

MINUTES**MILWAUKIE CITY COUNCIL WORK SESSION
APRIL 20, 2004**

Mayor Bernard called the work session to order at 5:30 p.m. in the City Hall Conference Room.

Councilors present: Barnes, Loomis, and Stone.

Staff present: City Manager Mike Swanson, City Attorney Gary Firestone, Community Services Director JoAnn Herrigel, Code Compliance Coordinator, Steve Campbell, IST Director Esther Gartner, and Community Development and Public Works Director Alice Rouyer.

Engineering Director Paul Shirey introduced recently-hired **Civil Engineer Brenda Schleining** to the City Council.

Citizens Utility Advisory Board Interview

City Council interviewed **Betty Chandler** for re-appointment to her position on the Citizens Utility Advisory Board.

Proposed Noise Ordinance Amendment

Code Compliance Coordinator Steve Campbell explained the proposed ordinance relates to construction noise. He distributed a matrix showing the hours the City of Milwaukie is proposing and comparing them with the hours enforced by the cities of Lake Oswego, Happy Valley, and West Linn.

He reviewed proposed amendments to the current Milwaukie Municipal Code (MMC) Sections 8.08.070 (I) & (K) – Prohibited noises – Designated. The term “nighttime period” would be changed to more specific hours. Although there has not been an increase in the number of complaints over the past several years, they have been steady. However, new construction in Milwaukie in the recent months has resulted in an increase in the number of complaints, and citizens are asking what the City intends to do about regulating the hours better.

Campbell has spoken with several local contractors and the Homebuilders Association. The Homebuilders thought it was a good proposal because many jurisdictions do regulate the hours of construction activity, and that organization suggested more consistent hours among jurisdictions to avoid confusion. He discussed the issue of variances. Under the current code, there is a variance process that goes through the police department.

Section 8.08.070(I) would be amended by deleting the term "nighttime period" and adding "during the hours of 7:00 p.m. and 7:00 a.m. Monday thru Friday and during the hours 5:00 p.m. and 8:00 a.m. on weekends." These hours are fairly consistent with other jurisdictions.

Section 8.08.070(K) reiterates those hours and adds reference to newer technology including "air compressors, air driven equipment, nail guns, electric generators, hydraulic hammers ..." He pointed out that there was no proposal to amend Section 8.08.070(Q) – Domestic Power Tools and allowable hours of use.

Mayor Bernard understood that property owners putting on their own roofs could work until 10:00 p.m.

Campbell said that was correct. The intent of this process is to encourage developers and contractors to talk with the neighbors. This is a complaint driven process, and the City will go through the education process by asking the developer or contractor to remedy the situation. Campbell will encourage the police department to turn over the more complex issues to code compliance, so they can be worked out with the contractor.

Councilor Barnes asked whom people should call over the weekend when there is a problem.

Campbell said the police department has authority over the noise ordinance.

Councilor Loomis said in his years as a roofing contractor he has always cleared working hours with the homeowner and neighbors, so he has not had any problems. He understood there could be an issue with something like the Centex project. He believed there should be some regulation and suggested Saturdays be 7:00 a.m. to 7:00 p.m. and Sundays 9:00 a.m. to 5:00 p.m. so that contractors can put in the hours when the weather is nice.

Campbell understood contractors try to make up for time lost in the winter. There is a balance between contractor and resident needs. Staff will encourage contractors to talk to the neighbors and develop a rapport to handle these situations. If the problem is ongoing with no resolution, the fine could be up to \$500. He discussed the warning process. The goal is to speak with the general contractor who will in turn pass the information along to the subcontractors.

Councilor Loomis asked who would be fined in the case of a general contractor with subcontractors.

Campbell said the citation could be written to the general contractor or the property owner.

Councilor Loomis added that a general contractor might push the subcontractors if he thinks there are no ramifications for him.

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Campbell thought the judge would probably look at the general or the owner as having the ultimate responsibility.

Councilor Loomis said it seems the police department is busy already.

Campbell said construction noise complaints probably would not be priority calls for the police department. This ordinance amendment was discussed with other City staff including the building official.

Councilor Stone thought this was a good idea and suggested looking into having seasonal hours, since contractors have less time during the winter to work. She thought that might be a consideration.

Mayor Bernard's concern was that seasonal hours might complicate enforcement and make more work for the police officers. Alternatively, the contractors could apply for a variance under certain circumstances.

Councilor Stone thought the City should look at a couple of things with these proposed amendments. One was lighting. Some residents have big spotlights that illuminate neighbors' yards. She would like to have that issue researched. There is currently a problem in the Ardenwald neighborhood with motorized scooters. She asked Officer Krebs about that at the neighborhood meeting, and apparently there is nothing the police can currently do to enforce it. She believes operators have to be 16, but they do not need valid drivers licenses or insurance. They are riding on the sidewalks and streets. It sounds like a chainsaw coming down the street, and the scooters can be heard 2 blocks away. She could have called the police a half a dozen times, and it is really an issue. The operator sometimes goes into Willow Court for a period of time. She would like something in the code that addresses these machines so there can be enforcement. She noted noise restrictions near certain institutions, and she asked what ever happened to "quiet – hospital zone" signs. She suggested looking into bringing those types of signs back.

Funding for Centennial Memories Printing

Community Service Director JoAnn Herrigel and **Dolly Macken-Hambright** discussed publication of the *Centennial Memories* book. The Linwood neighborhood and primarily Macken-Hambright worked on this book during Milwaukie's Centennial year. It brought together huge amounts of photos and history with the idea of bringing all the events of the past 100 years, the Centennial Year Events, and future plans for the City under one cover. Unfortunately, no one has been successful in finding a sponsor or funding source for printing the book. With the Centennial over, there is concern that the project may fall through the cracks.

Staff is suggesting that some funds from the former neighborhood services department be allocated for the printing with the intent of filling the gap from the current budget with proceeds from the sale and/or sponsors. It is an issue of timeliness. People have been

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waiting for the book for months, and the sales will probably be greater with the Centennial year fresh in people's minds. She discussed the estimated bid of \$12,000 and the order quantity based to some extent on pre-orders. One of the issues is the minimum order amount and what that does to the printing cost per copy. Staff will continue to work with Ed Zumwalt on getting sponsors, but many of the local businesses contributed earlier to various Centennial events. The final publication will be paperbound. Macken-Hambright had suggested earlier that any profit over the amount being reimbursed to the City be shared equally between the Ledding Library and Milwaukie Museum. The main objective is to recoup the money spent.

Macken-Hambright thought the books would probably sell for \$20 – 25. She discussed the likely number of pre-orders and storage issues.

Councilor Stone asked if neighborhood grant funds could be used for the project.

Herrigel said that idea was discussed. There is a carryover projected in this year's neighborhood services budget that could be used to get the project done now. She discussed the convoluted process for the Centennial Tree Project that led to some confusion.

The City Council agreed publication of the book was time sensitive. **Herrigel** understood the City Council wanted to keep the printing order to the number of books that could actually be sold. **Councilor Stone** suggested publishing the price, release date, and locations available as soon as possible. **Councilor Barnes** added pre-sale is very important.

Macken-Hambright discussed the previous weekend's cemetery cleanup, and **Swanson** added the Council would probably see an item coming forward at the next regular session transferring responsibilities to the Board of Trustees.

Public Records Law Training

City Attorney Gary Firestone discussed disclosure and retention of public records.

The work session adjourned at 6:25 p.m.

Pat DuVal

Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL WORK SESSION APRIL 20, 2004

MILWAUKIE CITY HALL

Second Floor Conference Room
10722 SE Main Street

WORK SESSION – 5:30 p.m.

A light dinner will be served.

Discussion Items:

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>
1.	5:30 p.m.	Funding for <i>Centennial Memories</i> Printing	Mike Swanson
2.	5:45 p.m.	Proposed Noise Ordinance Amendment	Steve Campbell
3.	6:00 p.m.	Public Records Law Training	Gary Firestone
4.	6:20 p.m.	Adjourn	

Public Notice

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the preceding items.
- Executive Session: The Milwaukie City Council may go into Executive Session pursuant to ORS 192.660. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

- For assistance/service per the Americans with Disabilities Act (ADA) please dial TDD (503) 786-7555.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.
- For assistance/service per the Americans with Disabilities Act (ADA) please dial TDD (503) 786-7555.



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: JoAnn Herrigel, Community Services Director

Subject: Funding for *Centennial Memories* printing

Date: April 7, 2004

Action Requested

Approve the expenditure of \$12,000 for printing of "Milwaukie Memories", a collection of photos and information on the history of the City of Milwaukie.

Background

As their Centennial project, Linwood Neighborhood Association produced a collection of facts, photos and stories about the history of the City of Milwaukie. Many volunteer hours from neighborhood leaders, residents and City staff went into the production of this 160-page document. This document will provide City residents with a valuable look into their past and a keepsake to remember the City's Centennial and its many events. With the completion of this project, the City can formally bring the Centennial to a close. Further delay in its printing may jeopardize the appeal and timeliness of this document.

Concurrence

The Community Services staff and the City Manager support the use of City funds to complete this project in a timely manner.

Fiscal Impact

Funds for this printing project would come from the Neighborhood Services budget for FY 03-04. This budget contains contingency funds for use by that Department. Staff will work with Celebrate Milwaukie and the neighborhood associations to identify ways to reimburse the City for some of the cost of printing of this document. Further, a percentage of the sale of this product will be dedicated the City.

Work Load Impacts

Community Services staff would coordinate the production of the book and distribution of the final product.

Alternatives

Deny approval for spending City funds on this production project.



To: Mayor and City Council

Through: Mike Swanson, City Manager
JoAnn Herrigel, Community Services Director

From: Steve Campbell, Code Compliance Coordinator

Subject: Ordinance Amendment 8.08 – Prohibited Noises

Date: April 7, 2004

Action Requested

Provide staff with input on a proposed ordinance amendment to Municipal Code Chapter 8.08 – Prohibited Noises. The purpose of amending this section is to clearly define and designate allowable hours of construction activity.

Background

Code Compliance staff has identified areas within the Prohibited Noise Ordinance that limit the City's ability to effectively prohibit noise caused by construction activity during evenings, early morning hours, and weekends.

Current code language states that noises caused by construction activity are prohibited during the "nighttime period". The definition of "nighttime period" is from the hours of 10:00 p.m. to 7:00 a.m.

The proposed amendment addresses the concern for residents' peace, welfare, and livability. The City currently receives reports of noise created by construction activity on a regular basis. Typically, complaints are received regarding construction noise before 7 AM and between 6 PM and 10 PM. Currently the only way to assist citizens with this concern is to request that a contractor cease activity when it bothers neighbors. If a contractor refuses to comply with a neighbor's request, staff can attempt mediation, but no other code enforcement mechanism exists.

By adopting this proposed amendment to the prohibited noise ordinance, the City will be able to help the citizen enjoy their morning and evening hours and weekends. This proposed amendment meets the Council goal of sustaining livability in the Milwaukie neighborhoods.

Concurrence

Staff from Planning, Building, Engineering, and Police have reviewed this proposed amendment and have provided Code Compliance staff with their input.

The City Attorney has reviewed and commented on the proposed amendment and feels it is beneficial to the City and the larger community.

Fiscal Impact

No fiscal impact is expected from this action.

Alternatives

Maintain our current regulations regarding time limits under prohibited noises.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE,
OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 8.08 –
PROHIBITED NOISES – DESIGNATED**

WHEREAS, Milwaukie Municipal Code Chapter 8.08 describes the control of all sound originating within the limits of the city; and

WHEREAS, Milwaukie Municipal Code Section 8.08.070 describes those conditions that are declared to be noises and unreasonable, excessive and unnecessary sounds in violation of this chapter; and

WHEREAS, it is in the interest of the City to regulate noise for the good of public health, comfort, convenience, repose, peace, safety and welfare of any other person or persons or of any residential neighborhood within the limits of the city.

**NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS
FOLLOWS:**

Section 1: Milwaukie Municipal Code Section 8.08.070I is amended to read as follows:

I. Construction or Repair of Buildings, Streets, Etc. The construction of any building, property, building site, street, sidewalk, driveway, sewer or utility line during the hours of 7:00 p.m. and 7:00a.m. - Monday thru Friday and during the hours 5:00 p.m. and 8:00 a.m. on Weekends;

Section 2: Milwaukie Municipal Code Section 8.08.070K is amended to read as follows:

K. Pile Drivers, Hammers, Machinery, Etc. The operation during the hours of 7:00 p.m. and 7:00a.m. -Monday thru Friday and during the hours 5:00 p.m. and 8:00 a.m. on Weekends of any pile driver, steam shovel, pneumatic hammer, derrick steam or electric hoist, or other construction equipment, machinery or tools;

Section 3: All subsections of Milwaukie Municipal Code Section 8.08.070 not expressly amended by this ordinance remain in effect.

Read for the first time on _____, 2004 and moved to a second reading by _____ vote of the City Council.

Read for the second time and adopted by the City Council on _____,
2004.

Signed by the Mayor on _____, 2004.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Ramis, Crew, Corrigan & Bachrach, LLP

City Attorney