

MEETING OF SEPTEMBER 26, 1966

COUNCIL CHAMBERS

1041st MEETING

The one thousand forty-first meeting of the Council of the City of Milwaukie, was held on the twenty-sixth day of September, 1966.

The meeting was called to order by Mayor Robert Richmond, with the following Councilmen present:

Edgar Fuller
Donald Graf
James Howard

Robert Richmond
Paul Slominski

Also present: Fred Dyer, City Manager Barbara Watson, Acting Clerk
Robert Mills, City Attorney

Rev. Doug Schmidt, Church of the Nazarene, 1130 - 46th Ave., gave the invocation.

It was moved by Fuller, seconded by Slominski, that the minutes of the regular meeting of September 12, 1966, be approved as written. Motion carried and so ordered.

CEDARCREST PUMPING STATION

Mr. Jacques Nichols, Attorney for Fred Weber, came before the Council and presented a letter dated September 26, 1966, concerning the transfer of the pumping station to the City. It was requested that the Council's action on June 27, 1966, prohibiting the issuance of water and sewer permits in the Cedarcrest Subdivision after July 27, be recalled. (Extension granted to August 15, meeting July 14; additional 15 days granted, meeting August 8.)

It was the recommendation of the City Manager that the Council again allow sewer connection hookups in the Cedarcrest area, as he felt considerable progress had been made in reaching an agreement with Mr. Weber.

It was moved by Graf, that the Council rescind the previous action taken on June 27, 1966, in not allowing sewer hookups in the Cedarcrest area. Motion died for lack of a second.

It was moved by Fuller, seconded by Graf, that the Council rescind the motion made by said body on June 27, 1966 (not allowing sewer connection hookups after July 27), and that a new date of October 24, 1966 be set as the date when this motion will be reinstated. This matter will again come before the Council for review and consideration on October 24. Motion carried and so ordered.

PUBLIC HEARINGS

Public hearing was opened on the Assessment on Beckman Road at 8:00 p.m.

Letters of protest were read from:

Violet Brown protesting the assessment on that portion of her property that fronts on Park Street which was not improved.

Mr. S. Bocci concerning the distribution of the legal fees among the property owners being assessed.

City Engineer explained to the Council the reason for assessing that portion of Mrs. Brown's property fronting on Park Street was due to the wording in the Ordinance.

It was moved by Slominski, seconded by Howard, that the amount of assessment on the 50 lineal feet fronting on Park Street in the amount of \$395.50 be deducted from Mrs. Brown's assessment and be absorbed by the City. Motion carried and so ordered.

Mr. Ron Hoxie, Lake Oswego attorney representing Kenneth Waymire, addressed the Council, explaining that at the time Mr. Waymire built his homes on Beckman Road the Planning Commission required him to put in half a street in the front of them, as well as curbing. He felt that some consideration should be given for the money spent on the grading and materials used for the sub base of this street as it met City specifications.

City Engineer advised that Mr. Waymire was not being assessed for any curbing at this time; however, explained that it was not possible to use the sub base put in and therefore felt that the assessment on the Waymire property was justified.

It was moved by Fuller, seconded by Graf, that the Council deny Mr. Waymire's request for revision of charges on Beckman Road improvement and the assessment remain as originally set. Motion carried and so ordered.

It was moved by Howard, seconded by Graf, that the remonstrance of Mr. Bocci be denied. Motion carried and so ordered.

ORDINANCE NO. 1134

It was moved by Slominski, seconded by Howard, that Ord. No. 1134 be taken up for its first reading. Motion carried and so ordered.

After completion of reading, it was moved by Howard, seconded by Fuller,

CCB102

that Ord. No. 1134 be moved to its second reading by title only at this time. Motion carried and so ordered.

Ordinance No. 1134, AN ORDINANCE DECLARING THE ASSESSMENT FOR THE IMPROVEMENT OF BECKMAN ROAD FROM RAILROAD AVENUE NORTHERLY TO PARK STREET BY WIDENING WHERE NECESSARY, CONSTRUCTION OF STORM DRAIN, CURBS AND PAVEMENT, AND DECLARING AN EMERGENCY, was taken up and read by title only for its second reading and put on its passage with the following roll call vote: AYES: Fuller, Slominski, Graf, Howard, Richmond. NOES: None. Ord. No. 1134 passed the Council and was so declared by the Mayor.

Public hearing was opened by the Mayor on the extension of 38th Street, south of Drake Street.

It was moved by Howard, seconded by Slominski, that the City participate 25% in this project (not to include curbs or storm drains). Motion carried and so ordered.

Mrs. Ebeling advised that she would soon be subdividing her property on 38th Street, and questioned whether it would be necessary to put curbs in at this time.

She was advised that curbing is necessary; however, if she knew where the driveways were to go, curb cuts could be provided at those places.

It was moved by Slominski, seconded by Fuller, that Ordinance No. 1133 be taken up for its first reading. Motion carried and so ordered.

After completion of the reading, it was moved by Fuller, seconded by Howard that Ord. No. 1133, be moved to its second reading by title only at this time. Motion carried and so ordered.

Ordinance No. 1133, AN ORDINANCE PROVIDING FOR STREET IMPROVEMENT BY THE EXTENSION OF S. E. 38TH STREET IN ZANDERS ADDITION AND BEING A PART OF LOTS 2, 3, 12 and 13, BY THE CONSTRUCTION OF CURBS ALONG BOTH SIDES OF SAID STREET, PAVING SAID STREET AND ALL THINGS NECESSARY FOR STREET IMPROVEMENTS, AND BY THE CONSTRUCTION OF A SANITARY SEWER AND APPURTENANCES, AND DECLARING AN EMERGENCY, was taken up and read by title only for its second reading and put on its passage with the following roll call vote: AYES: Fuller, Slominski, Graf, Howard, Richmond. NOES: None. Ord. No. 1133 passed the Council and was so declared by the Mayor.

Public Hearing was opened on the intent of the City to repave 38th Street and Drake Street.

City Engineer pointed out the area to be involved and stated that the maximum cost per lot would be \$70.

It was moved by Graf, seconded by Howard, that a public hearing be set for October 17, 1966, on street improvement of 38th Street and Drake Street. Motion carried and so ordered.

ZONE CHANGE - 4035 King Road, Action Realty

Memo from the Planning Commission was read recommending that the zone be changed on the above property from 3-R-1 to 3-R-2 Special.

It was moved by Howard, seconded by Slominski, that the recommendation of the Planning Commission be accepted and the zone be changed from 3-R-1 to 3-R-2 Special on the property at 4035 King Road, as described by metes and bounds in the Planning Commission memo. Motion carried and so ordered.

It was moved by Slominski, seconded by Howard, that Ord. No. 1132 be taken up and read for its first reading. Motion carried and so ordered.

After completion of the reading, it was moved by Fuller, seconded by Howard, that Ord. No. 1132, be moved to its second reading by title only at this time. Motion carried and so ordered.

Ordinance No. 1132, AN ORDINANCE PROVIDING FOR THE REZONING OF CERTAIN PROPERTY IN THE CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON, FROM 3-R-1

ZONE TO 3-R-2 SPECIAL ZONE, AMENDING ORDINANCE NUMBER 481, AS AMENDED, AND DECLARING AN EMERGENCY, was taken up and read by title only for its second reading and put on its passage with the following roll call vote: AYES: Fuller, Slominski, Graf, Howard, Richmond. NOES: None. Ord. No. 1132 passed the Council and was so declared by the Mayor.

APPEAL - Zone Change #66-12, 29th & Harrison Street, Kronberg Bros. Realty

Memo from the Planning Commission, dated September 23, was read again, recommending denial on the above zone change.

It was moved by Howard, seconded by Fuller, that the recommendation of the Planning Commission be accepted and the zone change from 3-R-1 to Commercial, on the property at 2905, 2915, 2925 Harrison Street and 806 - 29th Street, be denied. Motion carried and so ordered.

REPORTS

Mr. Robert Stochosky, Civil Service Chairman, reported to the Council on the Public Personnel Association meeting held on September 21.

Manager submitted to the Council a compilation of rates on refuse collection, taken from a survey made by the League of Oregon Cities. It was suggested that more study be given as to rates and to the present contract, and a meeting be held with the Council, Manager and Attorney, possibly on October 17.

APPROVAL OF STREET - 41st Court

Letter from the City Engineer was read certifying that 41st Court in Cinderella Court Subdivision, has been completed according to City specifications and a maintenance bond submitted.

It was moved by Graf, seconded by Howard, that the City accept 41st Court as per the City Engineer's recommendation. Motion carried and so ordered.

ANTI-TRUST SUIT - Re: overcharges for chlorine purchases during 1955-1964

It was moved by Howard, seconded by Slominski, that the City enter into this suit and a resolution be prepared. Motion carried and so ordered.

It was moved by Howard, seconded by Slominski, that Res. No. 47-1966 be taken up for reading. Motion carried and so ordered. (Providing for Attorney Freeman to represent the City in a cooperative suit against chlorine mfgs. re: overcharge of purchases during 1955 through 1964.)

It was moved by Slominski, seconded by Howard, that Resolution No. 47-1966, be adopted as read. Motion carried and so ordered.

RESOLUTION NUMBER 47-1966

A RESOLUTION PROVIDING FOR JOINDER OF THE CITY OF MILWAUKIE, OREGON, AS PARTY PLAINTIFF IN A COOPERATIVE LAWSUIT FOR THE RECOVERY OF DAMAGES AND FOR CONTRACTING LEGAL REPRESENTATION.

WHEREAS, it appears that chlorine used for water purification may have been purchased by the State of Oregon and by cities, water districts and other public bodies of the State of Oregon, directly or indirectly from manufacturers, at fixed and excessive prices resulting from an illegal conspiracy in restraint of interstate commerce or otherwise in violation of federal antitrust laws; and

WHEREAS, Robert Y. Thornton, Attorney General of the State of Oregon, acting in his official capacity to protect and further the interests of the State, its political subdivisions and public agencies, and pursuant to ORS 30.312, relating to actions by governmental units against contractors conspiring to destroy competition or acting in violation of federal antitrust laws, proposes to file a treble damage class action against manufacturers of chlorine used for water purification; and

WHEREAS, the State of Oregon, and its co-plaintiff public bodies

CCB102

are to be represented by Lee A. Freeman, Esq., as special counsel in the prosecution of the Oregon claims against the manufacturers of chlorine used for water purification, and

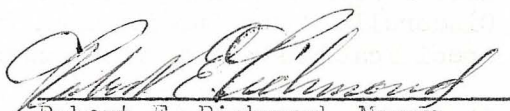
WHEREAS, the cost to the undersigned public body is a contingency fee of 20 percent of any recovery, plus a maximum of \$2,000 in costs to be pro-rated among the co-plaintiffs in proportion to their chlorine purchases, commencing in calendar 1967,

NOW, THEREFORE, BE IT RESOLVED: That the City of Milwaukie, Oregon, join with the State of Oregon, other cities and departments within the State of Oregon as party plaintiff in a lawsuit to recover damages for alleged price fixing by defendant chlorine suppliers in violation of federal anti-trust laws, and


NOW, THEREFORE, BE IT RESOLVED: That Lee A. Freeman, Esq., of Chicago, Illinois, is hereby authorized to take any and all legal actions, institute such legal proceedings and effect such settlements thereof as he may deem appropriate to recover for the undersigned public agency such damages as may have been incurred in purchases of chlorine used for water purification, the cost of which was affected by violations of the federal antitrust laws.

The undersigned public body agrees to pay to Lee A. Freeman, Esq., commencing in calendar 1967, its proportionate share of \$2,000 in costs, pro-rated among the co-plaintiffs in proportion to their chlorine purchases, and a contingency fee of 20 percent of any recovery.

ADOPTED THIS 26th DAY OF SEPTEMBER, 1966.


Robert E. Richmond, Mayor
City of Milwaukie, Oregon

ATTEST:


R. E. Osborne, City Recorder

SETTING PUBLIC HEARING

It was moved by Howard, seconded by Slominski, that Resolution No. 46-1966 be taken up for reading. Motion carried and so ordered.

After completion of reading, it was moved by Fuller, seconded by Slominski, that Resolution No. 46-1966 be adopted. Motion carried and so ordered. (Setting public hearing on question of amending Ord. No. 481, creating residential zone 3-R-1, Special Use.)

RESOLUTION NUMBER 46-1966

A RESOLUTION PROVIDING FOR THE CALLING OF A PUBLIC HEARING BEFORE THE COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ON THE QUESTION OF AMENDING ORDINANCE NUMBER 481, CREATING RESIDENTIAL ZONE 3-R-1, SPECIAL USE, DIRECTING PUBLICATION AND POSTING OF NOTICE OF SUCH HEARING.

WHEREAS, after written report of the City Planning Commission recommending that Ordinance Number 481, as amended, be further amended to provide for two-family dwellings within the 3-R-1 Residential Zone, and

WHEREAS, the City Council of the City of Milwaukie, Oregon, has determined that it is in the best interest of the inhabitants of the City to change the said Ordinance as follows:

Subsection 3, Section 16, Part III - Subpart 8

3. Residential zone 3-R-1

1. - 7. (No change)

8. Special uses. Special permits are required from the commission for the following uses:

- (A) Circuses, fairs, carnivals
- (B) Nursery or greenhouses
- (C) Telephone exchange
- (D) Electric substations
- (E) Churches
- (F) Schools (public or private)
- (G) Lodge buildings or fraternity houses
- (H) Playgrounds and parks

Such permits are to be issued after the commission has been satisfied as to the propriety of such use. The commission may limit the duration of such permits as it may deem advisable. (Subpart 8 of Subsection 3 of Section 16, as amended by Ord. 1019, passed 5/12/64.)

(I) Two-family dwellings

Two-family residences shall be permitted hereunder, but no building or premises shall be hereafter structurally altered or constructed or use changed for two-family residences without compliance with the requirements of this sub-section.

(1) That the building and accessory buildings shall conform to, harmonize with and/or compliment by design, appearance and standards of maintenance, the abutting properties and the general area.

(2) Not less than two covered off-street parking places shall be required and maintained as such and shall conform to 3-R-1 requirements.

(3) Dimensional Standards shall be as follows:

- a. Lot Size: Not less than 7500 sq. ft. or 1.5 times the minimum residential requirement, whichever is greater.
- b. Lot Coverage all Buildings: Not over 35%
- c. Lot Frontage: Not less than 50 ft.
- d. Lot Depth: Not less than 80 ft.
- e. Setback Minimums: As set forth by 3-R-1 Zone.

(4) Permit may be issued after the commission has been satisfied as to the propriety of such use and with the written consent of all surrounding and abutting property owners or without such written consent by holding a hearing after public notice.

(5) The commission shall have submitted to them for their approval before a permit is issued, such Building Plans, Plot Plan, Grading Plan and other information which is reasonable and necessary to determine compliance with the requirements as set forth above.

(6) All uses and structures permitted hereunder shall comply with the requirements of Subsection 3, Section 16, Single-family residence zone contained in Ordinance Number 481, except where such requirements would be in direct conflict of the content of this subsection.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, that the 17th day of October, 1966, is hereby fixed as the date, the hour of 8:15 o'clock p.m., Pacific Daylight Time, is hereby fixed as the time and the Council Chamber of the City Hall, 926 Main Street, Milwaukie, Oregon, is hereby fixed as the place for a public hearing to be held by the City Council of the City of Milwaukie, Oregon, to hear objections and remonstrances to the hereinabove proposed change, if any.

BE IT HEREBY FURTHER RESOLVED, that the City Recorder of the City of Milwaukie, Oregon, be and he hereby is directed and ordered to cause notices of proceedings and the public hearing to be had thereon to be published and posted and the date, time, place and purpose of said hearing to be published once each week for two successive weeks prior to the date of such hearing in the Milwaukie Review, a newspaper of general circulation in said City, and that he further cause notices of the date, time, place and purpose of said hearing to be posted in four public places within the City of Milwaukie, Oregon, for a like period of time.

ADOPTED THIS 26TH DAY OF SEPTEMBER, 1966.

ATTEST:
H. C. Osburn

Robert E. Richmond
Robert E. Richmond, Mayor

CCB102

BID OPENING - 38th Street Extension

The bids on the extension of 38th Street were opened with bids as follows:

Portland Road and Driveway	Total Bid	\$4183.75
Crosswhite Excavating	" "	4188.50


It was moved by Slominski, seconded by Howard, that the City accept the low bid of \$4183.75 by Portland Road and Driveway. Motion carried and so ordered.

PAYMENT OF BILLS


It was moved by Howard, seconded by Graf, that the following bills be approved and warrants drawn for payment of same. Motion carried and so ordered.

A Active Business Machines	9.00
Addressograph-Multigraph	219.76
All Electric Construction	199.01
Bethel #24, International Order of Jobs Dau.	5.50
Brooks Products, Inc.	23.00
Cascade Microfilm System	7.20
Clackamas County	101.25
Clackamas County Public Library	67.34
Roy E. Cochran, M.D.	25.00
Dale Cummings	10.00
Evergreen Library Service	304.89
David Fry Company	10.00
G & S Janitor Supply	19.05
Charles M. Gardner Co.	68.39
The J. K. Gill Co.	464.75
Heisler's Car Wash	3.00
Herb's Uniforms	306.50
Ken Hood Construction Co.	183.00
International Business Machines	10.80
International City Managers Association	7.50
Larry Laws	4.75
Lehman Reloading Service	25.00
Larry Linnum	10.00
McGregor Magazine Agency	471.80
Moore Business Machines	6.30
Northwest Natural Gas Co.	31.77
The Oregon News Co.	20.57
Pacific Building Materials	65.00
Pacific Pumping Co.	12.16
Pennsalt Chemicals	75.00
Petty Cash	19.97
Pioneer Mercantile	86.79
Portland Concrete Pipe & Prod.	40.72
Portland Seed Co.	31.55
Pump Pipe & Power Co.	77.99
Radio Corp. of America	684.75
Richfield Oil Corp.	657.24
St. Martin's Press	7.70
Seven Dees Nursery	6.98
Southgate Glass Co.	17.91
State of Oregon	230.00
Stevens, Thompson, R. & R.	27.65
Traffic Safety Supply	88.32
Marvin R. Wallace	5.00
Barbara Watson	6.50
Western Drug Label Co.	140.00
John T. Zea	7.75

After motion duly made and seconded, the meeting adjourned.


Robert E. Richmond, Mayor

ATTEST:


Barbara J. Watson, Acting Clerk