

MILWAUKIE
CITY COUNCIL MEETING
September 17, 1979
7 p.m.

COUNCIL CHAMBERS

1345th Meeting

The one thousand three hundred forty-fifth meeting of the Council of the City of Milwaukie, Oregon, was held at 7 p.m. on the 17th day of September, 1979, with the following councilpersons present:

Mel Paulson
Anne Nickel
Joy Burgess

Robert Ewald
Mayor Allen Manuel

Also present:

Steven Hall, City Mgr. Pro Tem
Dorothy E. Farrell, Secretary

The invocation was given by Al Zimmerman, Clackamas Park Baptist Church, and the Pledge of Allegiance was recited.

CONSENT CALENDAR

- a) Approval of minutes
- b) Payment of bills
- c) Applications for Center Advisory Board
- d) Human Services Coordinator Activity Report
- e) Memo from Planning Dept. on zone change hearing
- f) Memo re 41st St. L.I.D.
- g) Liquor license application - Ferguson's
- h) Memo from PC re draft Community Development Manual
- i) Memo from PW Director re TSM projects

It was MOVED by Burgess, SECONDED by Nickel, to approve the Consent Calendar. Burgess asked that items a, b, d and i be removed for discussion.

- a) Burgess said she had received no minutes. It was pointed out that the agenda did not list any minutes by date; because of staff shortages, minutes were not finished in time for inclusion.
- b) Burgess asked questions about various bills.
- c) Council has received applications for Center Advisory Board from James Tomlin, David Graf, Howard R. Cleary.
- d) Human Services Coordinator has prepared activity report for August, 1979. Burgess and Paulson commended the report and the activities. Ewald asked Human Services Coordinator to convey thanks to the volunteers.
- e) Planning Department has written memorandum, dated September 11, on hearing on zone changes under new Comprehensive Plan and implementing ordinances.
- f) Public Works Director has written memorandum, dated September 7, concerning 41st Avenue Local Improvement District.
- g) Police Department finds no reason to deny issuance of PS liquor license to Ferguson's Markets Inc., dba KING ROAD U-MARK-IT, at 42nd and King Road.
- h) Planning Commission has sent memo, dated September 11, concerning important points of Draft Community Development Manual. Manager Pro Tem pointed out this is slightly revised from one previously received.
- i) Public Works Director has written memo, dated September 4,

concerning Traffic Safety Management projects. Burgess said she agreed with the memo.

MOTION CARRIED unanimously.

ORDINANCES NUMBERS 1433 and 1434 - FIRE CODE

Jack Spencer, President of Fire Code Study Committee, presented Committee's report and recommendation to City Council. There was discussion of some changes in the proposed ordinances.

It was MOVED by Burgess, SECONDED by Nickel, to read Ordinance Number 1433 (AN ORDINANCE ADOPTING THE UNIFORM FIRE CODE, 1976 EDITION, THE SAME BEING COPYRIGHTED BY THE INTERNATIONAL CONFERENCE OF BUILDING OFFICIALS AND THE WESTERN FIRE CHIEF'S ASSOCIATION, AND REPEALING ORDINANCES NO. 1037, 1085, AND 1232) the first time, by title only, as amended. MOTION CARRIED unanimously. It was MOVED by Burgess, SECONDED by Nickel, to read Ordinance 1433 the second time by title only. MOTION CARRIED unanimously. It was MOVED by Burgess, SECONDED by Nickel, to adopt Ordinance 1433. Ordinance 1433 was put on its passage with the following roll-call vote: AYES: Paulson, Nickel, Manuel, Burgess and Ewald. NOES: None. Ordinance 1433 passed the Council and was so declared by the Mayor.

It was MOVED by Nickel, SECONDED by Burgess, to read Ordinance Number 1434 (AN ORDINANCE AMENDING ORDINANCE NO. 1338, THE SHORT FORM COMPLAINT AND CITATION FOR MINOR OFFENSES BY ADDING VIOLATIONS OF THE CITY OF MILWAUKIE FIRE CODE, AND AUTHORIZING ALL MEMBERS OF THE MILWAUKIE FIRE DEPARTMENT, AND ALL MEMBERS OF THE MILWAUKIE BUILDING DEPARTMENT TO ISSUE SAID SHORT FORM UNIFORM COMPLAINT AND CITATION) the first time by title only, as amended. MOTION CARRIED unanimously. It was MOVED by Nickel, SECONDED by Burgess, to read Ordinance 1434 the second time by title only. MOTION CARRIED unanimously. It was MOVED by Nickel, SECONDED by Burgess, to adopt Ordinance 1434. Ordinance 1434 was put on its passage with the following roll-call vote: AYES: Paulson, Nickel, Manuel, Burgess and Ewald. NOES: None. Ordinance 1434 passed the Council and was so declared by the Mayor.

It was MOVED by Nickel, SECONDED by Ewald, that the present committee be appointed to serve as the Fire Code Appeals Board. MOTION CARRIED unanimously.

AUDIENCE PARTICIPATION

1. James Soule, of Automobile Club of Oregon, presented to City Council a plaque emblematic of the citation recently awarded Milwaukie in the AAA annual Pedestrian Safety Contest.
2. Ron Moran, Firefighter Bargaining Agent, said at August 7 Council meeting Council had asked that any disciplinary action in Fire Department during investigation of charges against Fire Chief should come to the City Council, but that disciplinary actions had taken place without being brought to Council. It was Council decision to discuss this matter in Executive Session. Moran also asked for copies of City Manager Schilling's report on charges against Fire Chief. He was informed it is the recommendation of the city's City Attorney Pro Tem that the report not be released at this time.

Moran discussed with Mayor Manuel an article that appeared in the Oregon Journal quoting the Mayor's comments on the Fire Chief investigation.

NEIGHBORHOOD COUNCIL REPORTS

The Neighborhood Council Steering Committee will hold a meeting September 20 at 7:30 p.m. in Council Chambers.

(Meeting recessed at 8:25 p.m., reconvened at 8:40 p.m. with all present.)

PUBLIC HEARING - STREET VACATION REQUEST - PORTIONS OF MOSS STREET, MEEK STREET, LEWELLYN STREET, SE 31ST AVENUE

Public hearing was declared open at 8:40 p.m. Staff report was given by Planning Director, who explained the street vacations are being requested by Murphy Company, now operating the old Milwaukie Plywood facility.

Speaking in favor:

Mark McCullough, attorney representing Murphy Company

Speaking against:

Bea Hall, 3695 Harvey Street

Asking questions:

John Palmer, 6224 Aspen

Public hearing was declared closed at 9:25 p.m.

Staff was asked to prepare a street vacation ordinance for the next agenda.

CORRESPONDENCE

1. Center Advisory Committee has written letter, dated September 12, concerning Center Policy Guidelines and Philosophy Statement; and letter, dated September 6, concerning letter of agreement with Loaves and Fishes; and memorandum, dated September 12, concerning name of new Center. A work session on these subjects originally scheduled for September 18 will be postponed until October 4.
2. Peter W. Walker has resigned as Chairperson of Neighborhood Council #5. A letter and appreciation certificate will be sent.
3. Margaret Moreland, 11081 SE Penzance Street, No. 3, has sent letter, dated September 10, to Code Enforcement Officer, with copies to members of Council, concerning abandoned house at the corner of Washington and Penzance streets. Staff will follow up on the situation.
4. Oregon Liquor Control Commission has sent letter, dated September 6, 1979, concerning new Dispenser Class "C" licenses. Police Chief will find out what the city's responsibilities are.
5. Councilwoman Burgess read comments on an unsigned "no confidence" memo from city employees, and recommended the memo and any further communication to Council from employees be forwarded to City Manager; she recommended Manager consult with legal counsel to determine the most appropriate action. It was MOVED by Burgess, SECONDED by Ewald, that the City Council, from this point on, forward communications to Council from city employees directly to the City Manager, and request City Manager to consult with legal counsel to determine the most appropriate action to be taken in order to resolve this issue; the Manager's recommendation to

be brought to the Council at the next meeting.

It was MOVED by Nickel, SECONDED by Manuel, to strike the part of the motion requesting the City Manager to consult with legal counsel. MOTION FAILED to pass with the following roll-call vote: AYES: Nickel and Manuel. NOES: Paulson, Burgess and Ewald. On the main motion, MOTION CARRIED with the following roll-call vote: AYES: Paulson, Burgess and Ewald. NOES: Nickel and Manuel.

APPOINTMENT TO BUDGET COMMITTEE

It was MOVED by Manuel, SECONDED by Nickel, to appoint Shirley Brown to the Budget Committee.

It was MOVED by Burgess, SECONDED by Ewald, to appoint James Backenstos to the Budget Committee.

Votes for Brown: AYES: Nickel and Manuel. NOES: Paulson, Burgess and Ewald.

Votes for Backenstos: AYES: Paulson, Burgess and Ewald. NOES: Nickel and Manuel.

Backenstos is appointed to the Budget Committee.

MEMO FROM COUNCILWOMAN NICKEL RE FIRE DEPARTMENT INVESTIGATION

Councilwoman Nickel has written memo, dated September 13, recommending that the Fire Department investigation be turned over to the Ethics Committee of the State of Oregon Fire Chief's Association.

CITY MANAGER PRO TEM APPOINTMENT

It was MOVED by Burgess, SECONDED by Ewald, that Paul Richards be appointed the city's interim City Manager effective at 9 a.m. September 18, for a two or three month period or until a permanent City Manager is hired. MOTION CARRIED with the following roll-call vote: AYES: Paulson, Burgess and Ewald. NOES: Nickel and Manuel.

REPORT ON STORM DRAIN COSTS

Public Works Director gave verbal report on costs of storm drain improvements. Estimated cost of construction only for storm drains is \$4,780,000; with engineering costs, legal costs and contingency, total would be \$6,215,000. This is not a firm figure yet; there may be some changes.

REPORT ON I-505 TRANSFER FUNDS

Public Works Director has written memo, dated September 13, concerning informational meeting sponsored by Clackamas County on I-505 transfer funds. It was MOVED by Paulson, SECONDED by Burgess, that Council accept and endorse the staff recommendation to push this as fast as possible. MOTION CARRIED unanimously.

DISCUSSION OF ORDINANCE 1350 - REQUESTED BY JEAN BAKER

Mrs. Baker not being in attendance, staff was requested to call her to inquire if she intends to pursue the matter.

DISCUSSION OF KATHI JOHNSON COMPLAINT

It was MOVED by Burgess, SECONDED by Paulson, to remove the issue from the table. MOTION CARRIED with the following roll-call vote: AYES: Nickel, Paulson, Burgess and Ewald. NOES: Manuel. It was MOVED by Burgess, SECONDED by Nickel, that the Milwaukie

City Council forward the complaints by Kathi Johnson against Milwaukie Police Department, along with the complete file, to the Clackamas County District Attorney for thorough review and investigation, and a report. MOTION CARRIED unanimously.

APPOINTMENTS TO TAX BASE COMMITTEE

It was MOVED by Burgess, SECONDED by Nickel, that the meeting be extended for 15 minutes. MOTION CARRIED unanimously.

It was decided appointments to Tax Base Committee, discussion of tax base election date will be on the next agenda.

SALARY OF BUILDING OFFICIAL

City Manager Pro Tem has written memo, dated September 14, concerning salary of Building Official. It was MOVED by Manuel, SECONDED by Nickel, to adopt \$1396 to 1697 as the salary range for the building official. MOTION CARRIED unanimously. A salary resolution will be on the next agenda.

SCHEDULE BUDGET COMMITTEE MEETING ON SUPPLEMENTAL BUDGET

It was MOVED by Burgess, SECONDED by Manuel, to adopt the time frame for supplemental budget as submitted by Finance Director in memo dated September 13. MOTION CARRIED unanimously. The Budget Committee will meet at 7 p.m. October 1.

RESOLUTION NUMBER 38-1979 - ICMA DEFERRED COMPENSATION

It was MOVED by Nickel, SECONDED by Burgess, to read Resolution Number 38-1979 (A RESOLUTION REPEALING RESOLUTION NUMBER 51-1977 AND ESTABLISHING A DEFERRED COMPENSATION PLAN) by title only. MOTION CARRIED unanimously. It was MOVED by Nickel, SECONDED by Burgess, to adopt Resolution 38-1979. MOTION CARRIED unanimously.

COORDINATION AND DUAL INTEREST AGREEMENT

Planning Director has written memo, dated September 13, concerning coordination agreement with Clackamas County. It was MOVED by Nickel, SECONDED by Ewald, to adopt the dual interest agreement as presented, with possible modification of section 3 defining distances. MOTION CARRIED unanimously.

It was MOVED by Manuel, SECONDED by Burgess, to extend the meeting to 11:30 p.m. MOTION CARRIED unanimously.

OTHER BUSINESS

1. It was MOVED by Nickel, SECONDED by Ewald, to accept staff recommendation to certify Building Official to conduct inspections for installation and alteration of mobile homes. MOTION CARRIED unanimously.

2. Mayor said it was his impression all contacts of interim City Attorney were to go through City Manager. It was MOVED by Ewald, SECONDED by Burgess, that the existing contract with the interim City Attorney be modified to the extent that the City Council is not included as having to go through the City Manager. MOTION

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CARRIED with the following roll-call vote. AYES: Paulson, Burgess and Ewald. NOES: Nickel and Manuel.

The meeting adjourned at 11:40 p.m. to go into executive session under ORS 192.660 (2)(d) to consider current litigation.


Allen Manuel, Mayor

ATTEST:


Dorothy E. Farrell, Secretary

MILWAUKIE
CITY COUNCIL AGENDA
September 17, 1979
7 p.m.

COUNCIL CHAMBERS

1345th Meeting

1. CALL TO ORDER
2. INVOCATION
3. PLEDGE OF ALLEGIANCE
4. CONSENT CALENDAR
 - a) Approval of minutes
 - b) Payment of bills
 - c) Applications for Center Advisory Board
 - d) Human Services Coordinator Activity Report
 - e) Memo from Planning Dept. on zone change hearing
 - f) Memo re 41st St. L.I.D.
 - g) Liquor license application - Ferguson's
 - h) Memo from PC re draft Community Development Manual
 - i) Memo from PW Director re TSM projects
5. AUDIENCE PARTICIPATION
 - a) Presentation of Pedestrian Safety Plaque
6. NEIGHBORHOOD COUNCIL REPORTS
7. CORRESPONDENCE
 - a) Memo from CAC re policy guidelines
 - b) Memo from CAC re name of Center
 - c) Resignation letter from Peter Walker
 - d) Memo from CAC re Loaves and Fishes Agreement
 - e) Letter re abandoned house
 - f) Letter from OLCC
8. PUBLIC HEARING - Street vacation request - portions of Moss Street, Meek Street, Lewellyn Street, SE 31st Avenue
9. OLD BUSINESS
 - a) Memo from Fire Code Study Committee re adoption of Fire Code Ordinance No.
 - b) Appointment to Budget Committee
 - c) Memo from Nickel re Fire Dept. investigation
 - d) City Manager pro tem appointment
 - e) Verbal report on storm drain costs
 - f) Report on Clackco Meeting - I-505 funds
 - g) Discussion of Ordinance 1350 - requested by J. Baker and scheduled by City Council
 - h) Discussion of Kathi Johnson Complaint
 - i) Appointments to Tax Base Committee
 - j) Discussion of tax base election date
 - k) Set salary of Building Official

10. CONSIDERATION

- a) Schedule Budget Committee meeting on Supplemental Budget
- b) Resolution No. _____ - ICMA Deferred Compensation
- c) Coordination and Dual Interest Area Agreement

11. COUNCIL REPORTS

12. OTHER BUSINESS

13. ADJOURNMENT

EXECUTIVE SESSION - under ORS 192.660 (2)(d) to consider
current litigation