

CITY COUNCIL MEETING
August 1, 1977
7 p.m.

COUNCIL CHAMBERS

1295th Meeting

The one thousand two hundred ninety-fifth meeting of the Council of the City of Milwaukie, Oregon, was held on the 1st day of August, 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. Dorothy E. Farrell, Secretary
Myer Avedovech, City Attorney

The invocation was given by the Reverend Leon D. Hall, Oak Grove Assembly of God, and the Pledge of Allegiance was recited.

CONSENT CALENDAR

- a) Approval of minutes - July 18, 1977
- b) Payment to Zuber Brothers on boat ramp
- c) Liquor license application - new owners at 1916 SE Washington
- d) Progress payment - Lake Road bikeway
- e) Lawsuits
 - 1) Firefighters Association v. Milwaukie
 - 2) Weber v. Milwaukie

f) Letter from LCDC regarding citizen involvement

g) National League of Cities convention notice

h) Memo regarding signalization at River Road and McLoughlin

It was MOVED by Hutchison, SECONDED by Burgess, to adopt the Consent Calendar. Mayor requested items a, b and c be removed for discussion.

a) It was noted the agenda mistakenly referred to approval of July 25 and August 1 minutes. It was MOVED by Hutchison, SECONDED by Burgess to change the dates from July 25 and August 1 to July 18. MOTION CARRIED unanimously.

b) Mayor asked if the payment on the boat ramp includes the dock, and was told it does not. There was discussion of two dolphins that were put in illegally adjacent to the boat ramp. Staff was directed to prepare a letter to the Corps of Engineers, protesting illegal placement of the dolphins.

c) Mayor asked if there needed to be a separate motion to approve the liquor license, and was told adoption of the Consent Calendar is all that is required.

On the motion to adopt, MOTION CARRIED unanimously.

NEIGHBORHOOD COUNCIL REPORTS

Neighborhood Council 2 has written memo, dated July 22, recommending Craig Enger to serve on the board. It was MOVED by Burgess, SECONDED by Hupp, that Council appoint Craig Enger, 4243 SE Harvey, to serve on the board of Neighborhood Council 2. MOTION CARRIED unanimously.

Neighborhood Council 4 board has written memo, dated August 1, stating they agree with priorities outlined by Council for use of EDA funds, with water system needs being top priority.

City Council Meeting

August 1, 1977

Page 2.

MEMO FROM SENIOR CITIZEN ADVISORY COUNCIL

Senior Citizen Advisory Council has sent memo, dated July 21, concerning City Council agenda. It was Council consensus if a member of the Advisory Council has a matter they wish to listen to during a Council meeting, that they let the Mayor know, and if it is possible to move the item to an earlier time in the meeting, that will be done.

LETTER FROM LCDC

Land Conservation and Development Commission has written letter, dated July 15, concerning August 5 meeting. Councilmembers are invited to a noon lunch before the meeting.

ORDINANCE NUMBER 1369 - SECOND READING - MOTORCYCLE OPERATION

It was MOVED by Swan, SECONDED by Burgess, to read Ordinance Number 1369 (AN ORDINANCE REPEALING ORDINANCE 1309, 1315, AND AMENDING ORDINANCE 1307, RELATING TO REGULATION OF OPERATING MOTORCYCLES AND MOTOR-DRIVEN VEHICLES, AND DECLARING AN EMERGENCY) the second time by title only, as corrected by changing the word "or" after the word "vehicles" on the fifth line of Section 6 (a) to the word "on." MOTION CARRIED unanimously. It was MOVED by Hutchison, SECONDED by Burgess, to adopt Ordinance 1369. Ordinance 1369 was put on its passage with the following roll-call vote: AYES: Hutchison, Swan, Burgess, Manuel and Hupp. NOES: None. Ordinance 1369 passed the Council and was so declared by the Mayor.

EMPLOYEE RESIDENCY REQUIREMENTS

This matter was tabled to the next meeting, at the July 18 meeting. It was Council consensus that each Councilmember will put a proposal in writing for Council consideration at the next meeting.

CITY EXPENSE FOR TRAINING OF EMPLOYEES

Councilman Swan has written memo, dated July 24, concerning city expense for training of employees. Staff was asked to report on the cost of employee training, and to provide a recommendation on a policy.

RESOLUTION NUMBER 37-1977 - WATER RATES

It was MOVED by Burgess, SECONDED by Hutchison, to read Resolution Number 37-1977 (A RESOLUTION AMENDING RESOLUTION NUMBER 65-1968 AND ESTABLISHING RATES FOR WATER USE) by title only. MOTION CARRIED unanimously. It was MOVED by Burgess, SECONDED by Hutchison, to adopt Resolution 37-1977. MOTION CARRIED unanimously.

(Meeting recessed at 8:30 p.m., reconvened at 8:37 p.m. with all present.)

RESOLUTION NUMBER 38-1977 - SEWER RATES

It was MOVED by Burgess, SECONDED by Swan, to read Resolution Number 38-1977 (A RESOLUTION REPEALING RESOLUTION NUMBER 8-1972 AND 25-1969, AMENDING RESOLUTION NUMBER 65-1968, AND ESTABLISHING

MONTHLY SEWER SERVICE FEES) by title only.

It was MOVED by Burgess, SECONDED by Hutchison, to amend the motion to include the following corrections to the resolution: add the words "or major fraction thereof" after the words "\$4.50 per unit" in section 3 on the first page; add the word "Annual" before the word "household" in Section 6 b) on the second page.

MOTION CARRIED unanimously.

On the original motion, MOTION CARRIED unanimously.

It was MOVED by Burgess, SECONDED by Swan, to adopt Resolution 38-1977. MOTION CARRIED unanimously.

REDUCED SEWER RATES FOR LOW INCOME USERS

There was discussion of ways to include persons renting homes or apartments. Staff was asked to redraft the proposed ordinance to include that provision, and bring it back at the next meeting, including an emergency clause.

ORDINANCE NUMBER 1370 - AMENDING ZONING ORDINANCE

It was MOVED by Burgess, SECONDED by Hutchison, to read Ordinance Number 1370 (AN ORDINANCE AMENDING ORDINANCE NUMBER 1316, AS AMENDED, AN ORDINANCE REGULATING THE USE OF LAND AND STRUCTURES IN MILWAUKIE, OREGON, AND ESTABLISHING ZONES FOR THAT PURPOSE) the first time by title only. MOTION CARRIED unanimously. It

was MOVED by Burgess, SECONDED by Hutchison, to read Ordinance 1370 the second time by title only. MOTION CARRIED unanimously.

It was MOVED by Burgess, SECONDED by Hutchison, to adopt Ordinance 1370. Ordinance 1370 was put on its passage with the following roll-call vote: AYES: Hutchison, Swan, Burgess, Manuel and Hupp. NOES: None. Ordinance 1370 passed the Council and was so declared by the Mayor.

MEMORANDUM REGARDING SOUTHERN PACIFIC RAILROAD EASEMENT

City Attorney has written memorandum, dated July 18, 1977, concerning easement required from Southern Pacific Railroad for city sewer line, on the west side of McLoughlin from the sewage treatment plant heading north. It was MOVED by Hutchison, SECONDED by Burgess, that the action recommended be taken (to offer the railroad the sum of \$10,000 in exchange for a signed permanent easement for sewer line). MOTION CARRIED unanimously.

MEMORANDUM RE ALTERNATIVE UTILITY BILLINGS

Finance Director has written memo, dated July 27, 1977, concerning alternative utility billings. It was Council consensus that staff continue to study the matter.

OTHER BUSINESS

1. Budget Committee hearing on supplemental budget will be held at 6 p.m. Thursday, August 4.
2. Councilman Hutchison asked what action will be taken on delinquent assessments. It was suggested action be taken, unless it would mean evicting someone.
3. Councilman Hutchison asked for a report on the reason for the increase in fire alarm false alarms noted in the Management Information Quarterly Report.

City Council Meeting

August 1, 1977

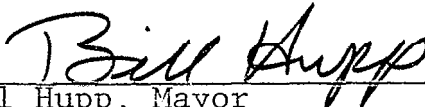
Page 4.

4. Councilman Hutchison requested Council plan a work session to consider memorandum from Civil Service Commission Chairman and City Attorney on possible changes to Civil Service section of City Charter.
5. Councilman Manuel stated industrial development would be a way of improving the city tax rate. Staff was asked to contact the Port of Portland to see if they can help in economic development and developing a program to attract industry to Milwaukie, with a view to increasing the tax base.
6. Mayor quoted a memorandum dated 1971 giving figures for a well and pump at that time; also information that the school board in 1972 had said the junior high school would be phased out in three years.

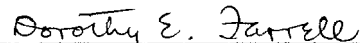
PAYMENT OF BILLS

It was MOVED by Swan, SECONDED by Burgess, that the bills listed for August 1, 1977 payment be approved for payment. MOTION CARRIED unanimously.

Meeting adjourned at 9:55 p.m. to go into executive session, under ORS 192.660 (2)(a), to discuss negotiating a real property transaction.



 Bill Hupp, Mayor



 Dorothy E. Farrell, Secretary

CITY COUNCIL AGENDA
August 1, 1977
7 p.m.

COUNCIL CHAMBERS1295th Meeting

1. CALL TO ORDER
2. INVOCATION - The Reverend Leon D. Hall, Oak Grove Assembly of God
3. PLEDGE OF ALLEGIANCE
4. CONSENT CALENDAR
 - a. Approval of minutes - July 25, and August 1, 1977
 - b. Payment to Zuber Brothers on boat ramp
 - c. Liquor license application - new owner's at 1916 SE Washington
 - d. Progress payment - Lake Road bikeway
 - e. Lawsuits:
 - 1) Firefighters Association v. Milwaukie
 - 2) Weber v. Milwaukie
 - f. Letter from LCDC regarding citizen involvement
 - g. National League of Cities convention notice
 - h. Memo regarding signalization at River Road and McLoughlin
5. AUDIENCE PARTICIPATION
6. NEIGHBORHOOD COUNCIL REPORTS
 - a. Memo from NC 2 regarding board appointment
7. CORRESPONDENCE
 - a. Memo from Senior Citizen Advisory Council regarding agenda
 - b. Letter from LCDC regarding meeting
8. OLD BUSINESS
 - a. Ordinance No. _____ - Motorcycle operation (2nd reading)
 - b. Residency requirements
 - c. Resolution No. _____ - Water Rates
 - d. Resolution No. _____ - Sewer Rates
 - e. Ordinance No. _____ - Reduced sewer rates for low income users
 - f. Ordinance No. _____ - Zoning Ordinance Amendment - regarding zone changes and appeals
9. CONSIDERATION
 - a. Memo regarding Southern Pacific easement
 - b. Memo regarding utility billing alternatives
10. OTHER BUSINESS
11. PAYMENT OF BILLS
12. ADJOURNMENT

CITY OF MILWAUKIE
M E M O R A N D U M

July 28, 1977

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TO: Mr. Harold Schilling
City Manager

FROM: Steven Hall
Public Works Director

S. M. Hall

Re: Boat Ramp
Final Payment

This memorandum supercedes the previous document dated 26, July 1977.

The contract entered into with Zuber Borthers Contractors on 16 February, 1977 has been completed in accordance with the contract and plans for this job and accepted by the consultant, Stevens, Thompson and Runyan and the City Public Works Department.

The original contract price was \$16,854. At a later date, a contract change order was entered into with Zuber Bros. in the amount of \$4,800, to be deducted from the original contract, which leaves a remaining total contract price of \$12,054.

In conjunction with the contract document and your letter of 29 April, 1977, a deduction for the engineering and administrative costs for re-design and concurrent inspection fees shall be deducted from the final payment on this project. Although we have not received a written billing for this item, I have contacted Mr. George C. Capelle, Project Engineer with Stevens, Thompson and Runyan, and he has told me that their billing to the City will be in the amount of \$748.49. Administrative costs for City personnel total \$182.13. This will leave the total contract amount at \$11,123.38.

This department therefor recommends payment to Zuber Brothers in the amount of \$11,123.38.

In conjunction with the deduction of the additional costs for administration and redesign, this has been checked with the City Attorney and authorized by him as being the correct procedure for this contract.

cc: Mr. Myer Avedovech
City Attorney

Mr. Richard Wilmot
Parks Superintendent

Mr. George C. Capelle
Stevens, Thompson and Runyan

APPROVAL RECOMMENDED


HAROLD L. SCHILLING



Stevens, Thompson & Runyan, Inc.

Engineers / Planners

5505 S.E. MILWAUKIE AVE. • BOX 02201 • PORTLAND, ORE. 97202 • TELEPHONE (503) 234-0721

Agenda

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(2)

PTM38-01-04

July 15, 1977

Mr. Harold L. Schilling
City Manager
City Hall
Milwaukie, Oregon 97222

Subject: Boat Ramp Corrective Work

Dear Mr. Schilling:

On July 13, 1977, final inspection was made on the corrective work at the boat ramp and it was found to be satisfactory. We recommend payment of the agreed amount under the terms of the contract to Zuber Brothers. Reference is made to the General Provisions, Article 9.13-Corrective Work, after final payment and Section GP-10 - Certificate of Compliance.

Very truly yours,

STEVENS, THOMPSON & RUNYAN, INC.

George C. Capelle
George C. Capelle
Senior Civil Engineer

GCC:mlc

cc: Richard Wilmot

City of Milwaukie

MILWAUKIE POLICE DEPARTMENT

Interdepartmental

M E M O R A N D U M

Agenda

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July 21, 1977

TO: HAROLD L. SCHILLING, CITY MANAGER

FROM: B.J. Workman, Lieutenant

SUBJECT: LIQUOR LICENSE (New Application)

Applicants: Margaret D. Poirier
John R. McSperitt

Premises Address: 1916 SE Washington Street
Milwaukie, Oregon 97222
(Formally Mac's Pit)

Sir:

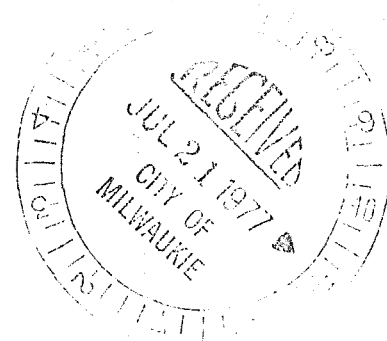
Our department has checked our files and checked applicants through the adjacent departments. Both applicants were clear all files. This department has no objection to further processing of this applicant.



B.J. Workman
Lieutenant
Milwaukie Police Department

BJW:msh

Enclosures



CITY OF MILWAUKIE
M E M O R A N D U M

Date: July 28, 1977

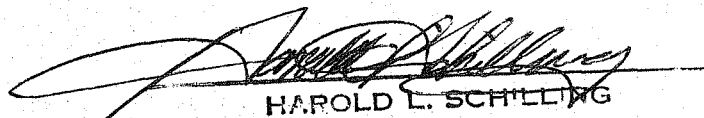
TO: City Manager / City Council
FROM: Public Works Department
SUBJECT: Progress payment No. 2
Lake Road Bikeway

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Pursuant to the requirements of the contract between the City of Milwaukee and Was Notz Excavating, Inc. the following progress payment is submitted indicating the amount due this contractor:

	PREVIOUS PMT	TOTAL TO DATE	AMOUNT NOW DUE
Value of Work completed	\$4729.00	\$10,046.00	\$5,317.00
Less 5% retainage	236.45	502.30	265.85
	<u>4492.55</u>	<u>9,543.70</u>	<u>5,051.15</u>

APPROVAL RECOMMENDED


HAROLD L. SCHILLING

OK. D.M. Hall

REVISED-June 6, 1977

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SCHEDULE OF PRICES
for
CONSTRUCTION OF BIKEWAY
LAKE ROAD
MILWAUKIE, OREGON

ITEM NO.	DESCRIPTION	UNIT	TOTAL UNITS	UNIT COST	TOTAL FOR ITEM
1.	Type B Asphaltic Concrete	ton	-0-	29.50	
2.	10" Diameter traffic buttons	each	-0-	6.50	
3.	Painting and striping	lin.ft.	-0-	.06	
4.	3/4" - 0" Crushed rock - in place	cu.yd.	272	7.00	1,904.00
5.	Clearing and grubbing	Lump sum	-0-	1850.00	
6.	Curb Ramps	each	-0-	70.00	
7.	6' wide Side walk	lin.ft.	-0-	1.00	
8.	Curbing	lin.ft.	-0-	3.25	
9.	12" Storm Drain	lin.ft.	-0-	7.00	
10.	15" Storm Drain	lin.ft.	-0-	8.00	
11.	18" Storm Drain	lin.ft.	838	9.00	7,542.00
12.	Manholes, complete	each	1	600.00	600.00
13.	Catch Basins, complete	each	-0-	275.00	
TOTAL BID - LAKE ROAD					<u>\$10,046.00</u>

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1 IN THE CIRCUIT COURT OF THE STATE OF OREGON

2 FOR THE COUNTY OF CLACKAMAS

3 PROFESSIONAL FIRE FIGHTER ASSOCIATION)
4 OF CLACKAMAS COUNTY, LOCAL 1159,)
5 INTERNATIONAL ASSOCIATION OF FIRE)
6 FIGHTERS AFL-CIO,)

NO. 77-3-437

A N S W E R

Plaintiff,

7 vs.

8 CITY OF MILWAUKIE, a municipal
corporation,

9 Defendant.

10 Defendant for its FIRST DEFENSE alleges:

11 GENERAL DENIAL

12 I

13 Defendant admits the allegations of Paragraphs I, II,
14 III, IV, V, VI, and VII.

15 Defendant denies the allegations of Paragraphs VIII, IX
16 and X.

17 FOR A SECOND SEPARATE ANSWER AND DEFENSE Defendant
18 alleges:

19 I

20 This Court is without jurisdiction to hear the matter
21 brought before it by reason of the Complaint filed herein.

22 FOR A THIRD SEPARATE ANSWER AND DEFENSE Defendant
23 alleges:

24 I

25 Plaintiff's Complaint does not create a controversy
26 upon which declaratory relief may be granted.

1.

RANKIN, McMURRY, OSBURN & GALLAGHER
LAWYERS
1000 B.N.J. FRANKLIN PLAZA
PORTLAND, OREGON 97258
TELEPHONE: 226 6403

1 FOR A FOURTH SEPARATE ANSWER AND DEFENSE Defendant
2 alleges:

3 I

4 The Factfinding Panel and recommendations alleged in
5 Plaintiff's Complaint is advisory only. The written Findings
6 of Fact do not discuss or recommend any retroactive appli-
7 cation of wage increases.

8 II

9 The City of Milwaukie adopted said Findings of Fact
10 which were submitted to it on issues and reserved the right
11 to adjust salaries in such retroactive manner as the Defendant
12 and Plaintiff could agree.

13 FOR A FIFTH SEPARATE ANSWER AND DEFENSE Defendant
14 alleges:

15 I

16 Reallages the allegations found in the Fourth Defense
17 of this Answer.

18 II

19 The Defendant did not accept or bind itself to pay
20 retroactive pay to Plaintiff and is not bound to do so.

21 FOR A SIXTH SEPARATE ANSWER AND DEFENSE Defendant
22 alleges:

23 I

24 Defendant rellages the allegations in its First Defense.

25 II

26 Defendant refused to accede to the demands of Plaintiff

RANKIN, MCMURRY, O'SHEA & GALLAGHER
LAWYERS
1600 BENJ. FRANKLIN PLAZA
PORTLAND, OREGON 97258
TELEPHONE 826-0400

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I

Defendant realleges the allegations contained in the defenses raised to Plaintiff's Complaint.

II

By reason of the allegations of this Answer and by reason of the attempt by Plaintiff to impose retroactive pay increases upon the Defendant without due process of law and contrary to the Ordinances of the City of Milwaukie, Defendant has been required to retain special legal counsel to represent its interest to its great and unnecessary expense and may be required to incur further costs and legal expenses in the prosecution of this case in defense of Defendant and its citizens' interest.

III

Defendant alleges that reasonable sum of its costs and legal expenses may be \$10,000 and reserves the right to amend its Answer to conform with the proof at time of trial.

IV

Defendant prays for judgment against Plaintiff in the amount of \$10,000 or such other sum as may be proper at the time of trial as and for its costs and expenses incurred herein.

WHEREFORE, having fully answered the Plaintiff's Complaint Defendant prays that said Complaint be dismissed without costs and with prejudice and that Defendant be granted upon its counterclaim the sum of \$10,000 or such

RANKIN, MCMURRY, OSBURN & GALLAGHER
LAWYERS
1600 BENJ. FRANKLIN PLAZA
PORTLAND, OREGON 97258
TELEPHONE 226-6403

1 in paying retroactive pay to July 1, 196.

2 III

3 Plaintiff continued to work under the contract as
4 otherwise modified but failed and refused to negotiate in
5 good faith regarding the unresolved issue of retroactive
6 application of pay raises.

7 IV

8 Plaintiff has waived its right to contest retroactivity
9 as the contract expired. Plaintiff is barred from seeking
10 to impose as a matter of declaratory judgment its right to
11 such retroactive application of pay raises.

12 FOR A SEVENTH SEPARATE ANSWER AND DEFENSE Defendant
13 alleges:

14 In the alternative and in the event the Court finds
15 that retroactivity was considered and became a factfinding
16 of the Factfinding Board, then Defendant alleges:

17 I

18 Any acceptance of the written Factfinding was made by
19 the Defendant under a mistake of fact and was withdrawn
20 prior to detrimental reliance thereon by the Plaintiff.

21 II

22 Plaintiff is therefore barred from enforcement of such
23 factfinding.

24 FOR A EIGHTH SEPARATE ANSWER AND DEFENSE AND COUNTERCLAIM
25 Defendant alleges:

26 . . .

RANKIN, McMURRY, OSBURN & GALLAGHER
LAWYERS
1500 B.L. HANN IN PLAZA
PORTLAND, OREGON 97258
TELEPHONE 226 6400

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1 other sum as may be proper for its costs and expenses
2 incurred herein.

3 DATED this 26th day of July, 1977.

4
5 CITY OF MILWAUKIE

6
7 By: /s/ Myer Avedovech
8 Myer Avedovech
9 City Attorney

10 RANKIN, McMURRY, OSBURN & GALLAGHER

11
12 By: /s/ Garry P. McMurry
13 Bruce Bischof
14 Garry P. McMurry
15 Special Counsel to the City
16 of Milwaukie

RANKIN, McMURRY, OSBURN & GALLAGHER
LAWYERS
1600 BENJ. FRANKLIN PLAZA
PORTLAND, OREGON 97259
TELEPHONE 226.6400

RECEIVED
7-26-77

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

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Page

FRED E. WEBER, FRED BAKER, THE ROBERT
RANDALL COMPANY, an Oregon corpora-
tion, THE MILCREST CORPORATION, an
Oregon corporation,

Plaintiff,

vs.

CITY OF MILWAUKIE, OREGON,
Defendant.

No. 94772

AMENDED APPEAL AND
AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT
AND SPECIFIC PERFORMANCE

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FOR THEIR FIRST COUNT PLAINTIFFS ALLEGE:

I

This is an appeal and a proceeding for declaratory relief under
ORS Chapter 28 for the purpose of determining a question in actual
controversy between the parties hereto.

II

Defendant is a duly organized municipality existing under
the laws of the State of Oregon.

III

Plaintiff The Milcrest Corporation at all times mentioned
herein was and is a duly organized and authorized corporation
operating under the laws of the State of Oregon with its principal
place of business at 909 W. Point Road, Lake Oswego, Oregon.

IV

Plaintiff The Robert Randall Company at all times mentioned
herein was and is a duly organized and authorized corporation
operating under the laws of the State of Oregon with its principal

1 place of business at 4242 S.E. Milwaukie, Portland, Oregon.

2 V

3 On August 10, 1972, Defendant allegedly enacted Ordinance 1265,
4 a copy of which is attached hereto in Exhibit "1A" and incorporated
5 herein by this reference as if set out in full herein, providing for
6 an assessment procedure with stated rate charges to cover the cost
7 of constructing a sanitary sewer system in those areas within the
8 City of Milwaukie described in Exhibit "A" of said Ordinance, not
9 then being served by sanitary sewers.

10 VI

11 On October 20, 1975, Defendant allegedly enacted Ordinance 1322,
12 a copy of which is attached hereto in Exhibit "2B" and incorporated
13 herein by this reference as if set out in full herein, amending
14 Ordinance 1265 described in Paragraph V of this Complaint, in so
15 far as the determination of what rate charges would apply to cover
16 the cost of construction of said sanitary services within the afore-
17 mentioned area.

18 VII

19 Plaintiff The Milcrest Corporation owns land within the City
20 of Milwaukie, Clackamas County, State of Oregon, described as T1S,
21 R2L, Section 32CC, Tax lot 6400.

22 VIII

23 Plaintiff Fred Baker at the time of the levying of the assessment
24 described in Paragraph XI herein, owned land within the City of
25 Milwaukie, Clackamas County, State of Oregon, described as T1S, R2L,
26 Section 31D, Tax lot 100. Said described property is now presently

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1 owned by Plaintiff The Robert Randall Company.

2 IX

3 Plaintiff Fred E. Weber is the duly elected President and
4 authorized agent of Plaintiff The Milcrest Corporation, involved in
5 the development of the property described in Paragraphs VII and VIII
6 of this Complaint as part of what has become known as the Cedercrest
7 Subdivision in the City of Milwaukie, State of Oregon.

8 X

9 On or about October 20, 1975, and allegedly pursuant to Ordinance
10 1322, Defendant levied assessments on Plaintiffs' property before-
11 described, in amounts described in Paragraph XI herein, for the
12 purpose of contribution toward the construction of a sanitary
13 sewer system for said area.

14 XI

15 The before-mentioned assessments were in the following amounts:

- 16 1. The Milcrest Corporation (Tax lot 8400):
- 17 Interceptor Charge:
- 18 102,441.11 sq. ft. X \$.0125/sq ft. = \$1,280.51
- 19 Collection System Charge:
- 20 102,441.11 sq. ft. X \$.06/sq. ft. = \$6,146.47
- 21 TOTAL ASSESSMENT \$7,426.98
- 22 2. Fred Baker (Tax lot 100):
- 23 Interceptor Charge:
- 24 210,748.91 sq. ft. X \$.0125/sq. ft. = \$2,634.36
- 25 Collection System Charge:
- 26 67,500.00 sq. ft. X \$.06 = \$4,050.00

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1 TOTAL ASSESSMENT \$6,684.36

2 XII

3 On or about May 3, 1961, Plaintiff Fred E. Weber and Defendant,
4 by and through its duly authorized Mayor, Earl M. Clay, duly entered
5 into a written agreement, attached hereto in Exhibit "3C" and
6 incorporated herein by this reference as if set out in full herein.

7 XIII

8 Pursuant to the agreement referred to in Paragraph XII herein,
9 Plaintiff Fred E. Weber agreed to install and did in fact install a
10 sanitary sewer system in return for the Defendant's commitment to
11 accept the discharge from said property for the same monthly charge
12 as is imposed upon similar lots and other properties for the same
13 sewer service within the City of Milwaukie.

14 XIV

15 Said property referred to in Paragraph XIII herein, includes the
16 property known as Tax lot 8400 owned by Plaintiff The Milcrest Corporation.

17 XV

18 At or near the time the agreement referred to in Paragraph XII
19 was signed, and on numerous occasions thereafter, Plaintiff Fred E.
20 Weber and Defendant mutually agreed to include within said agreement
21 the property known as Tax lot 100 owned by Plaintiff The Robert
22 Randall Company.

23 XVI

24 Plaintiffs have substantially performed all that said
25 agreements require of them.
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XVII

Plaintiffs contend that the assessments by Defendant relating to the property described in Paragraph XIV and XV herein, were contrary to the agreement referred to in Paragraph XII and XV herein, and as such are without basis in law.

FOR THEIR SECOND AND ALTERNATIVE COUNT PLAINTIFFS ALLEGE:

I

Incorporates herein as if set out in full Paragraphs I through XI of Plaintiffs' First Count.

II

The determination by the Defendant of the square footage area on which Defendant's assessments of Plaintiffs' property are based, are not in accord with the formula set out under the alleged Ordinances 1265 and 1322.

FOR THEIR THIRD AND ALTERNATIVE COUNT PLAINTIFFS ALLEGE:

I

Incorporates herein as if set out in full Paragraphs I through XVI of Plaintiffs' First Count.

II

Pursuant to the agreement referred to in Paragraph XII and XV of Plaintiffs' First Count, Plaintiff Fred E. Weber installed at his own expense without contribution by the Defendant, a sanitary sewer collection system to serve the property referred to in said agreement.

III

The assessments described in Paragraph XI of Plaintiffs'

Page

1 First Count, Ordinance 1265, and 1322, fail to provide for any refund
2 or credit of the expense borne by Plaintiff Fred E. Weber as a land
3 developer or property owner in having previously installed a portion
4 of said sanitary system, and as such, violate the Due Process
5 Clause of the 14th Amendment to the United States Constitution in
6 one or more of the following particulars, to-wit:

- 7 1. Deprives Plaintiff Fred E. Weber of his property without
8 due process of law;
- 9 2. Denies Plaintiffs equal protection of the laws by requiring
10 them to bear an unproportionate share of the cost of
a sanitary sewer system.

11 FOR THEIR FOURTH AND ALTERNATIVE COUNT PLAINTIFFS ALLEGE:

12 I

13 Incorporates herein as if set out in full Paragraph I of Plaintiffs'
14 Third Count.

15 II

16 Prior to the date of the assessments herein, Defendant seized the
17 sanitary sewer system installed and owned by Plaintiff Fred E. Weber
18 described heretofore.

19 III

20 That at the time of the seizure of Fred E. Weber's sanitary
21 sewer system, defendant promised plaintiff Weber, in consideration
22 of Plaintiff Weber's promise that he would acquiesce in the seizure
23 of said system, that they would not assess said Plaintiffs for the
24 construction of said sanitary sewer system.

25 WHEREFORE, Plaintiffs pray:

- 26 1. That a declaratory judgment be rendered and entered

Page

4 E 2
⑦

1 declaring and adjudicating the respective rights and duties of the
2 plaintiffs and defendant in and relative to the right of the
3 defendant to make the said assessments in kind and amount on the said
4 properties of said plaintiffs.

5 2. That Defendant be required to specifically perform the
6 agreements alleged in Count I or IV and as such be enjoined from
7 enforcing said assessments, and that such assessments be declared
8 void and vacated from the assessment rolls.

9 3. That the assessments be declared unconstitutional pursuant
10 to Count III and as such Defendant be enjoined from enforcing said
11 assessments, and that such assessments be declared void and vacated
12 from the assessment rolls.

13 4. That if the Court finds the Defendant has the right to
14 make said assessments in kind, that Defendant be required to reassess
15 said property pursuant to Count II and that an abatement be applied
16 against such assessment for the share of the cost expended by
17 Plaintiffs in installing all or part of said sanitary sewer
18 facilities.

19 5. For Plaintiffs' costs and disbursements incurred herein;

20 6. For such other and further relief as the Court may deem
21 just and proper.

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Stephen R. Miller
Stephen R. Miller for Robeson &
Miller, Attorneys for Plaintiffs

Page

AN ORDINANCE PROVIDING FOR CONSTRUCTION OF SANITARY SEWERS IN EAST MILWAUKIE AND ISLAND STATION AREAS OF THE CITY OF MILWAUKIE, OREGON, AS MORE PARTICULARLY SET OUT IN THE ATTACHED LEGAL DESCRIPTION MARKED "EXHIBIT A" AND BY THIS REFERENCE INCORPORATED HEREIN, AND DECLARING AN EMERGENCY.

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THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. That sanitary sewers be constructed in the East Milwaukie and Island Station areas of the City of Milwaukie, as more particularly set out in the attached legal description marked "Exhibit A" and by this reference incorporated herein, and that laterals be constructed from said sanitary sewer to property lines in said area.

Section 2. Said construction shall substantially conform to the plans and specifications therefor, now on file or to be filed with the City Recorder of the City of Milwaukie, Oregon, which plans and specifications hereby are referred to, and by this reference made a part of this ordinance, and which plans and specifications were adopted and referred to by Resolution Number 11-1972, by the Council of the City of Milwaukie, Oregon, on the 15th day of May, 1972.

Section 3. That the properties liable for assessment in said improvement district shall be those included within the attached legal description marked "Exhibit A." The assessment shall be as indicated in the attached report of the citizens' committee for assessment of sewer construction, marked "Exhibit B," and by this reference incorporated herein.

Section 4. That on the taking effect of this ordinance, the City Manager without delay shall give notice inviting bids for the construction of said sanitary sewers and laterals.

Section 5. It is hereby adjudged and declared that existing conditions are such that this ordinance is necessary for the immediate preservation of the public health, peace, safety and best interests of the inhabitants of the City of Milwaukie, Oregon, therefore an emergency is hereby declared to exist, and this ordinance shall take effect and be in full force and effect from and after its passage by the Council and signing by the Mayor.

Read the first time this 7th day of August, 1972, and moved to second reading by majority vote of the City Council.

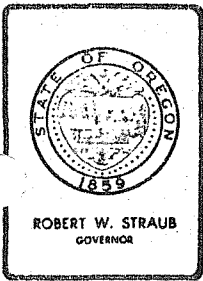
Read the second time and adopted by the City Council this 10th day of August, 1972.

Signed by the Mayor this 10th day of August, 1972.

ATTEST:

Ruth E. Friesen
Ruth E. Friesen, Recorder

Donald W. Gray
Donald W. Gray, Mayor



Department of Land Conservation and Development

1175 COURT STREET N.E., SALEM, OREGON 97310 PHONE (503) 378-4926

4f

July 26, 1977

The Honorable Bill Hupp
Mayor, City of Milwaukie
10722 SE Main
Milwaukie, OR 97222

Dear Mayor Hupp:

The State Citizen Involvement Advisory Committee (CIAC) of the Land Conservation and Development Commission (LCDC) met in Portland on July 22 to discuss citizen involvement in jurisdiction in the CRAG area.

At the meeting the Committee voted unanimously to commend the City of Milwaukie for their citizen involvement efforts and the presentation made by Katie Orlando from the city's Committee for Citizen Involvement. The discussion was informative and provided CIAC with some valuable information about a strong and successful citizen involvement program.

We greatly appreciate your efforts and wish you continued success.

Sincerely,

Ardis Stevenson

Ardis Stevenson
CIAC Chairman

LC:cp

cc: Katie Orlando
Milwaukie CCI
12216 SE 38th
Milwaukie, OR 97222



National
League
of
Cities

1620 Eye Street, N.W.
Washington, D. C.
20006
(202) 293-7310
Cable: NLCITIES

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Agenda
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Phyllis Lamphere
Council Member, Seattle, Washington
First Vice President
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Second Vice President
John P. Rousakis
Mayor, Savannah, Georgia
Immediate Past President
Hans G. Tanzler, Jr.
Mayor, Jacksonville, Florida
Executive Director
Alan Beals

Hg

July 21, 1977

Dear City Official:

The Pacific Northwest is seen by many as the "last frontier" in America. No other region of the country has a more promising future. Whether or not the promise of that future will be realized depends in large part on the actions of the region's elected officials. But these days local officials must have more than local concerns. Federal programs and policies are playing an increasingly important role in the development of the Northwest. City officials need to know how these programs and policies will affect them and how, in turn, they can influence their direction. For example:

- the \$4 billion COMMUNITY DEVELOPMENT BLOCK GRANT program contains a new money distribution formula, new funding mechanisms and criteria for cities under 50,000 yielding a different pattern of funding;
- the Administration's controversial new ENERGY proposals will have major consequences for cities in the northwest;
- major changes in AIR AND WATER POLLUTION CONTROL legislation will have an impact on the ability of cities to attract new industry.

On August 11 and 12 the National League of Cities, in cooperation with the Washington, Oregon, Idaho and Alaska state municipal leagues, will address these and other critical national, regional, state and local issues at a Regional Action Conference at the Washington Plaza Hotel in Seattle.

Will your city be represented? Your views and participation can make a difference.

The conference will also feature a number of added attractions, including an optional bus tour and a Puget Sound salmon bake. Bring the whole family for a work-play vacation in Seattle.

We look forward to seeing you there.

Sincerely,

Alan Beals
Executive Director

MEMORANDUM

July 30, 1977

42

TO: HONORABLE MAYOR AND CITY COUNCIL
TRAFFIC SAFETY COMMISSION


FROM: CITY MANAGER

SUBJECT: Signalization at River Road and McLoughlin

Last April I wrote the State Highway Division regarding the need for signalization at the intersection of River Road and McLoughlin. I believe I provided you with a copy of my letter, as well as the response from the Regional Traffic Engineer, Mr. Ron Failmetzger.

In a followup telephone conversation this date with Mr. Jim McClure, Project Development Engineer for the Highway Division, Metro office, I learned that the contracts for signalizing the subject intersection are expected to be let sometime around October/November, and the project completed within 300 days.

The extraordinary amount of time is due to delays ordinarily expected in delivery of electronic components to signalize systems. Notwithstanding the delay, it is expected that the project could be completed before the end of the coming calendar year.



Harold L. Schilling
City Manager

MEMORANDUM
July 22, 1977

Agenda
(#2)

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TO: City Council
FROM: Neighborhood Council #2
SUBJECT: Board appointment

At our general meeting July 21, 1977 it was agreed to recommend Craig Enger, 4243 SE Harvey, to serve on the board. Craig has been active in Jaycees and is interested in the Neighborhood Council as a further way to serve the community.



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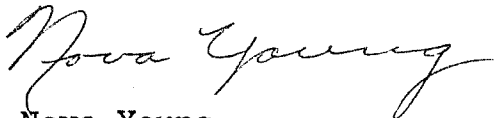
MEMORANDUM

July 21, 1977

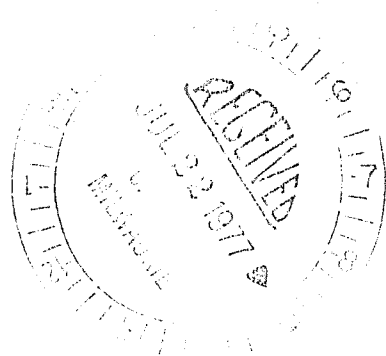
TO: City Council
FROM: Milwaukie Senior Citizen Advisory Council
SUBJECT: City Council Agenda

As frequent visitors and participants to the proceedings of City Council meetings; and as senior citizens with various levels of physical and mental stamina, we would like to offer you the following suggestion:

That items on City Council Agendas of particular interest to senior citizens for which input has been requested or can be expected, be scheduled early on the agenda, preferably at a set time. This same practice might also be applied to other topics and situations where citizen participation is being encouraged. This would hopefully alleviate the need to sit through long meetings waiting for certain matters to be discussed. Since in all likelihood the same amount of time will be spent in such discussion, we are simply requesting that on certain items, this discussion take place as early in the evening as possible.



Nova Young
Chairman





LAND CONSERVATION AND DEVELOPMENT COMMISSION

1175 COURT STREET N.E.

SALEM, OREGON

97310

ROBERT W. STRAUB
GOVERNOR

July 15, 1977

Mayor Bill Hupp
10722 S.E. Main Street
Milwaukie, OR 97222

Dear Mayor Hupp:

Friday, August 5th the Commission will conduct its regular meeting in Portland in Room 338 of the Smith Memorial Center on the Portland State University campus. The major focus of our agenda will be to conduct the annual review of planning progress being made by jurisdictions within CRAG.

On behalf of my colleagues on the Commission, I would like to invite you and other elected officials to be our guests for lunch at 12:00 noon in 'Restaurant 21' of the 1st National Bank Tower (1300 S.W. 5th, 21st floor). A separate social function is being planned by our Departmental Staff for members of your planning staff. We hope this will provide an informal opportunity to discuss matters of mutual concern related to Oregon's Land Use Planning Program.

At 1:30 p.m. the Commission will begin the planning progress reviews of each CRAG jurisdiction. Many jurisdictions in which no problems exist will be handled on a consent calendar basis. However, we are always happy to have comments from elected officials as part of these reviews even when no problems are involved. A copy of the agenda is enclosed.

Agenda

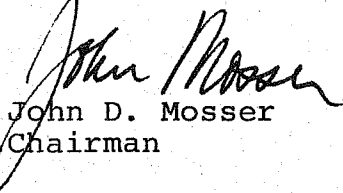
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Mayor Bill Hupp
Page 2
July 15, 1977

The coordination of comprehensive planning is most critical and difficult in the greater metropolitan area. The Commission wants to work cooperatively with CRAG and its members to achieve an effective program.

Enclosed is a reply card to indicate your attendance. Please do not hesitate to contact me or Roger Kirchner on our staff in Salem (378-8362) if we can facilitate your participation.

Sincerely,


John D. Mosser
Chairman

Enclosures

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TENTATIVE AGENDA

LAND CONSERVATION AND DEVELOPMENT COMMISSION

August 5, 1977

Smith Memorial Center

Portland State University

Room 338

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9:00 AM 1.0 Minutes

- 1.1 Minutes of June 10-11 Meeting
- 1.2 Minutes of July 8 Meeting
- 1.3 Minutes of July 8 Executive Meeting

2.0 Committee Reports

- 2.1 CIAC
- 2.2 LOAC

3.0 Policy Items

- 3.1 Review of Agricultural Lands/Exceptions Policy Papers
- 3.2 Review of Estuary/Agriculture Exceptions Policy
- 3.3 Review of Draft Rules for Petitions for Review (Appeals)
- 3.4 Review of Draft Paper on Planning Process

10:00 AM 4.0 Hearing

- 4.1 Rules re: Estuary Classification System

5.0 Work Program

- 5.1 Consideration of Management Review Task Force Report
- 5.2 Approval of Work Program

12:00 NOON Commission Lunch with CRAG Area Local Officials

1:30 PM 6.0 Progress Reviews

CRAG
Multnomah County
Fairview
Gresham
Maywood Park
Portland
Troutdale
Wood Village
Clackamas County
Barlow
Canby
Estacada
Gladstone
Happy Valley
Johnson City
Lake Oswego
Milwaukie
Molalla
Oregon City

Clackamas County (Cont.)
Rivergrove
Sandy
West Linn
Wilsonville
Washington County
Banks
Beaverton
Cornelius
Durham
Forest Grove
Gaston
Hillsboro
King City
North Plains
Sherwood
Tigard
Tualatin

7.0 Actions Relating to Planning Extensions

- 7.1 City of Maupin (Additional time on Planning Extension/Compliance Schedule)
- 7.2 City of Mosier (Additional time on Planning Extension/Compliance Schedule)
- 7.3 City of Joseph (Additional Time on Planning Extension/Compliance Schedule)
- 8.4 Lincoln County (Release of Reserved Grant re: Lincoln County School District)

8.0 Other

MEMORANDUM

City Council
For Review
(MA)

June 9, 1977

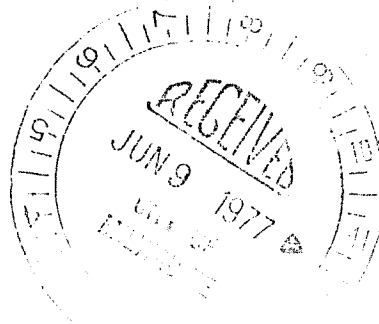
88
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TO: City Manager
FROM: City Attorney (MA)
SUBJECT: Ordinance - Residency Requirements

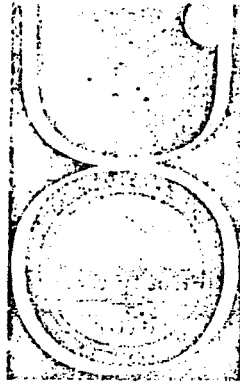
Attached are ordinances pertaining to residency requirements as requested by the City Council.

MA:db

attachments



6/6/77



BUREAU OF GOVERNMENTAL
RESEARCH AND SERVICE
Mailing Address: P.O. Box 3177
School of Community Service and
Public Affairs

UNIVERSITY OF OREGON

EUGENE, OREGON 97403
telephone (code 503) 686-5232

an equal opportunity
affirmative action employer

80
②

June 2, 1977

Mr. Myer Avedovech
City Attorney
City Hall
Milwaukie, Oregon 97222

Dear Myer:

Pursuant to your telephone request for samples of employe residency requirements, we have reviewed our collection of city codes and compilations of cities over 5,000 population. Attached to this letter are samples of various residency requirements taken from those cities in Oregon which have chosen to adopt such a requirement. Several cities apparently do not have residency requirements, at least in ordinance form. Most residency requirements apply to fire fighters. Therefore, most of the samples enclosed make specific reference to fire fighting personnel.

Also enclosed is a copy of Eugene charter section 16(3) and the alternative suggestions on this subject contained in sections 2.12 of LGPI's Model Personnel Ordinance.

Sincerely yours,

Jim Mattis

James M. Mattis
Legal Consultant

JMM:jm
Enclosures: 3

Bend Ordinance No. NS-258 (Passed December 1939, amended July 1974)

Section 9: Residency Requirement

All paid fire fighters, ambulance technicians and ambulance supervisor subject to this ordinance must reside either within the City of Bend, or within a 15 mile radius of Bend Fire Station #1 and not more than 20 minutes actual travel time from Bend Fire Station #1 at legal speeds, provided that their residences must be within the effective and actual communicating range of the radio alerting system used by the Bend City Fire Department.

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Newberg Ordinance No. 1616 (Passed May 1971, amended August 1973)

Section 1: Personnel; Membership Requirements

... All members of the department must be of not less than legal age, physically fit, and bona fide residents within the city of Newberg or within two miles of the city limits thereof, at the time of their appointment and acceptance into the department

Gladstone Ordinance No. 631 (Passed August 1962, amended October 1967)

Section 1: Regulation of Fire Department

... All personnel of said fire department of said city shall be bona fide residents within the city of Gladstone or within one mile of the city limits thereof at the time of their appointment and acceptance into the department,

North Bend Ordinance No. 743 (1940)

Section 3: Membership
Article 1

The membership of the department shall consist of such persons as may be appointed by the chief and shall be able-bodied male citizens residing within the city of North Bend, preferably property owners whose business activities are normally within the confines of the city of North Bend and who have telephones in their homes.

discuss, directly or indirectly with the manager or any candidate for the office of manager any appointment by the manager. Violation of this section forfeits the office of the violating officer, who may be removed by the council or any court of competent jurisdiction. The mayor and council may, however, in open council session, discuss with or suggest to the manager anything pertaining to city affairs and in executive session discuss matters pertaining to collective bargaining.

(2) The city manager shall:

- (a) prepare the annual budget;
- (b) make all purchases;
- (c) appoint and remove all employees except as otherwise specified in this charter;
- (d) enforce all ordinances;
- (e) act as business agent for the council for the sale of real estate and other matters relating to franchises, leases, and other business and property transactions;
- (f) prepare and furnish all reports requested by the council;
- (g) perform such other duties as the council directs;
- (h) organize and, as he or she deems necessary, disband and reorganize the various city departments.

(3) The offices of the manager and department heads may be filled by candidates from outside the city, but during their tenure in those offices, all persons hereafter appointed to them shall reside in the city. All employees appointed by the manager shall reside in the city during their tenure of position, except as the council authorizes the manager to prescribe to the contrary and the manager does so.

(4) The duties of all administrative employees shall be assigned to them by the manager, and they shall be responsible and accountable to the manager.

(5) The powers herein granted to the manager are exclusive.

(6) The manager may be removed with or without cause at any time by the council after six months tenure.

(7) The Eugene Water and Electric Board and its employees are excluded from the operation of this section.

Chapter V

Municipal Court

Section 17. Judges, Powers, Procedure.

(1) The city council may appoint one or more municipal judges, for terms and at salaries it specifies. A municipal judge shall

Section 2.12 RESIDENCE REQUIREMENT. Residency shall not be a condition of initial appointment or continued employment. Employees are encouraged, however, to live within the City and to participate in civic affairs.

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***** OR *****

Section 2.12 RESIDENCE REQUIREMENT. Applicants for positions in the City service need not reside within the City at the time of application, but the individual shall reside within the corporate limits of the City prior to appointment as a permanent employe. If an employe moves from the City, this action shall be considered as an automatic resignation from City employment.

***** OR *****

Section 2.12 RESIDENCE REQUIREMENT. Non-uniformed employes shall not be required to live within the City limits; however, they are encouraged to do so. Police and fire personnel shall be required to reside within the City limits.

Section 10. Collective Bargaining Contracts. Whenever there is a valid and existing contract between the City of North Bend and the recognized representative of a collective bargaining unit in the City which has provisions inconsistent or conflicting with the rules and regulations established in this ordinance, then the provisions of such contract shall prevail over the provisions of this ordinance. (As amended by Ordinance No. 1486 enacted June 25, 1974).

Section 11. Residence Requirements. Each permanent full-time employee of the City of North Bend shall become and remain a resident of the City of North Bend subject to the following conditions and qualifications:

(1) A person employed by the City on the effective date of this ordinance who is within 5 years of compulsory retirement shall be exempt from the provisions of this section.

(2) A person who is a non-resident permanent full-time employee of the City on the effective date of this ordinance may remain a non-resident until he changes his place of residence, at which time he shall become a resident of the City of North Bend.

(3) A non-resident who becomes a permanent full-time employee after the effective date of this ordinance must become a resident of the City of North Bend within one year.

(4) A failure to become a resident or a failure to remain a resident of the City of North Bend as required in this section shall be sufficient reason for the discharge of an employee.
(As amended by Ordinance No. 1540 enacted March 23, 1977)

Passed and enacted by the Council January 26, 1971.

MEMORANDUM

July 24, 1977

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TO: City Council

FROM: Chuck Swan

SUBJECT: Employee Residency and Training

C. Swan suggestions after long deliberation on residency requirement:

1. We establish a (response time) living radius for all public safety employees, only. I would suggest 20 minutes under normal driving conditions.
2. All other things being equal when considering new employees, the job should go to the resident or potential resident of the City.
3. We should establish a policy that the City Council does encourage all employees to live in the City.
4. Promotions. All other things being equal the promotion should go to the City resident.
5. Department head residency is to remain completely at the discretion of the City Manager....but should be encouraged.

THE ABOVE IS MY RECOMMENDATION AFTER LONG DELIBERATION. LET'S GET A RESOLUTION ON THIS AT THE EARLIEST POSSIBLE TIME.

NEW SUBJECT: CITY EXPENSE FOR TRAINING OF EMPLOYEES. This suggestion would be in addition to existing policy.

1. When an employee takes additional training that qualifies for City reimbursement, the following procedure should be invoked:
 - a) The employee will sign a promisory note for the amount of the tuition. (non interest bearing)
 - b) The City will pay the bill, if the course is completed with a passing grade.
2. There will be a 20% reduction in the amount of the note for each year the employee remains on the staff. Ex.: If the employee remains with the City three years after completion of the subject class and leaves our employment, he will be charged 40% of the original training expense.....

I FEEL WE SHOULD ENCOURAGE FURTHER TRAINING FOR ALL EMPLOYEES, BUT DO NOT WISH TO PAY THE ENTIRE TRAINING EXPENSE AND NOT RECEIVE FULL BENEFIT FROM OUR INVESTMENT.

CITY OF MILWAUKIE
Inter-Department Memorandum

TO: Hal Schilling

Date: July 27, 1977

FROM: Don Oblander

SUBJECT: Water Rate Resolution

Attached is a resolution adopting the water rates requested by the City Council at their July 18, 1977 meeting. No changes have been made from the rate schedule which they approved at that time.

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APPROVAL RECOMMENDED



HAROLD L. SCHILLING

DO/vam

RESOLUTION NUMBER 13-1977

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A RESOLUTION AMENDING RESOLUTION NUMBER 65-1968 AND ESTABLISHING RATES FOR WATER USE.

BE IT RESOLVED by the Council of the City of Milwaukie that the following rates be established for water use, commencing September 1, 1977:

- 1. Minimum bi-monthly charge for water per connection:

<u>Meter Size</u>	<u>Minimum</u>	<u>Water Allowance</u>
5/8" x 3/4"	\$4.00	600 cubic ft
3/4"	\$4.00	600 cubic ft
1"	\$8.00	1,200 cubic ft
1 1/2"	\$16.00	2,400 cubic ft
2"	\$24.00	3,600 cubic ft
3"	\$44.00	6,600 cubic ft
4"	\$60.00	9,000 cubic ft
6"	\$120.00	18,000 cubic ft

- 2. Charges for water used in excess of minimums:

	<u>Per 100 Cubic Feet</u>
First 1,400 cubic feet	\$.50
Next 8,000 cubic feet	.40
Next 10,000 cubic feet	.35
All additional	.30

- 3. Use of water from standby lines for other than fire extinguishment:

Double regular rates.

- 4. Water use by connections outside of City limits:

1.5 times regular rates.

500
7 1/2
400
50 00

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Be it so resolved.

Introduced and adopted by the City Council
of the City of Milwaukie, Oregon on the _____
day of _____, 1977, at a regular meeting of the
City Council.

Bill E. Hupp, Mayor

ATTEST:

Dorothy E. Farrell, City Recorder

Approved as to form:

Myer Avedovech
Myer Avedovech, City Attorney

CITY OF MILWAUKIE
MEMORANDUM

TO: HAL SCHILLING

FROM: DON OBLANDER

SUBJECT: REDUCED SEWER RATES - LOW INCOME USERS

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①

The attached Ordinance provides for a reduced sewer rate for users meeting specified requirements. Those requirements, spelled out in the sewer rate resolution, would provide a 50% reduction for any person qualified as to income. Thus, it is designed to benefit not only low income senior citizens, but also low income citizens of any age.

The format for this proposed Ordinance has been taken largely from a 1975 Ordinance providing for deferred sewer assessments. The greatest difference is that the current Ordinance does not require future payment to the City for present cost reductions. In a word, the cost savings are permanent.

The limitations on ^{Annual} income of \$4,000 for one individual and \$6,000 for two or more are identical to those employed by Clackamas County Service District #1. The only difference between their program and ours would be our extension of the rate reductions to those under the age of 65. As a result, our plan would benefit more of the people who most need it.

The revenue loss due to the proposed rate reduction should be adequately covered by the proposed rates. While no figures are presently available as to the number of people who would apply and qualify, it is unlikely that the lost revenue would exceed \$10,000. A fair amount of staff time can be expected to be required to process applications, but no significant problems should result.

An application form, presumably quite similar to those used for deferred sewer assessments, will be prepared if this Ordinance is adopted. Early action by the Council will allow the staff to publicize the rate reductions and process applications prior to the sewer rate increase.


Don Oblander

APPROVAL RECOMMENDED


HAROLD L. SCHILLING

DO:jk
July 27, 1977

AN ORDINANCE ESTABLISHING SEWER RATE REDUCTIONS FOR CERTAIN LOW-INCOME UTILITY CUSTOMERS.

The City of Milwaukie Does Ordain As Follows:

Section 1. Reduced Sewer Rates. (1) To the extent that City Funds are available and the requirements of this Ordinance are met, a utility customer of the City of Milwaukie may make application to obtain reduced monthly charges for use of Milwaukie's sewer service.

(2) To be eligible for a rate reduction:

- (a) The property involved must be occupied and used by the applicant as his or her principal residence during the period of the rate reduction.
- (b) No City sewer and other City assessments may be in arrears on the property (if owned by applicant or a relative).
- (c) The income of the family, of which the applicant is a member, shall not exceed the income level adopted by resolution of the Milwaukie City Council.
- (d) "Family" means one person or two or more persons related by blood, marriage, legal adoption, or guardianship; or a group of not more than five persons, all or part of whom are not related by blood, marriage, legal adoption or guardianship, living together as a simple housekeeping and economic unit in the dwelling occupying the property for which the reduced rate is applied for.
- (e) The applicant shall file an application to obtain reduced sewer rates with the City Finance Director prior to qualifying for reduced sewer rates.

Section 2. Financing of Program. Sewer charges to nonqualifying users shall be established at a level sufficient to cover revenue losses resulting from reduced utility rates to qualifying applicants.

Section 3. Administration. (1) General. The City Finance Director shall be responsible for the administration of this Ordinance. He may:

- (a) Adopt reasonable rules and regulations relating to any matter pertaining to the administration of this Ordinance.
- (b) Prepare and make available all necessary forms.
- (c) As frequently as appears appropriate, make such investigation, including a review of all available records relating to household income of applicants for which a rate reduction has been allowed, to ascertain that the applicant continues to meet the eligibility requirements.

(2) Contract. The application required under Section 1 shall be in a form satisfactory to the City Attorney and shall contain a signed statement of agreement to abide by all terms of this Ordinance and such subsequent rules and regulations as may be adopted.

(3) Income levels. Minimum income levels, below which a utility customer qualifies for a rate reduction, shall be established by resolution of the City Council.

Section 4. Termination of Rate Reduction. Reduced sewer rates for customers shall be terminated in the event of the occurrence of any of the following circumstances:

- (1) Minimum income levels are exceeded.
- (2) Applicant defaults in the performance of the terms and provisions of his contract with the City.
- (3) Applicant moves from the dwelling.
- (4) Applicant (if an owner) sells, trades or otherwise relinquishes ownership of the dwelling.
- (5) Applicant fails to comply with any rule or regulation adopted under this Ordinance; refuses to provide information to or hinders any investigation by the City Finance Director into the continued eligibility of the applicant for reduced rates; willfully makes any false or misleading statement in order to obtain or retain a rate reduction; or receives benefits under this Ordinance with knowledge that he or she does not qualify for such benefits.

Section 5. Confidentiality. To the maximum extent possible under the law, the applications, records and other information relating to rate reduction requests shall be kept confidential by the City.

Section 6. Appeals. Any person aggrieved by a decision of the City Finance Director under this Ordinance may appeal such decision to the City Council by serving, within 10 days after written notice of said decision, a notice of appeal in writing on the City Recorder specifying the grounds for objection to the decision. The City Council shall consider the matter and may sustain, modify

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or reverse the decision of the City Finance Director.

Section 7. Penalties. (1) A violation of this Ordinance shall be punishable by a fine not to exceed \$200. (2) Each violation of a separate provision of this Ordinance shall constitute a separate offense and each day that a violation of this Ordinance is committed or permitted to continue shall constitute a separate offense. (3) The conviction of any person for violation of this Ordinance shall not act to relieve such person from the requirement to pay the full regular sewer rates for the entire period he or she was unqualified for reduced rates. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the City under other section of this Ordinance.

Read the first time this _____ day of _____, 1977.

Read the second time and passed by _____ vote of the Council this _____ day of _____, 1977.

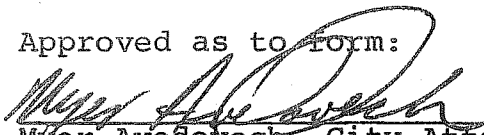
Signed by the Mayor this _____ day of _____, 1977.

Bill Hupp, Mayor

ATTEST:

Dorothy E. Farrell, City Recorder

Approved as to form:



Myer Avedovech, City Attorney

City of Milwaukie
M E M O R A N D U M

July 28, 1977

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TO: City Council
FROM: Planning Commission
SUBJECT: Zoning Ordinance Amendment
Procedures for Zone Changes and Appeals

In response to your request of June 20, 1977, the Planning Commission has conducted the required hearing for a proposed amendment to the Zoning Ordinance regarding zone change and appeal procedures. The Commission has recommended that the proposed amendment be adopted because it would make the process more workable.

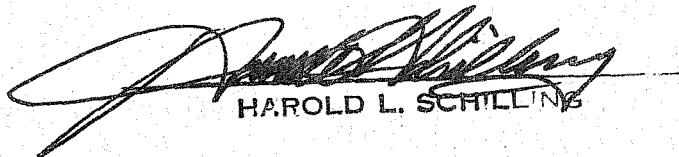
Following is the Planning Commission minutes from the July 26 meeting regarding the hearing:

Public hearing opened at 7:30 p.m., with notices published as required. Staff report, recommending approval, was given by Cy Nims. No person appeared to speak and no correspondence was received. Myer Avedovech gave information on procedural changes which cities will have to make regarding variances, conditional uses, subdivisions, etc. as a result of recent legislation and court decisions. Hearing was declared closed at 7:45 p.m. IT WAS MOVED by Foeller, seconded by Kennedy, to recommend to the City Council that the Zoning Ordinance be amended regarding zone change procedures because it would be workable. MOTION CARRIED unanimously, and so ordered.

Attached is a copy of the proposed amendment.

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APPROVAL RECOMMENDED


HAROLD L. SCHILLING

ORDINANCE NUMBER

13-70

AN ORDINANCE AMENDING ORDINANCE NUMBER 1316, AS AMENDED, AN ORDINANCE REGULATING THE USE OF LAND AND STRUCTURES IN MILWAUKIE, OREGON, AND ESTABLISHING ZONES FOR THAT PURPOSE.

of
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THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. That Section 9.020.1 be deleted and replaced with the following:

- "1. The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is proposed.
2. Denial of the proposed amendment by the Planning Commission shall be final unless it is appealed to the City Council as provided under Section 10.020 of this Ordinance.
3. Upon approval of the proposed amendment by the Planning Commission, the Commission shall, within 40 days after the hearing, provide a report recommending approval to the City Council."

Section 2. That the last sentence of Section 10.020 be amended to read:

"If the appeal is filed, the City Council shall receive a report and recommendation on it from the Planning Commission and shall hold a public hearing on the appeal."

Section 3. Any renumbering or relettering made necessary by this amendment is to be made to insure that numbering and lettering is in sequence.

Read the first time this 1st day of August, 1977, and moved to second reading by unanimous vote of the City Council.

Read the second time and adopted by the City Council this 1st day of August, 1977.

Signed by the Mayor this 1st day of August, 1977.

Bill Hupp, Mayor

ATTEST:

Approved as to form:

Dorothy E. Farrell, Recorder

Myer Avedovech, City Attorney

MEMORANDUM

agenda
(initials)

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TO: City Manager
FROM: Myer Avedovech *(MA)*
RE: EASEMENT - CITY OF MILWAUKIE - SOUTHERN PACIFIC
RAILROAD RIGHT-OF-WAY

Don Hatton of Hatton & Associates did the City's appraisal of this easement right-of-way question in May of 1976. Hatton's appraisal of just compensation for the loss and market value caused by the taking of a sewer line easement by the City as of April 1, 1974, was \$8,490.00. The original appraisal proposed by the Southern Pacific and Union Pacific Railroads totaled \$21,350.00.

In February of 1977, the Union Pacific reduced their appraisal, in order to compromise and settle, to the sum of \$15,000. In May of 1977, I contacted Mr. Weisser, general attorney, Union Pacific Railroad, indicating some questions and problems that I had with their appraisal on the subject property.

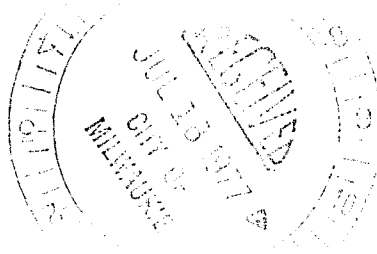
On June 24, 1977, I received a phone call from Mr. Weisser indicating that the railroad was now willing to compromise for \$10,000. Subsequently, I talked with Mr. Hatton who did our appraisal and discussed the \$10,000 compromise offer. Mr. Hatton said that in his opinion an approximate 10 percent raise in his original appraisal would not be out of line.

Therefore, it is my recommendation that we offer to the railroad the sum of \$10,000 in exchange for a signed permanent easement for our sewer line.

I have discussed the source of funds to pay this settlement with Don Oblander. It is his feeling that the Sewer Fund would be the proper fund as the LID Fund is closed.

If you approve, I will contact Mr. Weisser and start proceedings to get the easement signed and check distributed.

MA:kw



CITY OF MILWAUKIE
Inter-Department Memorandum

*ok
for agenda*

TO: Hal Schilling

Date: July 27, 1977

FROM: Don Oblander

SUBJECT: Alternative Utility Billings

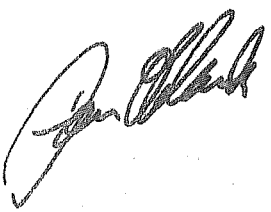
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Councilman Swan recently asked for consideration of an alternative to our present utility billing procedures. Specifically, he asked if it would be feasible to contact each customer only once or twice per year with a schedule of estimated bimonthly payments. This would eliminate the need to prepare and mail bills as frequently as is now done, thereby eliminating work and postage expense. Follow-up notices would, of course, have to be prepared to customers who forgot to send their payment. At the end of the 6 or 12 month period, any under or overpayment by the resident would be reconciled and resolved.

One other alternative would be to use the procedure now in effect with the Unified Sewer Agency (U.S.A.) in Washington County. Sewer charges (\$5 per month or \$60 per year) are billed to the property owner on his property tax bill. Thus, he may pay for the entire year at once (with a \$1.80 discount if paid by November 15) or in quarterly installments. In either case, the billing and collection functions of the sewer district are substantially reduced.

Both of these alternatives deserve further investigation. I would hesitate to install either alternative or some permutation thereof without an indepth look at the pros and cons. It would seem appropriate to solicit input from the Neighborhood Councils. In any case, I would recommend that a change in procedure not be pushed through to coincide with the rate increases. There does not appear to be time to complete a thorough analysis of the situation prior to adoption of new water rates.

Any comments the City Council may have on these alternatives or other procedures would be most appreciated.



DO/vam