOTION CARRIED unanimously by those present.

#### COUNCIL MEETING IN SCHOOL - HANDICAPPED AWARENESS WEEK

Paulson discussed moving the next Council meeting to a school that has no architectural barriers, so handicapped people could attend. It was Council consensus that Paulson would prepare a proclamation to be read at the next meeting, and that a later meeting be held at a location with no architectural barriers, allowing enough time for sufficient advance publicity.

#### MEMO RE SALE OF CITY-OWNED PROPERTY

Finance Director has written memo, dated April 11, concerning possible sale of two pieces of city-owned property. It was Council consensus that the memo be referred to Parks and Recreation Commission for an answer by the next Council meeting.

#### RESOLUTION NUMBER 11-1979 - TRANSFER OF FUNDS

It was MOVED by Manuel, SECONDED by Burgess, to read Resolution Number 11-1979 (A RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS TO REAPPORTION THE 1978-79 BUDGET) by title only. MOTION CARRIED unanimously by those present. It was MOVED by Burgess, SECONDED

by Ewald, to adopt Resolution 11-1979. MOTION CARRIED unanimously by those present.

It was MOVED by Burgess, SECONDED by Ewald, to extend the meeting for an additional four minutes. MOTION FAILED to pass with the following roll-call vote: AYES: Paulson, Burgess and Ewald. NOES: Manuel.

#### RECOMMENDATION FOR SEWER CONNECTION CHARGES

It was MOVED by Manuel, SECONDED by Burgess, to adopt staff recommendation, as spelled out in memo dated April 24, on sewer connection charges at 2441 SE Stubb Street and 2636 SE Harrison Street. MOTION CARRIED unanimously by those present.

#### AUTHORIZE FUNDS FOR UPDATING STORM DRAINAGE PLAN

Council has received memo from Budget Committee, dated May 2, concerning street serial levy or bond issue, and memo from Public Works Director, dated May 1, concerning storm drainage plan. It was MOVED by Manuel, SECONDED by Ewald, to adopt the proposal to spend not to exceed \$4500 to update the 1970 storm drainage plan done by STRAAM Engineers, Inc. MOTION CARRIED unanimously by those present.

#### BID AWARD - COMMUNITY CENTER KITCHEN EQUIPMENT

Council has received copy of letter from Englund, Plummer & Associates, dated May 4, 1979, concerning food service equipment for Community Center. It was MOVED by Manuel, SECONDED by Paulson, to award the bid for providing food service equipment for the Milwaukie Community Center to Northwest Hotel Supply, with the exception of item 5, disposer, in the amount of \$576, which would better be provided during stainless steel fabrication. The total bid amount would thus be \$19,844. MOTION CARRIED unanimously by those present.

#### SPECIAL PROJECT FUND MEETING NOTICE

State Department of Transportation, Parks and Recreation Branch, has sent letter, dated March 30, 1979, concerning announcement of Spring special project fund meeting for land and water conservation grants. It was Council consensus not to send in an application.

#### RESOLUTION NUMBER 12-1979 - AUTHORIZING INTERFUND LOAN

It was MOVED by Manuel, SECONDED by Burgess, to read Resolution Number 12-1979 (A RESOLUTION AUTHORIZING THE EQUIPMENT RESERVE FUND TO LOAN UP TO \$100,000 TO THE WATER FUND TO PROVIDE THE NECESSARY CASH TO COVER A TEMPORARY DEFICIT) by title only. MOTION CARRIED unanimously by those present. It was MOVED by Manuel, SECONDED by Paulson, to adopt Resolution 12-1979. MOTION CARRIED unanimously by those present.

#### PROGRESS PAY ESTIMATE - PUMP STATION

This item was removed from the Consent Calendar for discussion

with the above resolution 12-1979. It was MOVED by Manuel, SECONDED by Ewald, to approve progress pay estimate No. 1 as submitted by URS Company, for pump station and appurtenances, to Lord Brothers Contractors, Inc., in the amount of \$99,281.73. MOTION CARRIED unanimously by those present.

#### PAYMENT OF BILLS

It was MOVED by Manuel, SECONDED by Paulson, that the bills listed for May 7, 1979 payment be approved for payment. MOTION CARRIED unanimously by those present.

#### COUNCIL REPORTS

1. Mrs. Burgess reported on meeting and discussion with Ernest Hahn, builder of the Town Center.

#### OTHER BUSINESS

1. Council will hold a work session at 7 p.m. Monday, May 14, for discussion of swimming pool ordinance, garbage rates and franchise fees, Community Center policies, and annexation policy.
2. It was Council consensus to ask for a report on progress by the Downtown Study Committee.

The meeting adjourned at 12:05 p.m. to go into executive session, under ORS 192.660 (2)(a) to discuss labor negotiations and real property transaction.

  
Allen Manuel, Mayor

ATTEST:

  
Dorothy E. Farrell, Secretary

MILWAUKIE  
CITY COUNCIL AGENDA  
May 7, 1979  
7 p.m.

COUNCIL CHAMBERS

1336th Meeting

1. CALL TO ORDER
2. INVOCATION - Pastor Paul Swanson, King of Kings Lutheran Church
3. PLEDGE OF ALLEGIANCE
4. CONSENT CALENDAR
  - a) Approval of minutes - April 16 and 24, 1979 meetings
  - b) Progress pay estimate - pump station
  - c) Time schedule for Urban County grant applications
  - d) Meeting report on McLoughlin improvements
  - e) Letter re swimming pool ordinance
  - f) Application for Senior Citizen Advisory Council
5. AUDIENCE PARTICIPATION
6. NEIGHBORHOOD COUNCIL REPORTS
  - a) Neighborhood Council activities
  - b) Memo from Neighborhood Council 3 re Neighborhood Council program
7. CORRESPONDENCE
8. PUBLIC HEARINGS
  - a) Charles Wilkins appeal of Planning Commission decision on VR-79-5
  - b) Edison Street L.I.D. - Ordinance No. \_\_\_\_\_
9. OLD BUSINESS
  - a) Community Corrections Program sub-lease request
  - b) Ordinance No. \_\_\_\_\_ - Swimming Pool Regulations
  - c) Ordinance No. \_\_\_\_\_ - Sewer and Water Rate Reductions
  - d) Resolution No. \_\_\_\_\_ - Water Rates
  - e) Set dates for workshops on Comprehensive Plan
  - f) Progress report on Community Center
  - g) Denial of annexation request by Planning Comm. - 5555 King Rd.
  - h) Approval of contract - AAA - kitchen equipment grant
  - i) Memo re water rate implementation
  - j) Memo re garbage rates
10. CONSIDERATION
  - a) Council meeting in school - Handicapped Awareness Week (requested by Paulson)
  - b) Memo re sale of city property
  - c) Resolution No. \_\_\_\_\_ - Transfer of Funds
  - d) Recommendation for sewer connection charges
  - e) Authorize funds for updating street/storm sewer engineering /Monroe Street drainage problem (requested by Paulson)   /
  - f) Bid award - Community Center kitchen equipment
  - g) Special project fund meeting notice

11. COUNCIL REPORTS
12. OTHER BUSINESS
13. PAYMENT OF BILLS
14. ADJOURNMENT
15. EXECUTIVE SESSION - Under ORS 192.660 (2)(a) to discuss  
labor negotiations and real property transaction