

MINUTES

MILWAUKIE CITY COUNCIL NOVEMBER 16, 2004

CALL TO ORDER

Council President Lancaster called the 1946th meeting of the Milwaukie City Council to order at 6:30 p.m. in the City Hall Council Chambers. The following Councilors were present:

Councilor Deborah Barnes
Councilor Joe Loomis

Councilor Susan Stone

Staff present:

Mike Swanson,
City Manager
Paul Shirey,
Engineering Director
Alice Rouyer,
Community Development/
Public Works Director

Grady Wheeler,
Information Specialist
Kelly Somers,
Operations Director
Tom Larsen,
Building Official

PLEDGE OF ALLEGIANCE

Council President Lancaster announced the addition of an ordinance regarding Measure 37.

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Outstanding Milwaukie High School Student of the Month

The City Council recognized **Charlie Tang** as the November 2004 Milwaukie High School Student of the Month. Mr. Tang taught himself pre-calculus the summer before entering the ninth grade and has taken calculus classes at Portland State University. This year he was tutoring students, and his Senior Seminar Project was teaching other students how to tutor. Mr. Tang was the CEO of the Milwaukie High School Tech Cadre, and was a true facilitator with great vision and organizational and leadership skills.

Councilor Barnes recognized the families and teachers who supported Mr. Tang and other Milwaukie High School students.

CONSENT AGENDA

It was moved by Councilor Stone and seconded by Councilor Barnes to approve the Consent Agenda that consisted of:

- A. City Council Minutes of October 19 and November 2, 2004;
- B. Public Works Operations Building HVAC Purchase and Installation; and
- C. Award Contract for Meek Street Stormwater Improvements Phase 1.

Motion passed unanimously among the members present. [4:0]

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

A. Municipal Code Update Title 15 – Buildings and Construction

Council President Lancaster called the public hearing on the proposed code amendment to order at 6:35 p.m.

The purpose of the hearing was to consider public comment on the proposed amendment.

Staff Report

Mr. Larsen provided the staff report. The objective was to update code language to reference International Code Council (ICC) instead of ICBO and reflect the State's recent adoption of the Oregon Structural Specialty Code that was based on the International Building Code. The State adopted the Oregon Fire Code based on the International Fire Code. Many of the provisions currently in Section 15.12 were contained in the body of the code.

Correspondence: None.

Public Testimony: None.

Council President Lancaster closed the public testimony portion of the hearing at 6:40 p.m.

It was moved by Councilor Stone and seconded by Councilor Barnes for the first and second readings by title only and the adoption of an ordinance amending Municipal Code Chapter 15 – Buildings and Construction. Motion passed unanimously among the members present. [4:0]

Mr. Swanson read the ordinance two times by title only.

The City Recorder polled the Council. Councilor Barnes, Loomis, and Stone and Council President Lancaster 'aye.' Motion passed unanimously among the members present. [4:0]

ORDINANCE NO. 1939:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE TITLE 15, BUILDINGS AND CONSTRUCTION.

Mr. Larson commented on future amendments anticipated for April having to do with low-rise buildings.

Measure 37 Implementation

Mr. Firestone said Measure 37 would take affect on December 2 and allowed local jurisdictions to adopt procedures for processing claims for compensation under that Measure. When a property owner submitted a claim, the City would have three options: pay compensation, waive the restriction, or deny the claim. Measure 37 allowed property owners to make a claim for compensation if a regulation adopted since they or a family member acquired the property restricted the use of the property and reduced the value of the property.

The proposed ordinance provided a procedure for the City to follow once a claim was made. It attempted to provide some definition for what constituted a written demand for compensation: identification of the property, identification of claimant, identification of the regulations at issue, and a stated claim for the amount of compensation sought. The proposed ordinance encouraged claimants to provide additional information such as the history of ownership, a list of all those who had an interest in the property, and an appraisal.

The process set out in the ordinance would have a notice, staff report, and any public hearing by the City Council. It provided the three options: pay, waive, or deny. He guessed that in the next few months most if not all jurisdictions would have some process formalized to handle Measure 37 claims. He advised that Milwaukie have an ordinance in place by December 2.

Council President Lancaster clarified this was discussed in detail at the work session. Whenever the Council adopted an emergency clause, there was an erroneous assumption in some people's minds. The ordinance would go into effect immediately and would be in place when Measure 37 took effect on December 2.

Mr. Firestone added emergencies could be declared when needed for the public interest. The public interest in this case clearly was served by having a proper process, so the City would not have to deal with claims on an ad hoc basis.

It was moved by Councilor Barnes and seconded by Councilor Loomis for the first reading in full of the ordinance specifying requirements for processing claims for compensation arising from implementation of Ballot Measure 37 and declaring an emergency. Motion passed unanimously among the members present.

Mr. Swanson read the ordinance in full.

It was moved by Councilor Loomis and seconded by Councilor Barnes for the second reading by title only of the ordinance specifying requirements for processing claims for compensation arising from implementation of Ballot Measure 37 and declaring an emergency. Motion passed unanimously among the members present.

Mr. Swanson read the ordinance for the second time by title only.

It was moved by Councilor Barnes and seconded by Councilor Stone to adopt the ordinance specifying requirements for processing claims for compensation arising from implementation of Ballot Measure 37 and declaring an emergency.

The city recorder polled the Council: Councilors Barnes, Loomis, and Stone and Council President Lancaster 'aye.' Motion passed unanimously among the members present. [4:0]

ORDINANCE NO. 1940

AN ORDINANCE PROVIDING A PROCESS FOR CONSIDERATION OF WRITTEN DEMANDS FOR COMPENSATION UNDER 2004 BALLOT MEASURE 37, ADDING A NEW CHAPTER 1.20 TO THE MILWAUKIE MUNICIPAL CODE, AND DECLARING AN EMERGENCY.

B. Eliminate Application Process for Home Occupations, File ZA-04-03

Council President Lancaster called the public hearing on amendments to Municipal Code Chapter 19.424, home occupations, to order at 6:57 p.m.

Staff Report

Ms. Rouyer provided the staff report. The proposed ordinance would eliminate application requirements for home occupations, and the City Council had previously discussed this amendment in a work session. This was business-friendly ordinance that would eliminate arduous application and enforcement processes for staff and more importantly on business owners who operated out of their homes. Staff believed it could be as effective dealing with enforcement issues on a complaint basis as it was with the application process. Staff would annually provide a fact sheet on what was and was not allowed in operating home-based businesses.

The purpose of the hearing was to hear comments on the proposed ordinance that would eliminate application requirements for home occupations. This was a legislative decision by Council and was based on applicable Comprehensive Plan policies and provisions of implementing ordinances.

The City Council decision was the final decision of the City. All testimony and evidence was directed toward the applicable substantive criteria. Failure to address a criterion or raise an issue with sufficient detail would preclude an appeal based on that criterion or issue. Any party with standing could appeal the decision of the City Council to the State Land Use Board of Appeals according to the rules adopted by that Board. Persons with standing were those who submitted written comments or testified and signed the City Council attendance sign-up sheet.

Conflicts of Interest

Councilor Loomis announced that he had a home occupation and asked if that would be an issue.

Mr. Firestone said if a Councilor was in the same category as many other people, then that was not a conflict of interest. In this case the category was broad and in his understanding of the law, that was not a conflict of interest.

There were no other conflicts of interest declared, and there were no challenges to any member's ability to participate in the decision.

Correspondence: None.

Public Testimony: None.

Council Questions of Staff: None.

Council President Lancaster closed the public testimony portion of the hearing at 7:05 p.m.

Deliberation and Decision

Councilor Stone thought this was a good idea in terms of streamlining the process. She understood that this fee was adopted to help enforce people who had businesses in their homes that might not be doing everything on the up-and-up but that there had not really been problems with enforcement in terms of complaints.

Ms. Rouyer replied that the City only got a handful of complaints a year and staff responded to those issues.

Mr. Firestone understood the complaints arise whether or not the home occupation went through a process.

Councilor Stone asked if this fee was typically applied in other jurisdictions.

Mr. Firestone said the fee had to be tied to the cost of administration. The City determined how much time it took to process the applications, and it should balance. He believed it was within the range of any fee.

Councilor Stone understood that no revenue was generated in this process and was put in place as an enforcement tool. Do other cities have similar types of fees and charge more?

Ms. Rouyer responded home occupation regulations were in place to protect the neighborhoods from businesses that did not conform.

Mr. Firestone added a lot of other jurisdictions have a one-time application, and the fees tended to be higher.

Councilor Loomis said this action would not change any regulations, and the home occupations would still be required to adhere to those requirements.

It was moved by Councilor Barnes and seconded by Councilor Stone for the first and second readings by title only and the adoption of an ordinance eliminating the application process for home occupations. Motion passed unanimously among the members present. [4:0]

Mr. Swanson read the ordinance two times by title only.

The City Recorder polled the Council: Councilors Barnes, Loomis, and Stone and Council President Lancaster 'aye.' Motion passed unanimously among the members present. [4:0]

ORDINANCE NO. 1941:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADOPTING CERTAIN TEXT AMENDMENTS TO CHAPTER 19.424 HOME OCCUPATIONS.

OTHER BUSINESS

A. Council Meeting Dates

Mr. Swanson explained this matter came before the City Council after about one year of trying out a new schedule. In January 2004, the Council combined the work session and the regular session on one evening. The work sessions were bleeding into the regular session times, or some work session items were postponed. He recommended changing the start time of the regular session to 7:00 p.m. and continuing to hold work sessions at 5:30 p.m. The Charter required that the City Council hold at least two

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Approved Minutes

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regular meetings a month, and the code further defined the responsibilities and stated that the regular session should begin at 7:00 p.m. in the Council Chambers. The public has been notified of the 6:30 p.m. start time by annually adopting a blanket resolution. If adopted, the proposed resolution would become effective in January.

It was moved by Councilor Loomis and seconded by Councilor Stone to adopt the resolution setting Council meeting dates and times. Motion passed unanimously among the members present. [4:0]

RESOLUTION NO. 37-2004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DESIGNATING THE FIRST AND THIRD TUESDAYS OF EACH MONTH AS THE REGULAR CITY COUNCIL MEETING DATE, ESTABLISHING THE TIMES OF THE SAID MEETINGS, AND REPEALING RESOLUTION NO. 50-2003.

Transit Center Update

Mr. Swanson said this item would appear on the second meeting agenda of each month. In adoption of the recommendation for the transit center, one of the provisions in the resolution was a monthly report on the status of the project. He hoped by doing this, it would keep the issue before the City Council and keep TriMet's and Metro's feet to the fire.

He discussed several important issues. The Main Street alignment through the LPA process was originally recommended by the South Corridor Policy Committee, and the City Council action changed some of those recommendations. In some way the South Corridor Policy Committee, chaired by Metro Councilor Brian Newman, would probably have to revisit those issues. The Committee would not convene until January at the earliest. TriMet was trying to prepare for the park-and-ride at Southgate. He believed TriMet purchased the property through a negotiated settlement and was in discussion with the planning department on how best to configure Southgate for a park-and-ride. TriMet was also hoping to start the downtown improvements and help begin implementing some of the downtown elements. The parking was important because of the North Main development, as 120 spaces would be lost. The timing issue was very important. The other issue was money. The transit center phase 1 was in part going to be funded by 5309 Bus Funds, and everyone was wondering what would happen with that money in Washington, D.C. As far as light rail issue was concerned, they were now scrambling for money to do the Environmental Impact Statement (EIS). Presently, there was a request to the MTIP process, but even if the request was granted, they would still be about \$2 million short to finish phase 2 of the South Corridor light rail process. Money was an issue in both the transit center and light rail issues. Information may be sparse for some time. Money issues may not be determined in Congress until January.

Councilor Stone commented on behalf of the City Council and City regarding recent death of a very upstanding citizen, Jean Michel. She announced his Celebration of Life on December 5 at the Milwaukie Center.

Councilor Lancaster discussed the Council President election in January.

ADJOURNMENT

It was moved by **Councilor Barnes** seconded by **Councilor Stone** to adjourn the meeting. Motion passed unanimously among the members present.

Council President Lancaster adjourned the regular session at 7:20 p.m.

Pat DuVal

Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL
NOVEMBER 16, 2004

MILWAUKIE CITY HALL
10722 SE Main Street

1946TH MEETING

REGULAR SESSION - 6:30 p.m.

I. CALL TO ORDER
Pledge of Allegiance

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Recognize Outstanding Milwaukie High School Student of the Month

3. CONSENT AGENDA *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*

- A. City Council Minutes of October 19 and November 2, 2004**
- B. Public Works Operations Building HVAC Purchase and Installation**
- C. Award Contract for Meek Street Stormwater Improvements Phase I**

4. AUDIENCE PARTICIPATION *(The Mayor will call for statements from citizens regarding issues relating to the City. It is the intention that this portion of the agenda shall be limited to items of City business which are properly the object of Council consideration. Persons wishing to speak shall be allowed to do so only after registering on the comment card provided. The Council may limit the time allowed for presentation.)*

5. PUBLIC HEARING *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*

- A. Municipal Code Update Title 15 – Buildings and Construction – Ordinance (Tom Larsen)**
- B. Eliminate Application Process for Home Occupations, File ZA-04-03 – Ordinance (John Gessner)**

6. OTHER BUSINESS *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

- A. Council Meeting Dates – Resolution (Mike Swanson)**
- B. Transit Center Update (Mike Swanson)**

7. INFORMATION

8. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council may go into Executive Session immediately following adjournment at pursuant to ORS 192.660(2).

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.

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION OCTOBER 19, 2004

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

Councilors present: Barnes, Lancaster, Loomis, and Stone.

Staff present: City Manager Mike Swanson, Finance Director Stewart Taylor, Community Development and Public Works Director Alice Rouyer, Planning Director John Gessner, Engineering Director Paul Shirey, and Civil Engineer Brion Barnett.

Information Sharing

Councilor Loomis discussed his plans to hold a monthly Saturday morning coffee hour so citizens could talk informally with Council members. He planned to start the program in January and looked forward to others joining him

Councilor Barnes provided copies of the new Milwaukie economic development flier. The first meeting was at the Sabin Center and was attended by 17 people. Many great things were said about Milwaukie. People viewed the lower cost of housing and tolerance for special employees as strengths. Mr. Dieringer reported his company approached Nature's and Trader Joe's about locating a store at 42nd Avenue and King road, but he was told the demographics would not support those stores. The education and income levels were too low to bring those types of stores into Milwaukie. The average Milwaukie income was \$28,000, which was much lower than Portland. If the City wants to woo those businesses it would need to avoid that as the issue.

Councilor Stone understood it was always the demographics, but she was looking at the demographics of those going through Milwaukie on McLoughlin Boulevard.

Councilor Barnes said the attendees believed Milwaukie would have to focus on parking to support economic development activity in the downtown. There was some concern expressed about a requirement that the nearest parking be 300 feet from the door. The City was perceived as a drive-by community with nothing downtown and on the riverfront, but discussion did follow about how things were changing. The local businesses appreciated the Council's availability. The information would be compiled for a Council report in January.

Mr. Swanson thought the reference to the 300-foot parking distance might have had to do with the Bob's Red Mill development and was limited to transit corridors.

Councilor Barnes attended the Linwood Neighborhood District Association meeting to discuss the library levy, and she believed people were receptive.

Mayor Bernard added that the Economic Development Committee was made up of some very good people, and there was a good deal of excitement.

Councilor Stone asked how the fliers would be distributed.

Councilor Barnes replied that was still being decided. The county will send the flier out when someone makes an inquiry from outside the area. That will distinguish Milwaukie from a lot of the other smaller communities.

Councilor Lancaster asked about points of contact for out-of-state business inquiries.

Mayor Bernard believed the County had that kind of list. The City will also update its website and was working with the County economic development department.

Councilor Lancaster asked if there was any discussion about being proactive and surveying the businesses that were ripe for expansion. A lot of major franchise companies are moving west. He suggested finding a way through public documents to solicit those companies early.

Mayor Bernard understood Greg Jenks of Clackamas County said most corporations check a city out long before making make contact. The City has been visiting businesses to find out who their suppliers were and how to help them expand. He discussed the importance of networking to open up opportunities. It has become a worldwide competition, and Multnomah County was driving businesses to Clackamas County with its higher taxes.

Councilor Stone liked the idea of going after the desirable businesses and recommended encouraging people who were not attracted by Milwaukie's demographics.

Councilor Barnes saw active business recruitment as being a full time job with a team, but there was not enough money. She appreciated Mr. Jenks' participation.

Mayor Bernard added several commercial realtors are participating on the Committee.

Develop a Temporary Event Ordinance

Mr. Wachs has acted as the special event coordinator for about 3-1/2 years. There was a process in place, but there was no ordinance giving the City the authority to regulate special events. He discussed some changes being proposed by staff.

The City currently required permits for events that were (1) staged on or impacted public streets, sidewalks, or other public property; (2) required City services such as police, traffic control, or public works; or (3) interfered with normal vehicular or pedestrian traffic.

The City needed an ordinance to establish the authority to regulate those types of events and minimize adverse impacts. There was also a recommendation to regulate certain sales events such as Christmas tree lots. Staff recommended three categories of events: (1) special events; (2) block parties; and (3) sales events.

Mr. Wachs explained the proposed ordinance included private property and allowed review outside the land use review process. He reviewed the exemptions that included events that occurred in parks maintained by the North Clackamas Parks and Recreation District, events held on premises designed or constructed to house an organization and its activities, funeral processions, temporary garage and yard sales, construction maintenance or repair, house moving, and any event or activity that was otherwise permitted under applicable zoning regulations.

Councilor Stone saw one category in the exceptions that was not in the current list – league play or tournaments.

Mr. Wachs said that was the same idea as the event held on a premise designed or constructed to house an organization and its activities. League play typically happened on fields that were there for that reason, and the City would not regulate.

Councilor Barnes how asked how the Annie Ross House events would fit into the proposed regulations.

Mr. Wachs said it would depend on the impact on the street. Last year, for example, the Annie Ross House requested a street closure, and that clearly impacted public property. If the event were held on the Annie Ross House property, the City would probably not require a permit.

Councilor Barnes was concerned about non-profits having to pay fees when they were trying to raise funds.

Mr. Wachs replied the bottom line would be that staff would have to receive the application to determine what type of event it was and if there was an exemption. Some events do not fall into a category, and staff would have to develop criteria. Sales events, for example, would require a good set of criteria dealing particularly with noise and traffic in residential areas.

The fees were intended to cover administrative costs and were not intended to generate revenue. The proposed fee for a special event or sales event was \$25 and a block party was \$15. Fees would not apply to neighborhood association events. He suggested fees because people do not always follow through on their events, yet staff had already gone through the review process that could also include the Fire District, TriMet, and others. Mr. Wachs noted the proposed fees were comparable to other cities.

The reviewing department would determine applicability of the second fee for certain events that required City services. This was in the current policy, and he believed it should be continued as certain events may require extensive use of City services such as police, traffic control, and fire.

The third fee was for filming of motion pictures, commercials, or videotaped productions. He recommended a maximum of \$1,000. This amount was based on Lake Oswego's fee.

The key issues were regulating on private property under certain circumstances and fees that might be attached. Mr. Wachs sought direction on developing new application forms and criteria for sales events. All applications would come through him, so he could determine the appropriate category before sending them through the other reviewing departments.

Councilor Lancaster asked how people knew that they had to apply for a permit.

Mr. Wachs replied a lot of people simply asked because it was a common practice in most communities. Staff would publish information in *The Pilot* and could send notices to business license holders who might have sales events.

Councilor Stone asked if non-permitted events were a problem.

Mr. Wachs said there have been problems with Christmas tree sales because cars were parking in bike lanes and backing into traffic.

Mayor Bernard brought up the issues of the Farmers Market and insurance. Would Festival Daze have to go through the Parks District?

Mr. Wachs said the District does have new system for the parks it maintains. If an event were hosted by the City, which technically Festival Daze was, then the City would process the permit.

Councilor Barnes was concerned about non-profits. Milwaukie High School, for example, sells fireworks at the MarketPlace as a fundraiser, and she did not believe they should have to pay a fee.

Mr. Wachs suggested there would be a caveat for fee waiver.

Mr. Swanson cautioned against opening that door. The Council adopted a policy several years ago that was a blanket prohibition against waiving any fees because many groups could argue that they were a non-profit. These fees were modest. The purpose of the ordinance was to make sure there were provisions on sales events that protected the neighbors and the traveling public.

Councilor Loomis explained that Milwaukie High School operated the fireworks stand for a percentage, and it was actually owned by a large corporation.

Sewer Extension Strategy

Ms. Rouyer shared ideas that resulted from staff discussions with Clackamas County about the unsewered area in the Urban Growth Management Area (UGMA). Staff sought feedback on some of its ideas on how to extend sewer service.

She indicated the Milwaukie city limits and the area within Milwaukie's UGMA including areas A and B. One was identified as needing service soon because it was currently unsewered, and neither Milwaukie nor Clackamas County Service District #1 provided service. It was agreed that the County would not extend service into that area and that the City would eventually provide service as septic systems failed. There was currently no strategy for getting there.

In the early 1990's, there was a discussion of simply annexing the entire area into Milwaukie, but the property owners did not support that. In time, those properties will need sewer service, and environmental regulations will increase to protect nearby Johnson Creek.

One strategy would be to annex the right-of-way on Linwood Avenue and essentially enclose those properties. That would tell the property owners that the City was committed to serving that area at some time in the future, and the City would annex at the time the service was provided. The City would have to follow up with an action plan and phasing strategy. The City would also seek Community Development Block Grant (CDBG) funding to assist owners in getting service extended to their properties. She thought that might spur further development in that area and increase property values. It would be a commitment to the future from an environmental standpoint as well as filling the service need. It would not come without controversy because it would take away property owners' ability to say "no" in the future because it would be essentially an island annexation.

Councilor Barnes asked if there was an informal way to get feedback.

Councilor Lancaster asked why would they say "no" to the idea.

Mr. Swanson said property owners would be paying an additional \$4 per thousand assessed value.

Councilor Barnes asked how many houses were in that area, and **Ms. Rouyer** said there was no property count at this time.

Councilor Stone asked Ms. Rouyer if she had a sense of ownership versus rental.

Ms. Rouyer did not have that information at this time and getting it would be a large undertaking at this time. She discussed grant funding to provide sewer service on the north side of Johnson Creek.

Councilor Barnes suggested a town hall meeting to gauge property owners' interest.

Mayor Bernard replied at some point those property owners would be forced to hook up to sewer service due to failing septic systems.

Mr. Swanson added that at some point urban services would have to be provided by a municipality because the County was less and less able to provide services in those areas. The City will have to fill that void at some point and ensure there was sufficient value in those areas to provide services. Current residents cannot pick up the slack. Milwaukie would be the logical provider, and there were some real opportunities for creative uses of that area.

Councilor Barnes did not want it to seem like the City was forcing something but rather was offering to help.

Mayor Bernard understood Clackamas County would have to bring the streets up to urban standards.

Ms. Rouyer said Clackamas County would probably write the City a check or provide in-kind service. She understood Council wanted a town hall scheduled.

Councilor Loomis thought it sounded like staff needed more time.

Councilor Stone did not want to see a town hall meeting, although she liked the concept of informing people and not making it seem as if the City were forcing something upon them. She did not believe the City was ready to address the annexation issue at this time.

Mr. Swanson said in terms of need for service, this was the area of failing septic systems that would need the service sooner than others.

Councilor Stone was all for having a town hall meeting when the City got to the point of saying the infrastructure was failing and Milwaukie was the logical provider.

Mayor Bernard was in favor of annexing the right-of-way.

Mr. Swanson explained health hazards and an island create a situation in which the annexation could not be referred. The state has not really been pursuing health hazard annexations for some time, so the City would be on the front line. Milwaukie needed to position itself to be ready, but when it happens, it will probably be forced – there will not be a choice. Milwaukie was the service provider pursuant to its agreements with Clackamas County.

Councilor Barnes understood the point but did not want property owners to feel like big government was telling them what to do. She wanted them to be part of the process to educate them on the options. This is just part one of the annexation questions before the City. She felt there would be a more favorable reaction down the line if people felt they were treated fairly.

Ms. Rouyer thought people understood they needed the City service. She was concerned that the County would get tired of waiting on the City and put a capital improvement project into that area. Annexing the right-of-way would set up a bold move that said the City was committed to providing services in the future. The safety valve was that people would not have to annex into the City until they received the service. This option would tell the County not to come into the area.

Mayor Bernard supported strategy 1 – annexing the right-of-way and preparing a service delivery strategy.

Councilor Loomis wanted to hear the other two strategies.

Councilor Lancaster thought from a long-term planning perspective it made perfect sense to create the island and prepare for the future. Everything would change when Kellogg was decommissioned, so Milwaukie needed to be ready. Informing people of what was happening and the long-term benefits would be critical.

Mayor Bernard adjourned the work session at 6:35 p.m.

Pat DuVal, Recorder

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION NOVEMBER 2, 2004

Mayor Bernard called the work session to order at 6:00 p.m. in the City Hall Conference Room.

Councilors present: Barnes, Lancaster, and Loomis.

Staff present: City Manager Mike Swanson, Finance Director Stewart Taylor, and Engineering Director Paul Shirey.

Sewer Extension Strategy

Ms. Rouyer was ill, so the item was postponed to a future work session.

City Council Meeting Schedule

Mr. Swanson discussed the feasibility of changing the regular session meeting time to 7:00 p.m. to allow for a longer work session to cover all of the scheduled items. The Council concurred, and Mr. Swanson will prepare a resolution establishing the start time for work sessions at 5:30 p.m. and a start time for the regular session of 7:00 p.m. beginning January 2005.

Agreement between the City and Milwaukie Pioneer Cemetery Association Regarding the Leona Knutson Trust Fund

Mr. Swanson said after he started digging into the issues, he found that the Cemetery was created in the mid-19th century by a deed from two families forming a cemetery and three trustee positions to manage it. The line of trustees was kept whole until the mid-1980s when the last trustee passed away. The City took over maintenance of the Cemetery, but there was never any formal agreement. In 1992, the North Clackamas Parks and Recreation District assumed the maintenance. Mr. Swanson discussed the recent formation of the Pioneer Cemetery Association and appointment of the Board of Trustees. In the 1990's, Leona Knutson left the City \$36,000 for Cemetery maintenance. The money was in a trust fund and was part of the City's budget. The City keeps the principal amount of \$36,000. He proposed an agreement that would retain the City's fiduciary responsibility under the trust but would give the Association a greater voice in trust issues. He would bring this before the City Council for action at a future Council session.

Mr. Swanson announced there would be an executive session on 192.660(2)(f) – records exempt from public disclosure.

Mayor Bernard adjourned the work session at 6:12 p.m.

Pat DuVal, Recorder

Milwaukie High School Tech Cadre

Mr. Wheeler expressed the City's appreciation to Jeff Linman and members of the Milwaukie High School Tech Cadre for hosting the City of Milwaukie's website for past several years.

Riverfront Donation

Mayor Bernard announced that the Milwaukie Farmers' Market donated \$3,000 to the Riverfront design project.

CONSENT AGENDA

It was moved by Councilor Stone and seconded by Councilor Loomis to approve the Consent Agenda that consisted of:

- A. City Council Minutes of October 5 & 19, 2004;**
- B. OLCC Application for Foxy's -- 11094 SE Main Street;**
- C. Award contracts for Public Works Building**
 - 1. Public Works Operations Building Electrical, Voice and Data Components Purchase and Installation**
 - 2. Public Works Operations Building Gypsum Board Purchase and Installation**
- D. Award Contract for Economic Development Consulting Services.**

Motion passed unanimously among the members present.

AUDIENCE PARTICIPATION

Les Poole, 15115 SE Lee, Milwaukie, Oregon 97267. He was inspired by Ms. Pai's comments about getting involved and discussed Metro Goal #1, which was citizen participation.

He discussed Milwaukie's annexation of the Town Center and thought there might be some action the City could take to get closer to I-205. Mr. Poole recently testified before the Planning Commission on the proposal to develop ballfields in North Clackamas Park. While he endorsed the ballfields, he was concerned about overstressing the park.

PUBLIC HEARING

Transportation System Development Charges -- Resolution

Mayor Bernard called the public hearing on the proposed transportation system development charges to order at 6:50 p.m.

The purpose of the hearing was to consider public comment on the proposed increase.

Mr. Shirey provided a brief background on the proposal. He contacted the Homebuilders Association to alert the organization of the proposed change, and no concerns were expressed.

Correspondence: None.

Public Testimony: None.

Mayor Bernard closed the public testimony portion of the hearing at 6:55 p.m.

It was moved by Councilor Stone and seconded by Councilor Loomis to adopt the resolution setting new system development charges for transportation improvements. Motion passed unanimously among the members present.

RESOLUTION NO. 36-2004

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MILWAUKIE, OREGON, ESTABLISHING NEW SYSTEM
DEVELOPMENT CHARGES FOR TRANSPORTATION
IMPROVEMENTS AS AUTHORIZED BY MMC CHAPTER 13.28**

OTHER BUSINESS

Metropolitan Transportation Improvements Project Letters of Support

Mr. King provided the staff report. The City of Milwaukie made MTIP applications last June for the Downtown Pedestrian and Streetscape Improvements Project and the Lake Road Multi-Modal Improvement Project. At this date, these have survived the 150% cut, and the open comment period has commenced. In addition to letters supporting the two City projects, he requested that Council authorize the Mayor to sign letters supporting complementary regional projects.

Councilor Loomis thanked Mr. King and Ms. Rouyer for their work on preparing the Council for the recent listening posts. Councilor Stone prepared a great speech, and Rep. Blumenhauer's aide was very complimentary of staff.

Councilor Stone understood one letter supported the Lake Road and Downtown Projects and a second letter supported other regional projects that would benefit Milwaukie. She asked for information on the SW Boones Ferry and Lanewood Street intersection. It seemed less regional than the others.

Mr. King discussed the importance of presenting a united front.

Councilor Stone asked about the Oregon City's South Metro Amtrak project. It sounded like a great project to improve access to train travel.

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Mr. King understood the first phase was done and that the station was open. This phase would add more parking and relocate the old freight station.

Councilor Stone recalled an Amtrak station in Milwaukie with a stop on Harrison Street. She thought having a stop in Milwaukie would be a worthwhile goal.

Mayor Bernard added there was a stop near the Public Safety Building, but it was not successful because it lacked parking.

Councilor Stone thought Milwaukie should look at the feasibility of developing a plan that would allow people to use the train in their own City.

Mayor Bernard discussed the importance of commuter rail in the future.

Councilor Stone thought it would be a great opportunity for Milwaukie to have a stop on a line that ran from California to British Columbia. She understood the money was not available but thought it would be a great vision for the City.

It was moved by Councilor Loomis and seconded by Councilor Stone to authorize the mayor to sign letters of support for Metropolitan Transportation Improvement Projects (MTIP) complementary and beneficial to the City. Motion passed unanimously among the members present.

Other

Mayor Bernard announced board and commission appointments:

- Dan Freinwald to the Cable Access Studio Ad Hoc Committee;
- Marie Watkins (Island Station), Susanna Pai (Lake Road), and Dolly Macken-Hambright (Linwood) to the Public Safety Advisory Committee;
- Dave Green, Shane St. Clair, and Mitch Wall to the Riverfront Board.

Councilor Loomis congratulated the Milwaukie High School Boys and Girls soccer teams for qualifying for the state tournament and wished them luck in their upcoming games.

ADJOURNMENT

It was moved by Councilor Stone seconded by Councilor Loomis to adjourn the meeting. Motion passed unanimously among the members present.

Mayor Bernard adjourned the regular session at 7:10 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Community Development Director

From: Kelly Somers, Public Works Operations Director

Subject: Public Works Operations Building HVAC Purchase and Installation

Date: November 1, 2004 for November 16, 2004 Council Meeting

Action Requested

Authorize the City Manager to sign a purchase order to Milwaukie Heating in the amount of \$40,000. This purchase order is for furnishing and installing the HVAC system in the new Public Works Operations building.

Background

City Council gave authorization on June 15, 2004 for a new Public Works Operations building to be constructed during the 2004/2005 fiscal year. This building will house the Public Works Operations personnel; the building includes office area, work area, and a combination restroom/locker room facility for the crews. It also has a second floor for future office work area. The estimated cost of the building for this fiscal year is \$350,000. The City is acting as the general contractor on this project. This sub-bid from Milwaukie Heating is for the purchase and installation of the HVAC system in this building.

The City received three proposals. One was from Sparks Heating and Cooling in the amount of \$59,750, one from Service Now Inc. in the amount of \$53,276 and one from Milwaukie Heating in the amount of \$40,000. Based upon the bid amount and past performance, staff chose to award the contract to Milwaukie Heating.

Concurrence

The City Manager, Director of Community Development, Director of Public Works Operations, and Operations Supervisors all concur with this proposal.

Fiscal Impact

This project is part of the overall project expected to total \$350,000 during the 2004/2005 fiscal year. The project is included in the 2004/2005 adopted budget.

Work Load Impacts

This project is included in the Facilities Department's work program for this fiscal year.

Alternatives

1. Approve as presented.
2. Approve with modifications.
3. Deny request.



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Community Development and Public Works Director

From: Paul Shirey, Engineering Director

Subject: Meek Street Stormwater Improvements Phase I

Date: November 1, 2004 for November 16, 2004 City Council Meeting

Action Requested

Authorize the City Manager to sign a contract for the Meek Street Storm Improvements Phase I project with D & A General Contractors, Inc. in the amount of \$139,737. Also authorize the City Manager to approve a \$27,947 contingency for a total authorization of \$167,684.

Background

The current Surface Water Master Plan has identified the need for a new storm line on Meek St at its intersection with 32nd Avenue. The installation of 800 feet of 12"-36" pipe, associated catch basins and manholes on 32nd Avenue and Meek Street will collect surface water and divert the flows to the west to alleviate surcharging that occurs periodically downstream at Harrison St.

The project is designed to outfall further downstream, but due to delays in obtaining easements, the project was split into two phases. The first phase will outfall into an open swale that is adequate to manage the flows. Phase two, dependent on obtaining an easement from an adjacent public agency, will allow another 600 feet of pipe to be installed at the west end of the first phase.

A project vicinity map is attached. Project bid advertising was completed and bids were opened October 28, 2004.

The lowest bids received are listed below.

Contractor	Bid Amount
D & A General Contractors	\$139,737
Kerr Contractors	\$147,784
Civil Works NW, Inc.	\$162,069
K & R Plumbing Construction	\$163,511

Ten bids were received, and D & A General Contractors, Inc. was the low bidder for each alternative. Staff recommends that the contract be awarded to D & A General Contractors, Inc. in the amount of \$139,737.

In order to account for project unknowns, staff recommends Council approve an additional 20% contingency in the amount of \$27,862, which will be included in the purchase order. City policy is to include a 20% contingency for construction projects.

Concurrence

Engineering staff coordinated with the Community Development and Public Works Director and with Public Works Operations staff on this project.

Fiscal Impact

Funding for the first phase of the Meek Street project will consist of \$167,172 and is included in the approved stormwater fund budget. \$240,000 was budgeted for both phases of the project.

Work Load Impacts

This project is part of the Engineering and Storm Division's annual work program.

Alternatives

1. Authorize the City Manager to sign a contract as proposed.
2. Elect to do the project at a later date.
3. Take no action.

Attachment

- 1, Vicinity Map

MEEK STREET STORM SEWER VICINITY MAP

N
1" = 150'

 PROJECT AREA BOUNDARY

2801U4
2801U3
2801U2
2801U1

S. E. DWYER ST.

4200
4200A1
4200A2
4200A3
4200A4

HILLSIDE CT. SE. HILLSIDE CT.

BRANCH

S. E.

SE D ST.

SE D PL.

SE C ST.

SE B ST.

SE B ST.

S. E. 32ND AVE.

4300

4400

4500

4490

5600

5500

5501

5800

5900

6000

6000

6100

6300

6300

6200

6400

6400

6600

6700

6500

6500

6900

6900

6800

7000

7000

S. E.

LLEWELLYN ST.

S. E.

1500

1400

1300

1200

1100

1000

900

800

S. E. 29TH AV

5100

500

4900

(224)

S. E. 34TH AVE



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Community Development and Public Works Director

From: Tom Larsen, Building Official

Subject: Municipal Code Update—Title 15

Date: November 1, 2004, for the November 16, 2004, Meeting

Action Requested.

Adopt the attached ordinance updating Building Code references in Title 15 of the Milwaukie Municipal Code.

Background

The International Conference of Building Officials (I.C.B.O.) no longer exists, having been replaced by the International Code Council (I.C.C.). On October 1, 2004, the State of Oregon adopted the latest edition of the Oregon Structural Specialty Code, which is based on the International Building Code. This ordinance will update Title 15 language to reflect this change. The State also adopted the Oregon Fire Code, based on the International Fire Code. Many of the provisions currently in Section 15.12 are now contained in the body of the code.

Concurrence

The Community Development Director and representatives of Clackamas Fire District # 1 concur with staff's recommendation. The City Attorney has reviewed the proposed changes.

Fiscal Impact

No anticipated fiscal impact.

Workload Impacts

No changes are anticipated in staff workload.

Alternatives

1. Adopt the ordinance as requested.
2. Adopt the ordinance with changes.
3. Take no action.

Attachment

1. Adoption ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
AMENDING MILWAUKIE MUNICIPAL CODE TITLE 15, BUILDINGS AND
CONSTRUCTION.**

WHEREAS, The International Conference of Building Officials no longer exists,
having been replaced by the International Code Council.

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

Section 1. Milwaukie Municipal Code Title 15, Building and Construction, is
amended as shown in Exhibit 1. All sections and subsections of Title 15 not amended
by Exhibit 1 remain in full force and effect.

Read the first time on November 16, 2004, and moved to second reading by
_____ vote of the City Council.

Read the second time and adopted by the City Council on November 16, 2004.

Signed by the Mayor on _____.

Jim Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

City Attorney

**Amendments to Milwaukie Municipal Code
Title 15—Buildings and Construction**

SECTION 15.04 BUILDING CODES:

Amend Subsection B of Section 15.04.060, Definitions to read as follows:

- B. "I.C.C." means International Code Council.

Amend Section 15.04.160, Inspections by deleting Section B entirely

Amend Section 15.04.170, Various specialty codes and standards adopted as follows:

Delete Sections C, J, and L entirely; renumber subsequent sections accordingly; and revise current section K (new section I) to read:

The following specialty codes, rules, and standards are adopted and incorporated herein by this reference as included in this chapter.

A. Structural Code. The Oregon Structural Specialty Code, as adopted by OAR 918-460-0010 through 918-460-0015, except as modified in this chapter, is enforced as part of this chapter.

B. Mechanical Code. The Oregon Mechanical Specialty Code, as adopted by OAR 918-440-0010 through 918-440-0040, except as modified in this chapter, is enforced as part of this chapter.

C. Plumbing Code. The Oregon Plumbing Specialty Code, as adopted by OAR 918-750-0010, except as modified in this chapter, is enforced as part of this chapter.

D. Electrical Code. The Oregon Electrical Specialty Code, as adopted by OAR 918-290-0010, except as modified in this chapter, is enforced as part of this chapter.

E. One and Two Family Dwelling Code. The Oregon One and Two Family Dwelling Specialty Code, as adopted by OAR 918-480-000 through 918-480-0010, except as modified in this Chapter is enforced as part of this chapter.

F. Manufactured Dwelling Parks Rules. The Manufactured Dwelling Park and Mobile Home Park Rules adopted by OAR 918-600-0005 through 918-600-0110, except as modified in this chapter, are enforced as part of this chapter.

G. Manufactured Home Installation Rules. The Manufactured Dwelling Rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-

0010 through 918-520-0020, except as modified in this chapter, are enforced as part of this chapter.

H. Recreational Park and Organizational Camp Rules. The Recreational Park and Organizational Camp Rules adopted by OAR 918-650-0000 through 918-650-0085, except as modified in this chapter, are enforced as part of this chapter.

I. Uniform Code for the Abatement of Dangerous Buildings. The latest edition of ICBO Uniform Code for the Abatement of Dangerous Buildings is adopted as part hereof, except as modified by this jurisdiction.

Amend Subsection B of Section 15.04.200, Plans and permits to read as follows:

B. Retention of Plans. One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than one hundred eighty days from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant, and shall be kept on the site of the building or work at all times during which the authorized work is in progress.

SECTION 15.12 FIRE CODE:

Revise Reference list at beginning to read as follows:

- 15.12.010 Fire Code adoption.
- 15.12.015 Oregon Fire Code.
- 15.12.020 Copy on file.
- 15.12.076 Repealed.
- 15.12.077 Repealed.
- 15.12.078 Repealed.
- 15.12.080 Repealed.
- 15.12.090 Fees.
- 15.12.100 Repealed.
- 15.12.110 Violation—Penalty.

Add new Section 15.12.015 between 15.12.010 and 15.12.020, and delete Sections 15.12.076, .077, .078, .080, and .100 entirely:

Section 15.12.015 Oregon Fire Code.

The City recognizes the Oregon Fire Code, based on the current edition of the International Fire Code.

Section 15.12.090 Fees.

All fees for permits required under the fire code adopted pursuant to Section 15.12.010 shall be set by resolution of the city council.

Section 15.12.110 Violation--Penalty.

Violation of the code or this chapter shall be punished by a fine not to exceed one thousand dollars. A bail schedule for the violations is contained in Exhibit B of the ordinance codified in this chapter, and by this reference made a part hereof.



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Community Development & Public Works Director

From: John Gessner, Planning Director

Date: November 5, 2004 for the November 16, 2004 Hearing

Subject: Eliminate Application Process for Home Occupations
File ZA-04-03

Action Requested

Adopt the proposed ordinance that eliminates application requirements for home occupations.

Background

City code now requires the annual renewal of all home occupation applications. The proposal eliminates the annual renewal process for home occupation applications. Staff presented these code amendments to the Planning Commission and City Council on August 24, 2004 and September 7, 2004, respectively and was advised to proceed for adoption. On October 26, 2004, the Planning Commission adopted a motion recommending Council approval of the proposed code changes.

This proposal was first presented to the Council during the FY 2004-2005 budget process as a means to reduce cost and workload. Each year the City processes approximately 325 to 350 home occupation applications within a two to three month period starting in December. The purpose of the home occupation renewal process is to provide annual oversight of home businesses to protect against neighborhood impacts.

Key Issues

1. Home occupations are subject to performance standards that reduce the potential for neighborhood impact. Site inspections are rarely needed prior to staff approval and applications are almost never denied.
2. In the Planning Department, the estimated average minimum processing time per application is 15 to 25 minutes, resulting in a minimum of 81 to 146 hours dedicated to processing annual renewals. Time estimates for work associated with the Finance Department's processing of home occupations are minimal.
3. There are two types of cost associated with the renewal program as follows:
 - a. Direct costs of materials, postage, and staff time.
 - b. Opportunity costs; each hour spent on the renewal process keeps staff from other work.
4. A fact sheet reminding home businesses of the "do's and don't" of operating a home based business will be distributed annually.
5. A sample of home occupations shows the following distribution:¹

a.	Professional or Business Office	33%
b.	Contractor's Office	23%
c.	Child and Adult Day Care	17%
d.	Manufacturing & Production	12%
e.	Miscellaneous Other	15%

Concurrence

The City Attorney and Community Development and Public Works Director concur with the proposed code changes.

Fiscal Impact

The effect of related revenues and expenses determines the fiscal impact of a proposal. Staff believes the proposal will have a net benefit by elimination of actual and opportunity costs, which together exceed revenues collected.

The application fee for home occupations is \$25, which means that the City collects approximately \$8,125 to \$8,750 per year.² The proposal would significantly reduce these receipts. The estimated cost of processing annual home occupation renewal is

¹ 180 records from 2003 and 2004 were inspected.

² Based on estimated 325 to 350 applications per year.

\$6,500 to \$8,500 for materials, postage, and staff time. This estimate does not include costs of records maintenance and code compliance for home occupation violations.³

Workload Impacts

The code adoption process needed to implement the change will require approximately 10 to 15 hours of staff time. Estimated workload savings are 81 to 146 hours per year.

Alternatives

The Council has the following decision-making options:

1. Accept the proposal and direct staff to proceed.
2. Modify the proposal and direct staff to proceed.
3. Reject the proposal.
4. Take no action.

Attachment

Proposed Ordinance

³ Records maintenance includes file folders, handling, and digital scanning. Code compliance for a single violation can involve many hours of staff time and attorney fees.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE
MILWAUKIE MUNICIPAL CODE BY ADOPTING CERTAIN TEXT
AMENDMENTS TO CHAPTER 19.424 HOME OCCUPATIONS**

WHEREAS, the City of Milwaukie supports and encourages home based businesses that help support families and the local economy while preserving neighborhood residential character and livability; and

WHEREAS, the requirement to renew home occupation permits annually represents a time and cost burden to both businesses and the City; and

WHEREAS, the City seeks to reduce those costs while ensuring continuation of home businesses and neighborhood quality of life; and

WHEREAS, the Planning Commission conducted a public hearing on October 26, 2004, in accordance with Milwaukie Municipal Code Chapters 19.900 and 19.1000, and adopted a resolution recommending the City Council adopt the proposed code changes; and

WHEREAS, the City Council conducted a public hearing on November 16, 2004, in accordance with Milwaukie Municipal Code Chapters 19.900 and 19.1000; and

WHEREAS, the requested code amendments eliminate the home occupation annual permit renewal:

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

Section 1. Milwaukie Municipal Code Section 19.424 is hereby repealed.

Section 2. The Milwaukie Municipal Code is amended by adopting a new Chapter 19.424 to read as shown in Exhibit 1.

Section 3. The amendments contained herein are consistent with approval criteria for code amendments as demonstrated in Exhibit 2 Findings of Fact and Conclusion.

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

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

Signed by the Mayor on _____.

James Bernard, Mayor

ATTEST

APPROVED AS TO FORM
Ramis Crew Corrigan Baccrach, LLP

Pat Duval, City Recorder

City Attorney

Ordinance No. _____

Exhibit 1

Amendments to Milwaukie Municipal Code Chapter 19.424

19.424 Home Occupations

It is the intent of these regulations to support and encourage home occupations while at the same time protect the residential character of the City's residential neighborhoods. A home occupation shall be allowed as an accessory use to all residential uses permitted by right, subject to the following restrictions. Home occupation businesses, which are not clearly accessory and incidental to the residential use, are prohibited. All activities permitted under this section must be consistent with this section.

19.424.1 Home Occupation Use Standards

Home Occupation uses are allowed by-right, however they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

- A. Be incidental and accessory to the residential use of the property;
- B. Maintain the residential character of the building and premises;
- C. Not have the outward appearance of a business;
- D. Not detract from the residential character of the neighborhood; and
- E. Be owned and operated by an occupant of the dwelling.

19.424.2 Prohibitions and Use Restrictions

- A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.
- B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.
- C. In the case of on-premise instruction, no more than five (5) enrollees shall be present at the same time.
- D. Motor vehicle, boat, or trailer repair is prohibited.
- E. Only one (1) home occupation is allowed per residence, except that two (2) may be permitted provided all employees engaged in the home occupations reside on the premises.

19.424.3 Permitted Signage.

Only one sign is permitted on any property with an approved home occupation. The sign shall not exceed four square feet in area, shall not be illuminated, shall not exceed three feet in height, and shall not be located within the public right-of-way. Signs located within the public right-of-way may be removed by the city without prior notice.

19.424.4 Enforcement

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with Section 19.424.1:

- A. Number of on-site employees who are not members of the family residing on the premises.
- B. Use of the home to distribute or receive goods.
- C. Use of the premises for parking of customer, client, or employee vehicles and the location and number of parking spaces.
- D. The use of public streets for parking or storage.
- E. The time of day that home occupation activities may take place.
- F. Equipment or material storage, including vehicles and trailers.
- G. Noise, light, fumes, exhaust, and similar impacts.

(End of Exhibit)

Ordinance No. _____

Exhibit 2
Findings and Conclusions

1. The Planning Commission and City Council conducted work session on the proposed amendments on August 24, 2004, and September 7, 2004 respectively. The purpose of the amendment is to reduce the time and cost burden on owners of home based businesses and reduce administrative workloads while protecting neighborhood livability.
2. The zoning amendment is consistent with Milwaukie Municipal Code 19.1011.5 Legislative Actions:
 - a. Public notice was conducted in accordance with Section 19.1011.5(A).
 - b. The Planning Commission conducted a public hearing on October 26, 2004, and forwarded a recommendation to the City Council to approve the code changes in accordance with Milwaukie Municipal Code 19.1011.4(B).
 - c. The City Council conducted a public hearing on November 16, 2004.
3. The proposed amendments have been processed in accordance with Milwaukie Municipal Code Chapter 19.904 Amendments as follows:
 - a. The reason for the code changes is to reduce the public and private time burden and expense of administering the annual renewal process.
 - b. There are no other directly related code provisions that require explanation of consistency as directed by Section 19.904.1(C).
4. The amendments have been evaluated in accordance with Milwaukie Municipal Code Section 19.905, which requires demonstration of the following:
 - a. Conformance to applicable comprehensive plan policies, consistency with provisions of city ordinances, the Metro Urban Growth Management Functional Plan, and applicable regional policies.

The public information and outreach process conducted through the Planning Commission and City Council worksession, and distribution of staff reports to the Neighborhood Association Districts is consistent with applicable citizen involvement policies of Milwaukie Comprehensive Plan Chapter 1.
 - b. The proposal does not change the zoning map. Therefore, Section 19.905.1(B) does not apply.

- c. The proposal is consistent with Statewide Planning Goal 9- Economic Development and Goal 10-Housing. There are no known applicable regional or federal policies.
- d. The proposal does not require public services be provided. Therefore Section 19.905.1(D) does not apply.
- e. The proposal will not result in new demand for transportation facilities, therefore Section 19.905.1(E) does not apply.

(End of Exhibit)



TO: Mayor and City Council

FROM: Mike Swanson, City Manager

DATE: November 3, 2004

RE: Consideration of New Council Meeting Schedule

Action Requested

The action requested is adoption of the proposed resolution setting Council meeting dates and times.

Background

Chapter VI, Section 20, Milwaukie Charter of 1975 provides that “[t]he council shall hold a regular meeting at least twice each month in the city at a time and place which it designates.”

Section 2.04.070, Milwaukie Municipal Code, provides that “[r]egular meetings shall be held on the first and third Tuesday of each month at seven p.m. in the council chambers at City Hall, 10722 SE Main. Regular meetings may be held at a different time and place by giving appropriate notice at least twenty-four hours in advance. Two regular meetings shall be held each month.”

At its December 16, 2003 regular meeting the Council adopted Resolution 50-2003. That action combined the work session and regular session into one night (the first and third Tuesday of the month), and it established the start time for the work session as 5:30 P.M. and the start time for the regular meeting at 6:30 P.M.

It has become apparent that one hour is not sufficient time for the work sessions. Therefore, I am recommending that the provisions of Resolution 50-2003 be amended to establish a start time for work sessions of 5:30 P.M. and a start time for regular meetings of 7:00 P.M. Both meetings will continue to be held on the first and third Tuesday of the month.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DESIGNATING THE FIRST AND THIRD TUESDAYS OF EACH MONTH AS THE REGULAR CITY COUNCIL MEETING DATE, ESTABLISHING THE TIMES OF THE SAID MEETINGS, AND REPEALING RESOLUTION 50-2003.

WHEREAS, Section 20 of the Milwaukie City Charter requires the City Council to hold a regular meeting at least twice each month in the City at a time and at a place which it designates; and

WHEREAS, the Municipal Code Chapter 2.04.070 states that the City Council must provide notice of its regularly scheduled meeting times and locations; and

WHEREAS, the City Council adopted Resolution 50-2003, which set the work session and the regular meeting on the first and the third Tuesday of each month; and

WHEREAS, Resolution 50-2003 sets the start time for the work session as 5:30 P.M. and the start time for the regular meeting as 6:30 P.M.; and

WHEREAS, the City Council has determined that the time set for work sessions is inadequate.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Milwaukie, Oregon:

Section 1: The regular City Council meeting will be held on the first and third Tuesday of each month at 7:00 P.M. in the Council Chambers at City Hall, 10722 SE Main Street or designated alternate location as required by the Public Meetings_Laws of the State of Oregon.

Section 2. The City Council work session will be held on the first and third Tuesday of each month at 5:30 P.M. in the Conference Room at City Hall, 10722 SE Main Street or designated alternate location as required by the Public Meetings Laws of the State of Oregon.

Section 3. The City Council may recess and reconvene the work session after adjournment of the regular session if discussion of work session topics has not concluded; or the City Council may announce continuation of the unfinished item or items to a future work session.

Section 4. The City Council may schedule additional work sessions if deemed necessary by the members, and further the City Council may cancel any work sessions if there are insufficient agenda topics to warrant convening a meeting.

Section 5: The City Recorder is directed to provide notice to the public of all City Council meetings as required by law.

Section 6: Resolution No. 50-2003 adopted December 16, 2003 is repealed.

Section 7: This resolution is effective January 1, 2005.

Introduced and adopted by the City Council on November 16, 2004.

James Bernard, Mayor

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

ATTEST:

By: _____
City Attorney

Pat DuVal, City Recorder