

CITY COUNCIL MEETING

March 21, 1977

7 p.m.

COUNCIL CHAMBERS1286th Meeting

The one thousand two hundred eighty-sixth meeting of the Council of the City of Milwaukie, Oregon, was held on the 21st day of March, 1977, with the following councilpersons present:

Allen Manuel	Jerry N. Hutchison
Charles E. Swan	Mayor Bill E. Hupp
Joy Burgess	

Also present:

Harold L. Schilling, City Mgr.	Donald Oblander, Finance Director
J. Wayne Daigle, Dir. of P.W.	Myer Avecovch, City Attorney
Donald Jones, Police Chief	Dorothy E. Farrell, Secretary
Victor Boulanger, Fire Chief	

The invocation was given by Donald Graf, and the Pledge of Allegiance was recited.

CONSENT CALENDAR

- a) Approval of minutes - March 7, 1977
- b) Alternate Writ of Mandamus and Return to Writ, Randall v. Nims
- c) Demurrer - Randall v. Milwaukie
- d) Letter from Dept. of Transportation re Furnberg Park
- e) Answer to Complaint - Hingson v. Jones
- f) Liquor license applications
 - 1) Fernwood Inn - DA - renewal
 - 2) Keane's Grocery - Package store - new
 - 3) Pietro's Pizza - RMB - renewal
- g) City position on legislative bills
- h) Proposed ballot title for library levy
- i) Press release

It was MOVED by Burgess, SECONDED by Hutchison, to accept the consent calendar, with the exception of item i, requested to be removed by Burgess. MOTION CARRIED unanimously and so ordered.

- b) Council has received copy of Alternative Writ of Mandamus, Petition for Alternative Writ of Mandamus, Order Allowing Alternative Writ of Mandamus, and Return to Alternative Writ of Mandamus, in the case of The Robert Randall Company v. Cyrus Nims et al.
- c) Council has received copy of Demurrer to Amended Complaint at Law in the case of The Robert Randall Company v. City of Milwaukie.
- d) Parks and Recreation Branch, State Department of Transportation, has sent approved, executed copy of agreement for Furnberg Phase 2 development, in letter dated March 7.
- e) Council has received copy of Answer to Complaint in the case of John Henry Hingson v. Donald Jones.
- f) Police Department, in memo dated March 15, states they have no objections to the issuance of the liquor licenses to the above-listed applicants.
- g) City has issued "position paper" on various legislative bills, which was also given to Clackamas County legislators in a recent meeting.
- h) Phyllis Dalton, Library Consultant, has sent County Commissioners, in letter dated March 14, proposed ballot title for library serial levy.
- i) Mayor read press release issued by the City Council, dated March 21, 1977, concerning negotiations between city bargaining

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representatives and Firefighters Local 1159. It was MOVED by Hutchison, SECONDED by Burgess, to adopt the consent calendar, items a through i. MOTION CARRIED unanimously and so ordered.

AUDIENCE PARTICIPATION

1. Jerry Jarmer, owner of property on 17th and Waverly, asked what steps are necessary to get sewer service to the property. Manager asked that Mr. Jarmer contact the Public Works Director for the answer to his question.
2. An unidentified woman in the audience asked what is the firefighters' side of the argument referred to in the news release referred to above, and was told by the Mayor the question will not be debated this evening.
3. Gary McClain, attorney representing the firefighters, asked if Council was not going to allow a representative of the firefighters to express their position. Mayor explained the city's bargaining ordinance makes it an unfair labor practice to communicate during bargaining except through designated negotiating teams.
4. Ron Moran, firefighter bargaining agent, asked to make a statement concerning factfinding, and it was Council consensus this was also prohibited by the ordinance.
5. Wayne Winter, 12114 SE 71st, asked questions concerning the City Charter, and whether or not it supersedes the ordinance, and the Mayor reiterated that the Council unanimously agree this is not the time or place for discussion of labor negotiations in any way.
6. Jim Backenstos, 3626 SE Harrison, asked what is causing the dissension in the city.

NEIGHBORHOOD COUNCIL REPORTS

1. Neighborhood Councils 1, 3 and 4 have discussed Lake Road bike-way project, and made recommendations.
2. Neighborhood Council 3 has submitted 1977 goals.

PUBLIC HEARING - SUPPLEMENTAL BUDGET - RESOLUTION NUMBER 11-1977

Public hearing was declared open at 7:30 p.m. Staff report was given by Finance Director. The following changes and corrections were noted:

On page 3, "Dog Control Program" is changed to "Animal Control Program."

Reserve for Supplemental Allocation, under Revenue Sharing, is changed from \$37,000 to \$50,000.

City Hall Landscaping, under Revenue Sharing, is changed from \$18,000 to \$5000.

Automotive Equipment, under Anti-recessionary Funds, is changed from \$20,000 to \$22,500.

Transfer to General Fund is changed from \$34,000 to \$31,500.

On page 4, Community Development Grant is changed from \$273,500 to \$280,000, interest changed from \$1500 to -0-.

Unappropriated Reserve for Community Development Projects is changed from \$238,000 to \$243,000, and the total Capital Outlay under Community Development Block Grant Fund is changed from \$275,000 to \$280,000.

No one appeared to speak on the supplemental budget. Public hearing was declared closed.

It was MOVED by Hutchison, SECONDED by Burgess, that Resolution Number 11-1977 be read by title only, as corrected. MOTION CARRIED unanimously and so ordered. It was MOVED by Hutchison, SECONDED by Burgess, to adopt Resolution 11-1977, as corrected. MOTION CARRIED unanimously and so ordered.

(Meeting recessed at 7:50 p.m., reconvened at 8:06 p.m. with all present.)

RANDALL APPEAL - C-77-3 - CONDITIONAL USE FOR APARTMENTS AT LINWOOD AND HARMONY

Decision on this appeal was tabled at the March 7 meeting. Neighborhood Council 5 met with representatives of the Randall Company, and survey results have been tabulated.

John Palmer, 6224 Aspen, spoke representing Neighborhood Council 5. Jeff Mitchell, spoke representing Randall Company.

Susan Strong, 12226 SE 64th Place, said if apartments go in, the surrounding residents would like to see less units and lower height. Council has received letter from Home Builders Association of Metropolitan Portland, dated March 21, concerning the project.

It was MOVED by Burgess that the Randall appeal to the City Council (C-77-3) be denied based upon the following reasons: that local government has the right to prioritize the needs of its community within the various zones; and that commercial use is of a higher need than apartments, which is a conditional use on this particular property;

that the provision for a neighborhood commercial center at this location is in accordance with the intent of the comprehensive plan;

that the center could not serve its intended function within the limited area, .44 acres, now set aside for business;

that the center will probably require the entire 2.39 acre commercial zoned area as the local residential area builds up;

that no locations within the trade area delineated on the attached map are currently zoned for commercial use;

that although the property in question has certain disadvantages from a physical development standpoint, it is the only location within the area served which meets locational requirements and which could satisfy neighborhood commercial needs.

This makes it imperative that the land be used wisely and that it be used in accordance with the intent of the comprehensive plan.

MOTION DIED for lack of a second.

It was MOVED by Swan, SECONDED by Hutchison, that the conditional use permit be granted. It was MOVED by Hutchison, SECONDED by Swan, to amend the motion to include a statement to the Design Review Board that Council is most anxious that they pay particular attention in reviewing this project as to the adequacy of the buffer area between apartments and single-family homes; adequacy of vegetative screening; fencing; height restrictions; and window and balcony locations.

On the amendment, MOTION PASSED with the following roll-call vote:

AYES: Manuel, Swan, Hutchison and Hupp. NOES: Burgess.

On the main motion, MOTION CARRIED with the following roll-call vote:

AYES: Manuel, Swan and Hutchison. NOES: Burgess and Hupp.

(Meeting recessed at 9 p.m., reconvened at 9:05 p.m. with all present.)

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CORRESPONDENCE

- 1. Milwaukie Historical Society has sent letter dated March 10, thanking city for \$3000 budgeted for Milwaukie Museum.
- 2. County Commissioners have written letter dated March 3, concerning North Clackamas Park. It was MOVED by Hutchison, seconded by Hupp, to accept in principle the stipulations of the county as outlined in the letter, and communicate that to them, as well as a deep sense of gratitude for the turn of events which gave the park to the city. MOTION CARRIED unanimously and so ordered. It was Council consensus that the Parks and Recreation Commission establish an advisory committee.

LETTER FROM COMMERCE DEPARTMENT REGARDING ROOFING PERMITS

In response to city request as to procedure for removal of reroofing permit requirement, the Director of the State Department of Commerce has responded on March 8, stating the Department does not recommend waiving permits, but a code amendment can be initiated by a written request. It was MOVED by Hutchison, SECONDED by Swan, to refer the matter to the Building Appeals Board and ask for their advice. MOTION CARRIED unanimously and so ordered.

ATTORNEY'S FEE - HUGHES V. ELDRIDGE

Council previously approved indemnifying city employees for punitive damages and legal expenses in the case of Hughes v. Eldridge et al. Phil H. Ringle, Jr., Attorney at Law, has sent billing in the amount of \$275 for this expense.

MEMO FROM CITY ATTORNEY RE MANDATORY DEDICATION

Council had requested a staff report on the possibility of requiring mandatory dedication or payment of fees as a condition of subdivision or development approval. City Attorney has written memo, dated March 14, on the subject. It was MOVED by Hutchison, SECONDED by Swan, to refer the matter to the Planning Commission. MOTION CARRIED unanimously and so ordered.

APPOINTMENTS TO SENIOR CITIZEN ADVISORY COUNCIL

It was Council consensus to ask staff to recommend what action Council should take.

MEMO RE 44TH AVENUE STREET VACATION

City Engineer has recommended proposed 44th Avenue Street vacation be referred to the Planning Commission. It was MOVED by Hutchison, SECONDED by Swan, to refer the matter to the Planning Commission. MOTION CARRIED unanimously. Staff will investigate the possibility of combining the street into a building lot.

DISRUPTIVE BUSINESS ORDINANCE

It was MOVED by Hutchison, SECONDED by Manuel, to table the proposed ordinance indefinitely. MOTION CARRIED with the following roll-call vote: AYES: Manuel, Swan, Hutchison and Hupp. NOES: Burgess.

PERSONNEL CONSULTING PROPOSALS

Council previously requested more information on scope and cost of personnel consulting proposals. Staff has written memo, dated March 15, on this subject. It was Council consensus to get reports

from other cities as to the quality of work performed. Staff will also report on what size cities have full-time personnel directors, as well as the same information for private industry.

RESOLUTION NUMBER 12-1977 - COMMUNITY DEVELOPMENT ADVISORY COMMITTEE

It was MOVED by Hutchison, SECONDED by Manuel, to read Resolution Number 12-1977 (A RESOLUTION BY THE CITY COUNCIL ESTABLISHING A CITIZENS ADVISORY COMMITTEE TO STUDY AND MAKE RECOMMENDATIONS CONCERNING THE PLANNING AND IMPLEMENTATION OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS IN THE CITY OF MILWAUKIE) by title only. MOTION CARRIED unanimously and so ordered. It was MOVED by Hutchison, SECONDED by Hupp, to adopt Resolution 12-1977. MOTION CARRIED unanimously and so ordered.

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RECOMMENDATION RE APPOINTMENT TO PARKS AND RECREATION COMMISSION

It was MOVED by Hupp, SECONDED by Burgess, to comply with the request of the Parks and Recreation Commission to appoint Mrs. Florence Abbott as alternate to the Parks and Recreation Commission, replacing Virginia Van Schoiack. MOTION CARRIED unanimously and so ordered.

RECOMMENDATION RE WEBER PARK ENCROACHMENT

Clackamas County is widening a portion of Harmony Road, and requests an easement for placing fill on a portion of Weber Park. Parks Commission has recommended granting the easement. It was MOVED by Swan, SECONDED by Hutchison, to authorize the Mayor to sign the easement. Staff is to request county to revegetate the fill. MOTION CARRIED unanimously and so ordered.

RESOLUTION NUMBER 13-1977 - 36TH AVENUE L.I.D.

It was MOVED by Hupp, SECONDED by Swan, to read Resolution Number 13-1977 (A RESOLUTION DECLARING THE INTENTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO IMPROVE 36TH AVENUE BETWEEN SHERRETT AND ROSWELL STREETS BY THE CONSTRUCTION OF AN ADEQUATE STREET AND ALL OTHER THINGS APPURTENANT TO STREET CONSTRUCTION) by title only. MOTION CARRIED unanimously and so ordered. It was MOVED by Hupp, SECONDED by Burgess, to adopt Resolution 13-1977. MOTION CARRIED unanimously and so ordered.

COMPENSATION FOR DESIGN REVIEW BOARD MEMBERS

It was MOVED by Hutchison, SECONDED by Swan, to accept staff recommendation regarding payment, at \$15 per meeting attended, to Design Review Board members. MOTION CARRIED unanimously and so ordered.

WATER MAIN CONSTRUCTION - STEARNS ADDITION

In water main construction for Stearns Addition, some items were city-required for system improvement and outside subdivision requirements. Public Works Director recommends city participate in the amount of \$8871.41. It was MOVED by Hutchison, SECONDED by Hupp, to accept the staff recommendation for payment of \$8871.41 to Clackamas Enterprises, Inc., from Water Capital Improvement Fund. MOTION CARRIED unanimously and so ordered.

ORDINANCE NUMBER 1363 - AMENDING SIGN ORDINANCE

It was MOVED by Hutchison, SECONDED by Swan, to read Ordinance Number 1363 (AN ORDINANCE AMENDING ORDINANCE NUMBER 1310, AN ORDINANCE REGULATING SIGNS) the first time by title only. MOTION CARRIED unanimously and so ordered. It was MOVED by Hutchison, SECONDED by Burgess, to read Ordinance 1363 the second time by title only. MOTION CARRIED unanimously and so ordered. It was MOVED by Hutchison, SECONDED by Burgess, to adopt Ordinance 1363. Ordinance 1363 was put on its passage with the following roll-call vote: AYES: Manuel, Swan, Burgess, Hutchison and Hupp. NOES: None. Ordinance 1363 passed the Council and was so declared by the Mayor.

PRE-ANNEXATION AGREEMENT

At the last Council meeting, staff was directed to prepare a pre-annexation agreement covering annexation of property at Highway 224 and Rusk Road, requested by Macomber and others. It was MOVED by Swan, SECONDED by Burgess, to authorize the Mayor to sign the pre-annexation agreement. MOTION CARRIED unanimously and so ordered.

PAYMENT OF BILLS

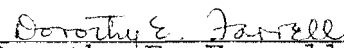
It was MOVED by Burgess, SECONDED by Hutchison, that the bills listed for March 21, 1977 payment be approved for payment. MOTION CARRIED unanimously and so ordered.

The meeting adjourned at 10:40 p.m.



Bill Hupp, Mayor

ATTEST:



Dorothy E. Farrell, Secretary

CITY COUNCIL MEETING
 March 21, 1977
 7 p.m.

COUNCIL CHAMBERS

1286th Meeting

1. CALL TO ORDER
2. INVOCATION - The Reverend David Weinert, ECNA Harmony Memorial Church
3. PLEDGE OF ALLEGIANCE
4. CONSENT CALENDAR
 - a) Approval of minutes - March 7, 1977
 - b) Alternate Writ of Mandamus and Return to Writ, Randall v. Nims
 - c) Demurrer - Randall v. Milwaukie
 - d) Letter from Dept. of Transportation re Furnberg Park
 - e) Answer to Complaint - Hingson v. Jones
 - f) Liquor license applications
 - 1) Fernwood Inn - DA - renewal
 - 2) Keane's Grocery - Package store - new
 - 3) Pietro's Pizza - RMB - renewal
 - g. City position on legislative bills
 - h. Proposed ballot title for library levy
 - i. Press release
5. AUDIENCE PARTICIPATION
6. NEIGHBORHOOD COUNCIL REPORTS
 - a) Report on Lake Road bikeway
 - b) NC goals memos
- :30 p.m. 7. PUBLIC HEARING - Supplemental budget - Resolution No. _____
8. CORRESPONDENCE
 - a) Letter from Historical Society
 - b) Letter from County Commissioners re North Clackamas Park
9. OLD BUSINESS
 - a) Letter from Commerce Dept. re roofing permits
 - b) Attorney's fee - Hughes v. Eldridge
 - c) Memo from attorney re mandatory dedication
 - d) Appointments to Senior Citizen Advisory Council
 - e) Memo re 44th Avenue vacation
 - f) Ordinance No. _____ - Disruptive businesses
 - g) Randall appeal - NC minutes - recommendation
 - h) Memo re personnel consulting proposals
10. CONSIDERATION
 - a) Resolution No. _____ - Comm. Development Advisory Comm.
 - b) Recommendation from Parks and Recr. Comm. re appointment
 - c) Recommendation re Weber Park encroachment
 - d) Resolution No. _____ - 36th Street L.I.D.
 - e) Compensation for Design Review Board
 - f) Water main construction - Stearns Addition
 - g) Ordinance No. _____ - Amending Sign Ordinance
11. OTHER BUSINESS
12. PAYMENT OF BILLS
13. ADJOURNMENT