

CITY COUNCIL MEETING
January 5, 1976
7 p.m.

COUNCIL CHAMBERS

1259th Meeting

The one thousand two hundred fifty-ninth meeting of the Council of the City of Milwaukie, Oregon, was held on the 5th day of January, 1976, with the following councilpersons present:

- | | |
|-------------------|--------------------|
| C. Mervin Englund | Jerry N. Hutchison |
| Charles E. Swan | Mayor Bill Hupp |
| Joy Burgess | |

Also present:

- | | |
|-----------------------------------|-------------------------------|
| Harold L. Schilling, City Manager | Myer Avedovech, City Attorney |
| Cyrus Nims, Planning Director | Dorothy E. Farrell, Secretary |

The invocation was given by the Reverend Evan Goley, Advent Christian Church, and the pledge of allegiance was recited.

CONSENT CALENDAR

- a) Approval of minutes - December 15, 1975, Council meeting
- b) Memo from Councilwoman Burgess re Tri-County Local Government Commission
- c) Agreement with city's bargaining representative
- d) IPMA Washington Flash - 12/27/75
- e) Memo re executive session on bargaining
- f) (deleted)
- g) Letter from Coalition of Social Services re city contribution
- h) ICMA Update - 12/15/75
- i) Letter from Caffall Bros. re log dump
- j) Letter from Portland re reduced utility rates
- k) Congratulatory letter to Sgt. John Zea from FBI
- l) Wall Street Journal article - "Fighting the System."

Councilwoman Burgess asked to have item i removed from the consent calendar for later discussion, and Mayor Hupp asked the same for item j. It was MOVED by Hutchison, SECONDED by Burgess, to accept the consent calendar with the exception of items i and j. MOTION CARRIED unanimously and so ordered.

- b) Councilwoman Burgess reports to Council, in memo dated December 18, on Tri-County Local Government Commission activities.
- c) Contract agreement with Bruce Bischof, city's bargaining agent for 1976-77, has been approved as to form by City Attorney.
- d) Council has received copy of December 17 Washington Flash, concerning President's Pay Panel Reports, published by ICMA.
- e) Manager has written memo, dated December 30, noting an executive session at 7 p.m. January 12 to meet with city's bargaining representative.
- f) This item was deleted from agenda.
- g) Clackamas County Coalition of Social Services has written letter, dated December 16, thanking City of Milwaukie for \$500 contribution to Coalition for 1975-76.
- h) Council has received copy of ICMA Newsletter Update, dated December 15.
- k) Council has received copy of letter from FBI congratulating Sergeant John Zea, Milwaukie Police Department, for assistance in robbery case.
- l) Article from December 22 issue of Wall Street Journal, titled "Fighting the System."

AUDIENCE PARTICIPATION

- 1. John Connell, on behalf of American Automobile Association and its affiliate, Automobile Association of Oregon, presented pedestrian safety award for 1974 to the City.

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2. Gerald Dowd, 10788 SE Grant, described his problem of not having been notified by the contractor building his new home that he had been sent a notice of the sewer assessment, and when Mr. Dowd discovered the situation it was too late for him to sign up for Bancroft bonding. It was explained to him that the city could do nothing, but that he might have a civil cause of action against the contractor.

CORRESPONDENCE

Council has received letter from Milwaukie Homeowners' Association, dated December 14, with suggestions concerning the Community Development Block Grant from HUD for housing rehabilitation. Staff members have written a memo, dated December 24, on that letter. Staff will send the Association a letter thanking them for their interest, and indicating what the situation is.

CONSENT CALENDAR, item i

Council has received copy of letter, dated December 16, from Caffall Bros. to Division of State Lands, regarding the log dump at city waterfront. Mrs. Burgess asked for legal opinion as to the city's liability if the log dump is moved, and was told unless there is condemnation there is no liability.

PUBLIC HEARING - APPEAL FROM PLANNING COMMISSION DECISION ON CONDITIONAL USE C-75-17

Public hearing was declared open at 7:30 p.m. Notices mailed as required. Staff report was given by Planning Assistant. There was no correspondence in favor of the Planning Commission decision.

Correspondence against the Planning Commission decision:

22 persons who signed the appeal of the decision

Robert Yoshitomi, 3764 Licyntra Court

Donald Gsell, 3758 SE Licyntra Lane

Robert J. and Patricia J. Budnick, 12543 SE Boss Lane

Mervyn L. Henkes, 12717 SE Boss Lane

Mary Casanova, 3818 SE Lake Road

August A. and Virginia H. Casanova, 12255 SE Boss Lane

George LoPiparo, representing appellants, spoke against the Planning Commission decision.

(Meeting recessed at 7:35 p.m., reconvened at 7:40 p.m. with all present.)

Speaking against the Planning Commission decision:

D. Adams, 12750 Licyntra Court

Aldon Jarvis, 3722 SE Licyntra Lane

Donald L. Gsell, 3758 SE Licyntra Lane

Robert Yoshitomi, 3764 Licyntra Court

S. R. Yokota, 3740 SE Licyntra Court

Ernest J. Zanni, 3666 SE Licyntra Lane

Speaking for the Planning Commission decision:

Evelyn Morrison, 12512 SE Boss Lane

Meeting was opened for questions and answers. Mr. LoPiparo gave rebuttal for appellants.

Public hearing was closed at 8:25 p.m.

It was MOVED by Swan, SECONDED by Burgess, that the appeal from the Planning Commission be upheld, and that the recommendation and approval of conditional use 75-17 be rescinded. After discussion of the bases for their votes, the MOTION CARRIED with the following roll-call vote: AYES: Swan, Burgess and Hupp. NOES: Englund and Hutchison.

(Meeting recessed at 8:40 p.m., reconvened at 8:55 p.m. with all present.)

MEMO RE AMPLIFICATION SYSTEM

David Nemo, Administrative Assistant, has written memo to Manager, dated December 23, concerning amplification system for Council Chambers. Proposals were obtained from five metropolitan area suppliers, as spelled out on accompanying chart. It was MOVED by Burgess, SECONDED by Hutchison, that Council accept the bid of Brownell Sound & Hi Fi, with the option of trying out the voice gates for comparison value as to possible future purchase if desired. There was discussion as to whether or not hallway speakers would encourage an illegal occupancy rate. MOTION CARRIED with the following roll-call vote: AYES: Englund, Swan, Burgess, Hutchison and Hupp. NOES: None.

MEMO RE COWLING COMPLAINT

On November 3 a Mrs. Cowling, 10412 Sherman, appeared before the Council, complaining of a street-related drainage problem in front of her residence. Public Works Director has sent a memo, dated December 29, with a suggestion for relieving the problem, if the measures already taken do not solve it. Manager stated that although the street is outside the city limits, the city had, many years ago, accepted the responsibility for maintaining the street. It was suggested the city explore giving the responsibility for maintaining the street back to the county.

MEMO RE PUBLIC HEARING PROCEDURES

City Attorney has written memo, dated December 30, recommending City Council hearing procedures on comprehensive plan changes.

MEMO RELATIVE TO FIRE SERVICE COST REIMBURSEMENT

A councilmember had asked if the city could legally enact a fee for service ordinance which would require the payment of a fee in connection with excessive fire calls. City Attorney has written memo, dated December 30, with a legal opinion. The report was accepted but Council decided to take no action.

RESOLUTION NUMBER 1-1976 - FEES FOR SANITARY SEWER DYE TESTS

It was MOVED by Hutchison, SECONDED by Swan, to read Resolution Number 1-1976 (A RESOLUTION ESTABLISHING AND SETTING FEES FOR CONDUCTING SANITARY SEWER DYE TESTS) by title only. MOTION CARRIED with the following roll-call vote: AYES: Englund, Swan, Burgess, Hutchison and Hupp. NOES: None. It was MOVED by Hutchison, SECONDED by Burgess, that Resolution 1-1976 be adopted. MOTION CARRIED with the following roll-call vote: AYES: Englund, Swan, Burgess, Hutchison and Hupp. NOES: None.

RESOLUTION ESTABLISHING FEES FOR DESIGN REVIEW

This matter was put over until the next agenda.

BIKEWAY DEMONSTRATION PROJECT FUNDING GRANT APPLICATION

Bike/Foot Way Advisory Committee is recommending for submission by the city a grant application for funding improvements to the city's bikeway plan system. Manager explained that in 1977 the city will have in its bikeway fund approximately \$10,000 to \$11,000. For the project the city would have to find approximately \$57,000 elsewhere for city's match. It was MOVED by Swan, SECONDED by Hutchison, to direct staff to go ahead with the grant application, to be submitted to State Advisory Committee on Bicycles. MOTION PASSED unanimously and so ordered. It was MOVED by Swan, SECONDED by Burgess, to authorize the City Manager to sign the application and bring a resolution authorizing this at the

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next meeting. MOTION CARRIED unanimously and so ordered.

RESOLUTION NUMBER 2-1976 - PENALTY FOR DELINQUENT BUSINESS LICENSES

It was MOVED by Burgess, SECONDED by Hutchison, to read Resolution Number 2-1976 (A RESOLUTION ESTABLISHING PENALTIES FOR DELINQUENT PAYMENT OF BUSINESS AND APARTMENT LICENSES) by title only. MOTION CARRIED with the following roll-call vote: AYES: Englund, Swan, Burgess, Hutchison. NOES: Hupp. There was discussion of Mayor's request for a public hearing, and Manager asked for policy guidelines from Council as to when a public hearing is desired by Council. It was MOVED by Burgess, SECONDED by Swan, to adopt Resolution 2-1976. MOTION CARRIED with the following roll-call vote: AYES: Englund, Swan, Burgess, and Hutchison. NOES: Hupp. It was decided to continue as in the past policy on public hearings until Council has a chance to discuss policy guidelines for staff.

APPOINTMENTS TO COMMITTEES AND COMMISSIONS

Mayor announced that with the concurrence of the Council he reappoints Norman Battaglia and Joe Bernard Jr. to Budget Committee for a three-year term; Margaret Evans to Civil Service Commission for a four-year term; Joe Bernard Jr. to Traffic Safety Commission for a three-year term, and if he will accept, Lou Althaus to Traffic Safety Commission for the same period. Staff was asked to notify these persons they have been reappointed. Applicants for Planning Commission vacancies will be interviewed at 7 p.m. January 12, and staff was asked to notify previous applicants as well as any new applicants.

RESOLUTION NUMBER 3-1976 - CHARGE FOR CHECKS RETURNED BY BANK

It was MOVED by Burgess, SECONDED by Hutchison, to read Resolution Number 3-1976 (A RESOLUTION ESTABLISHING A CHARGE FOR CHECKS RETURNED BY THE BANK) by title only. It was MOVED by Swan, SECONDED by Hutchison, to amend the resolution by making the charge \$5 instead of \$4. Mrs. Burgess agreed to remove her motion, and it was MOVED by Hutchison, SECONDED by Burgess, to read the resolution with the \$4 changed to \$5. MOTION CARRIED unanimously and so ordered. It was MOVED by Hutchison, SECONDED by Burgess, to adopt Resolution 3-1976. MOTION CARRIED with the following roll-call vote: AYES: Englund, Swan, Burgess, Hutchison and Hupp. NOES: None.

RESOLUTION NUMBER 4-1976 - COMPREHENSIVE PLANNING STEERING COMMITTEE

It was MOVED by Burgess, SECONDED by Hutchison, to read Resolution Number 4-1976 (A RESOLUTION ESTABLISHING A COMPREHENSIVE PLANNING STEERING COMMITTEE FOR THE CITY OF MILWAUKIE, OREGON) by title only. MOTION CARRIED unanimously and so ordered. It was MOVED by Hutchison, SECONDED by Burgess, to adopt Resolution 4-1976. MOTION CARRIED with the following roll-call vote: AYES: Englund, Swan, Burgess, Hutchison and Hupp. NOES: None.

LETTER FROM LCDC RE POSSIBLE CONFLICT OF INTEREST - BAKER ATTORNEY

In previous executive sessions the City Attorney discussed with Council a possible conflict of interest existing on the part of Steven Schell, Vice-Chairman of the Land Conservation and Development Commission, who is also attorney for Jean Baker in the case of Baker v. Milwaukie. A letter was drafted to Mr. Schell about this possibility, and Mayor has received a letter from Chairman of LCDC, dated December 31, stating Mr. Schell will not participate in or vote on any matter pertaining to the City of Milwaukie. This satisfies the concerns of the Council, and Mr. Schell will be so advised.

FRANKO OIL CASE UPDATE

City Attorney has written memo, dated January 2, reporting on progress in the case of Cookson v. Milwaukie (Franko Oil)

LETTER TO BOUNDARY COMMISSION RE PROPOSED FIRE DISTRICT MERGER

Council has received copy of letter from Manager to Portland Metropolitan Area Local Government Boundary Commission, dated January 2, regarding proposed merger of Errol Heights RFPD #12 into Milwaukie RFPD #56.

WEBER V. CITY OF MILWAUKIE

Fred Weber has filed suit against the city on sewer assessments.

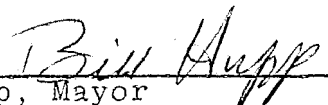
OTHER BUSINESS

1. Council has received report from Grant Fulmore, Milwaukie Fire Department, on the Scottsdale Fire Department.
2. ERB CASES C531, 532, 533 and 545 will be heard January 15, 1976.
3. Center for Population Research and Census, Portland State University, has written Manager, dated December 31, concerning population estimate for Milwaukie certified by the Center.
4. Manager has received letter dated December 30 from Representative Les AuCoin, concerning Revenue Sharing continuation.
5. Council has received copy of letter from Service District No. 1 to Caffall Bros. re location of log rafts, dated December 29.
6. Staff will be reapplying for Community Development Block Grant funding.
7. Manager reported the city's investment program will bring in interest earnings for the year which could come close to offsetting the total 1975-76 cost of the Finance Department.
8. Oregon State Marine Board will consider Milwaukie's application for improvements to boat launching facility at their meeting January 15.
9. Manager reported on response to Library user fee for non-city residents, effective January 1.
10. Manager reported on overruns on the building project, City Hall refurbishing.
11. Councilman Englund asked staff to look into the heating system in Council Chambers.
12. Mayor reported Portland does have a reduced sewer utility charge, in spite of letter from City-County Commission on Aging, item 4 j on the Consent Calendar.
13. Mayor reported Bi-centennial flag-raising ceremony will be held January 17 in front of City Hall, and Council is invited.

PAYMENT OF BILLS

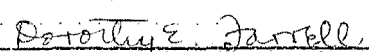
It was MOVED by Hutchison, SECONDED by Swan, that the bills listed for January 5, 1976 payment be approved for payment. MOTION CARRIED unanimously and so ordered.

The meeting adjourned at 11:06 p.m.



 Bill Hupp, Mayor

ATTEST:



 Dorothy E. Farrell, Secretary

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CITY COUNCIL AGENDA
January 5, 1976
7 p.m.

COUNCIL CHAMBERS1259th Meeting

1. CALL TO ORDER
2. INVOCATION - The Reverend Evan Goley, Advent Christian Church
3. PLEDGE OF ALLEGIANCE
4. CONSENT CALENDAR
 - a) Approval of minutes - December 15, 1975 Council meeting
 - b) Memo from Councilwoman Burgess re Tri-County Local Government Comm.
 - c) Agreement with city's bargaining representative
 - d) IPMA Washington Flash - 12/27/75
 - e) Memo re executive session on bargaining
 - f) (deleted)
 - g) Letter from Coalition of Social Services re city contribution
 - h) ICMA Update - 12/15/75
 - i) Letter from Caffall Bros. re log dump
 - j) Letter from Portland re reduced utility rates
 - k) Congratulatory letter to Sgt. John Zea from FBI
 - l) Wall Street Journal article - "Fighting the System."
5. AUDIENCE PARTICIPATION
 - a) Presentation of Pedestrian Safety Award by AAA
- :30 6. PUBLIC HEARING - Appeal on C-75-17 (Duplex on Boss Lane)
7. CORRESPONDENCE
 - a) Letter from MHA re Community Development Block Grant
8. OLD BUSINESS
 - a) Memo re amplification system
 - b) Memo re Cowling complaint
 - c) Memo re public hearing procedures
 - d) Memo re fire service cost reimbursement
9. CONSIDERATION
 - a) Resolution No. _____ - Fee for sanitary sewer dye tests
 - b) Resolution No. _____ - Design review fees
 - c) Application for bike path funds
 - d) Resolution No. _____ - Penalties for delinquent business and apartment licenses
 - e) Vacancies on committees and commissions
10. OTHER BUSINESS
11. PAYMENT OF BILLS
12. ADJOURNMENT