

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
MARCH 18, 2003**

CALL TO ORDER

The 1906th meeting of the Milwaukie City Council was called to order by Council President Lancaster at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Deborah Barnes

Susan Stone

Staff present:

Tim Ramis,
City Attorney

Alice Rouyer,
Community Development/
Public Works Director

PLEDGE OF ALLEGIANCE

AUDIENCE PARTICIPATION

Art Ball, 4960 SE Harvey St., Milwaukie, Lewelling Neighborhood District Association (NDA) Chair, updated the City Council on the neighborhood community park located at the corner of Stanley Avenue and Willow Street. He provided information on grant funding, contributions, and expenditures to give the Council an idea of how neighborhood grant funds are being spent. To date the Lewelling NDA has received a total of \$17,353.76 in grants and \$10,917 in contributions and spent \$22,712.

Funds have gone toward park design, surveying, and half street designs all of which have been very expensive. The perimeter fencing costs were negligible by comparison. Progress is being made with the park, and residents continue to be enthusiastic about working toward the goal of having a well-developed neighborhood park.

Councilor Stone noted a \$5,000 contribution by the City.

Ball said this was a Council-approved contribution and was money well spent. He announced the 3rd Annual Lewelling Neighborhood Rummage Sale on May 17 – 18 with its location to be announced. The proceeds from the sale go toward park development. He explained the park site was formerly a meth house. The City purchased the property and demolished the house, and the NDA took on the task of developing the site for park and recreation use. The park now has a split rail fence on 3 sides and a chain link fence on the north side. There are about 2 or 3 large trees on the site, and the neighborhood is considering planting a Centennial dogwood.

Council President Lancaster commented this is a good example of what the neighborhood grant program has done for our community. He understood some of the park design time was donated.

Ball said a preliminary drawing was done on donated time to give residents an idea of what could be done with the property. This service would have cost the NDA about \$7,000 and was noted as a match on the NDA's grant report.

OTHER BUSINESS

Authorize Staff to Solicit Bids for Safeway Building Demolition

Rouyer provided the staff report in which the City Council was requested to authorize the facilities department to solicit bids for phase 1 demolition of the Safeway building in anticipation of the North Main Redevelopment Project. Phase 1 will take the building down to the slab and basement with a steel plate and a fence installed to address safety issues. There are sufficient funds in the current year's budget to complete phase 1. Phase 2 will be done after the City determines what the development teams might want to propose in the future. Phase 1 will be done by the end of this fiscal year and will take about 30 – 45 days to complete. Drivers will probably experience a temporary disruption of the permit parking lot during the demolition; however, staff will work to minimize the impacts.

Councilor Stone understands some Budget Committee members are concerned about the aesthetic appearance of a chain link fence but realizes there are liability issues. Some have suggested a banner to keep people informed about the project so the City does not get nuisance complaints.

Council President Lancaster doubted an attractive sign could be incorporated into tonight's action but suggested looking for a way to fund one.

Rouyer said the development team selected might pick up that cost.

Councilor Stone thought a site drawing would be nice to display.

It was moved by Councilor Barnes and seconded by Councilor Stone to authorize the facilities department to solicit bids for the demolition of the Safeway building and authorize the city manager to execute a contract not to exceed \$35,000. Motion passed unanimously among the members present.

PERS Appeal -- Resolution

Ramis discussed potential conflict of interest issues related to Council's voting on this agenda item. The first question is Council participation. Two members have, either as individuals or through family members, a connection to the PERS system. Oregon Government Standards and Practices requires that potential or actual conflicts of

interest be disclosed. The second question has to do with actually voting on the matter. In this case, there are at least 2 applicable exceptions to the usual prohibitions that would apply. First is that the class of people potentially affected by the outcome of this litigation is very large. The law recognizes that if the public official is part of a large class, he or she is allowed to vote. The second requirement is particular to Milwaukie. The Charter requires that before taking action on any item that a majority of the entire Council must act on it. With 3 Council members at tonight's meeting, all must participate to reach a decision.

Councilor Barnes said, in her opinion, she has a conflict of interest in that she has been employed by the North Clackamas School District for 9 years and is a member of the PERS system.

Council President Lancaster declared a conflict of interest in that he previously worked for the SAIF Corporation for 7 years and has a vested interest in PERS.

Ramis said the substantive issue has to do with whether or not the City should adopt a resolution and participate in litigation challenging the amount of the rate Milwaukie is being charged. There is a circuit court decision made by Marion County Judge Lipscomb that essentially rules that the rates were calculated based on the wrong mortality table and changes the premium amount entities would pay. PERS is charging a rate that does not reflect a change in the mortality table. The League of Oregon Cities (LOC) has organized a lawsuit challenging that PERS Board decision and raising it to the appellate court for review. Because of the way the case is organized with a number of cities participating, Milwaukie can participate for \$150. The city attorney's recommendation is to adopt the resolution and to authorize the agreement with outside counsel.

It was moved by Councilor Stone and seconded by Council President Lancaster to adopt the resolution authorizing the League of Oregon Cities to appeal the PERS rate increase on behalf of the City through outside counsel.

Councilor Barnes said for the record she is voting as an elected official representing the City of Milwaukie and its citizens.

Motion passed unanimously among the members present.

RESOLUTION NO. 8-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE LEAGUE OF OREGON CITIES TO COORDINATE FILING AN APPEAL ON THE CITY'S BEHALF, THROUGH OUTSIDE COUNSEL, FROM THE RATE INCREASE RECEIVED FROM PUBLIC EMPLOYEE RETIREMENT SYSTEM.

Other Items

Councilor Barnes recently attended several neighborhood association meetings, and residents have told her they would like to know more about the City's emergency plan in light of the potential conflict in Iraq. She has talked to several staff members about communicating, in layman's terms, how the City would protect the public in the event of an emergency. *The Pilot* would be the easiest way to convey the message. This could be an undertaking of the full Council, or, with the other members' permission, she would like to work on it. In addition, she suggested producing a program for the cable channel.

Council President Lancaster felt it was a good idea to communicate the City's emergency plan to the public. He supported Barnes if she wished to take the lead on a cable project.

Councilor Barnes met with the Milwaukie High School Principal Aeylin Summers last week to reopen lines of communication with the City, and Summers is excited about working with the City and involving students in Centennial activities. The principal has invited a Milwaukie representative to sit on the site council, which Barnes believes would be a good way to get the citizens from Milwaukie High School involved. She suggested Council members might rotate attending site council meetings.

Councilor Barnes has put neighborhood association meeting attendance on her agenda. She attended the March Lake Road NDA meeting and appreciated hearing directly from residents in the informal settings these meetings offer. She encouraged other Council members to do the same in order to get a cleaner perspective of what is going on in the community by talking one-on-one with citizens.

Authorize City Manager to Excuse the City Attorney from a Council Meeting -- Resolution

Ramis provided the staff report in which the City Council was requested to adopt a resolution that would authorize the city manager to excuse the city attorney from meetings at which no legal advice was necessary. The city attorney's office concurs with this proposal, and it would save the City money. If a legal issue does come up during a meeting, his office will arrange a way to contact one of the attorneys.

Council President Lancaster said generally speaking many issues that come up are not that urgent, and Council can always get back to the person who has a question or concern.

It was moved by Councilor Stone and seconded by Councilor Barnes to adopt the resolution authorizing the city manager to excuse the city attorney from attending meetings if no legal advice is needed. Motion passed unanimously among the members present.

RESOLUTION NO. 9-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DELEGATING TO THE CITY MANAGER THE AUTHORITY TO EXCUSE THE CITY ATTORNEY FROM REGULAR AND SPECIAL MEETINGS OF THE CITY COUNCIL PURSUANT TO MILWAUKIE MUNICIPAL CODE SECTION 2.04.120.

Moment of Silence for Those Serving in the Armed Forces, Our Country, State and City

At Councilor Barnes's suggestion, Council, staff, and meeting attendees observed a moment of silence.

Councilor Resignation and Interim Appointment

Council President Lancaster said there is only 1 name on the May 20 ballot for Council position #3, so it is a fore drawn conclusion that community activist Joe Loomis will be the next Councilor. In the process of helping the City move forward, he received a phone call and written declaration yesterday from Interim Councilor Jeff Marshall submitting his resignation effective March 18, 2003. Joe Loomis has agreed to step forward early if the City Council wishes. Lancaster believes this is an important thing to do so the new Council can begin working together.

It was moved by Councilor Stone and seconded by Council President Lancaster to appoint Joe Loomis as Interim City Councilor until the May 2003 election results are certified.

Ramis explained the Council has specific authority in the Charter to take this action. The resignation creates a vacancy under Charter Section 18; Section 19 says the remaining Council members shall fill the vacancy by a majority vote.

Motion passed unanimously by members present.

Adjournment

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

Council President Lancaster adjourned the meeting at 6:40 p.m.



Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL AGENDA
MARCH 18, 2003**

MILWAUKIE CITY HALL
10722 SE Main Street

1906TH MEETING

REGULAR SESSION - 6:00 p.m.

- I. CALL TO ORDER**
Pledge of Allegiance

- II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**

- III. 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.)*

- IV. 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.)*

- V. 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.)*

None Scheduled

- VI. 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. Authorize Staff to Solicit Bids for Safeway Building Demolition (Somers/Rouyer)**
 - B. PERS Appeal – Resolution (Swanson/Ramis)**
 - C. Authorize City Manager to Excuse the City Attorney from a Council Meeting – Resolution (Swanson)**

VII. INFORMATION

VIII. ADJOURNMENT

EXECUTIVE SESSION -- *At the end of the regular meeting, the Council may hold an Executive Session under the authority of Oregon Revised Statutes 192.660 as needed.*

For assistance/service per the Americans with Disabilities Act (ADA), dial TDD 786-7555.

The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.



To: Mayor and City Council

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

From: Kelly Somers, Fleet and Facilities Manager *Kelly*

Subject: Old Safeway Building Demolition Phase 1

Date: March 4, 2003 for March 18th, 2003 Meeting

Action Requested

Authorize the Facility Maintenance Department to solicit for bids for the demolition of the old Safeway Building, Phase 1, and authorize the City Manager to sign a demolition contract not to exceed \$35,000.

Background

The City recently purchased the old Safeway site, including the building, for redevelopment. Staff has renamed the project to the North Main Street Redevelopment Project. The City is in the process of working with developers to submit proposals for the development of the site. Demolition of the Safeway building will be necessary to make way for new development and reduce maintenance, security, and utility costs associated with the existing building. Demolition will also reduce costs for the selected development team providing an incentive for a high quality development.

The demolition of the building will be done in two phases:

Phase 1 of the project will demolish the building down to the floor slab and dispose of the debris. The basement entrance will be blocked to prevent entry

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until Phase 2 is completed. A chain link fence will be installed around the perimeter of the floor slab to secure the area.

Phase 2 of the project will be to remove the floor slab including the basement and the loading dock areas and to level the area as needed. Phase 2 will be included in the next years proposed budget. The estimated cost of Phase 2 will be approximately \$30,000.

Concurrence

Staff has worked with the Community Development staff and the City Manager in making this recommendation.

Fiscal Impact

The fiscal impact to the Facility Management budget would be \$35,000. This includes the cost of the required permits. The cost of this project can be covered by the current Facility Management budget.

Work Load Impacts

These projects will require approximately 60 hours of staff time to complete. The following departments are included in this estimate: Facility Maintenance Department, Water Department, and Sewer Department.

Alternatives

The City Council has the following decision-making options:

1. Direct staff to proceed with the project.
2. Direct staff to proceed at a later time.
3. Direct staff to not proceed with the project.



TO: Council President and City Council

FROM: Mike Swanson, City Manager

SUBJECT: PERS Appeal

DATE: March 8, 2003

Action Requested

Decision on the request by League of Oregon Cities Executive Director Ken Strobeck regarding an appeal of the City's rate order by the PERS Board. If the decision is to proceed on the appeal, Council will authorize by resolution the Council President to execute the attached letter of engagement to the Law Firm of Mersereau & Shannon, LLP.

Background

Much of the background for this agenda item is contained in League Director Strobeck's attached memorandum dated February 17, 2003. Milwaukie's rate increase went from 10.44% to 15.29%, or an increase of 4.85%.

In a letter dated December 10, 2002 to the PERS Board recommending the rate increases, Milliman USA, Consulting Actuary, noted a couple of major issues that were not included in its rate report. Among those issues they mentioned the following:

Litigation: There is one outstanding lawsuit that may have a material impact on future employer contribution rates. The Lipscomb decision may require the Board to reallocate investment earnings for periods prior to the valuation date. If the underlying data on member account balances and retirement allowances is revised, the Board may wish to consider adjustments to the employer contribution rates contained in this report.

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On the one hand, there is an argument that the Lipscomb decision has not been fully implemented. The argument would have the City's rates changes as that decision is implemented.

On the other hand, the cost of this appeal process is minimal--\$150 for "[p]rosecution of the appeal to judgment in circuit court."

In an informal poll taken Friday, March 7, 2003, the following cities responded to the question of whether or not they were joining the LOC appeal as follows:

- Hillsboro—no position yet
- Lake Oswego—no position yet
- Beaverton—no position yet
- Oregon City—yes
- Tualatin—yes
- Gresham—yes
- Sherwood—yes
- West Linn—looking into it
- Tigard—yes

Concurrence

Tim Ramis has reviewed these documents.

Fiscal Impact

The cost of joining the appeal is minimal--\$150.00. The City's rate increase was 4.85%. If this appeal has the effect of reducing the rate, the savings could be significant.

Work Load Impact

There is no impact as the League has contracted with outside counsel to prosecute the appeal.

Alternatives

Decline to participate in the appeal. Implementation of the Lipscomb decision may reduce the rate assessed to the City.



Date: February 17, 2003
To: PERS-Covered City Employers
From: Ken Strobeck, Executive Director
Re: Alert Regarding Challenges to 2003 PERS Rate Orders

Tuesday, February 11, the PERS Board (PERB) adopted new employer rates effective July 1, 2003. They took this action despite the ruling of Marion County Judge Paul Lipscomb, the Governor's stated principles for PERS reform and the bills proceeding through the Legislature. The adopted rates are still based on the discredited current practices of the PERB. The League of Oregon Cities is now calling on cities, along with other public employers, to take action to protest this decision.

Each PERS-covered city is encouraged to file an appeal of your city's rate order as soon as possible. As a public employer, your city will have 60 days from the date of the rate adoption to file a formal appeal.

As originally described in detail in our January 7 memo, the League has retained the services of attorneys John W Osburn and Peter W. Mersereau of the Portland firm Mersereau & Shannon, LLP, to file appeals of the 2003 employer rate orders for any LOC member cities that elect to participate. The League has negotiated a single flat-fee rate of \$150 for any of our members who choose to file an appeal. The fee covers the following services:

- Filing a timely notice of appeal in Marion County Circuit Court;
- Prosecution of the appeal to judgment in circuit court; and
- In the event of legislative action materially affecting the litigation, consultation with the League and individual participants regarding any subsequent legal action.

To participate in the appeal, your city must:

- Adopt the PERS rate order challenge resolution;
- Complete the letter of engagement and return it to the League office along with a copy of your city's rate increase notice and a copy of the adopted resolution; and
- Enclose a check for \$150 made out to Mersereau and Shannon, LLP.

The League will collect and forward all materials to the firm and keep participating cities up to date on the progress of the litigation. These materials were included in our packet of January 7 and are also included in this mailing.

The League needs to receive your appeal materials by Friday, March 21.

The cost for this legal appeal is low and the potential payoff, in the form of reduced rates, could be significant. Please do not hesitate to call the League office if you have questions regarding this project or other any other PERS-related efforts.

OREGON PUBLIC EMPLOYEES RETIREMENT SYSTEM
ACTUARIAL VALUATION EXHIBIT AS OF DECEMBER 31, 2001
 ENCLOSED WITH LETTER DATED DECEMBER 20, 2002

Primary
 Employer: 2163 City Of Milwaukie

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Table 5

Recommended Employer Contribution Rates

	Current Schedule	Proposed Schedule
Rate as a percentage of salaries with pickup-up, if any		
Rate as of December 31, 2001	9.85%	
Rate as of July 1, 2002	9.85%	
Rate as of July 1, 2003	9.85%	
Rate as a percentage of salaries without pickup-up		
Rate effective July 1, 2003	10.44%	15.29%

Note: This proposed employer contribution rate schedule is subject to final adoption by the Retirement Board.

Table 6

Summary of GASB Information

Actuarial Valuation Date	Actuarial Value of Assets	Actuarial Liability	Unfunded Actuarial Liability	Funded Ratio	Covered Payroll	UAL / Payroll
1995	\$ 15,590,661	\$ 16,063,260	\$ 472,598	97%	\$ 5,443,926	9%
1997	22,370,796	23,257,931	887,135	96%	5,993,744	15%
1999	46,052,309	45,471,100	(581,209)	101%	5,064,411	-11%
2001	Pooled	Pooled	3,290,655	Pooled	5,671,952	58%

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE LEAGUE OF OREGON CITIES TO COORDINATE FILING AN APPEAL ON THE CITY'S BEHALF, THROUGH OUTSIDE COUNSEL, FROM THE RATE INCREASES RECEIVED FROM PUBLIC EMPLOYEE RETIREMENT SYSTEM.

WHEREAS, eight public employers brought suit against the Oregon Public Employee Retirement System (PERS) in Marion County Circuit Court and;

WHEREAS, those employers claimed they were being overcharged in the calculation of employer contribution rates; and

WHEREAS, Judge Paul Lipscomb has returned the case to the Oregon Public Employee Retirement System Board with instructions to update employee mortality tables, issue new employer rate orders for 1998 and 2000 and make a new earnings allocation order for the 1999 investment year; and

WHEREAS, the Oregon Public Employee Retirement System Board has yet to comply with these instructions; and

WHEREAS, the Oregon Public Employee Retirement System Board adopted the proposed employer rate increases at its February 2003 regular meeting; and

WHEREAS, the proposed employer rate increases would be less if the Board had complied with Judge Lipscomb's instructions;

NOW, THEREFORE, the City Council of the City of Milwaukie authorizes the League of Oregon Cities to coordinate the filing of an appeal on the City's behalf, through outside counsel, from the rate increase received from PERS.

This resolution is effective upon adoption.

Introduced and adopted by the City Council of the City of Milwaukie on the 18th day of March 2003.

Larry Lancaster, Council President

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis, Crew, Corrigan & Bachrach, LLP



March 18, 2003

John W. Osburn, of Counsel
Peter W. Mersereau
Mersereau & Shannon, LLP
1600 Benj. Franklin Plaza
One SW Columbia
Portland, Oregon 97258

Subject: Representation of City in Appeal from PERS Order

Gentlemen:

This will confirm your availability and willingness to provide legal services to the City of Milwaukie in filing an appeal to the Circuit Court of the State of Oregon for Marion County from the decision of the Oregon Public Employees Retirement Board dated February 11, 2003, and prosecuting that appeal to conclusion in the circuit court. That order is expected to increase the contribution rate for PERS employers effective July 1, 2003.

The Oregon Administrative Procedures Act provides that an appeal from such an order must be filed within 60 days of the order from which the appeal is taken.

On October 7, 2002, in the case of the City of Eugene v. PERB, which is referred to as PERS I, Marion County Circuit Judge Lipscomb ruled that PERB violated its statutory duties in administering the Public Employees Retirement Fund by improperly calculating employer obligations for payment of benefits to retirees with investment in variable accounts who choose the money match option, by distributing earnings to employee accounts without maintaining proper reserves, and by using outdated mortality tables which prescribe higher monthly retirement payments than are actuarially justified.

PERB's proposed employer rates for 2003 do not reflect corrective calculation in accordance with Judge Lipscomb's order. In order to maintain the benefit to employers from Judge Lipscomb's order, and to avoid the loss of that

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benefit in the 2003 rate calculation, we authorize you to file an appeal of behalf of the City. A copy of the notice from PERS as to the proposed employer contribution rate is attached to this letter.

The City has designated Michael F. Swanson, City Manager, as the City's contact person for information regarding the City's participation as a PERS employer.

We enclose the City's check in the amount of \$150 which you agree to accept in full payment for your services in the circuit court.

In accepting this engagement, you certify that you know of no conflicts of interest on the part of either John W. Osburn or Mersereau & Shannon LLP, and agree that you will not acquire any such conflicts related to the subject of this litigation. The City acknowledges that you have been engaged represent the participating members of the Oregon School Boards Association, and the Special Districts Association of Oregon and the Association of Oregon Counties. The City does not consider the representation of similarly situated employers to constitute a conflict of interest.

If the terms of this arrangement are satisfactory, would you please so indicate by endorsement below and return a copy to the City.

The City of Milwaukie

Larry Lancaster
Council President

The terms of this engagement are accepted and agreed to.

Dated: _____

John W. Osburn, on behalf of John W. Osburn,
PC and Mersereau & Shannon, LLP



TO: Mayor and City Council

FROM: Mike Swanson, City Manager

Subject: Authorizing the City Manager to Excuse the City Attorney from a Council Meeting

DATE: March 5, 2003

Action Requested

Approval of the proposed resolution delegating to the City Manager the authority to excuse the City Attorney from attendance at a Council meeting if there is no need for legal advice at the meeting.

Background

Milwaukie Municipal Code Section 2.04.120 reads as follows:

Unless excused by the council, the city manager and city attorney shall attend all regular and special meetings. The city recorder, finance director and public works director shall attend all regular meetings and those special meetings where their attendance is required, unless excused by the city manager. In the event a staff member is unable to attend a particular meeting, an alternate may be required.

The City Attorney is a contract position compensated at an hourly rate. Thus, any time the City can eliminate the need for the attendance of the City Attorney, that represents a cost that is avoided.

Given that the City Manager is engaged in the preparation of the agenda and in contact with the City Attorney on a weekly basis, he/she is able to determine whether or not an agenda requires the presence of the City Attorney. Quite often an agenda item that did not at first blush appear to present a legal issue will spawn one as the weeks progresses.

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However, the resolution is not intended to delegate unchecked authority to the City Manager. Rather, it requires that the decision be made "after consultation with the City Attorney." In addition, it should also be made in light of an overriding City policy in favor of seeking the advice of legal counsel.

In reality this situation has not arisen more than once or twice in my tenure. I do not anticipate it happening often. Gary Firestone and I discussed this occurrence and decided that this would be an easier approach should it happen again.

Concurrence

The City Manager and City Attorney are in concurrence with this approach.

Fiscal Impact

The only fiscal impact will be a savings as it will serve to reduce the cost of services if used.

Workload Impacts

There will be no workload impacts.

Alternatives

At present we have found few occasions where we need to seek Council consent (in fact, in the past we have probably not done so). This time we e-mailed each Council member and hope to get three affirmative responses. If we do not by Monday, I will call the necessary number or we will have a representative from the City Attorney's office present.

CITY OF MILWAUKIE
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DELEGATING TO THE CITY MANAGER THE AUTHORITY TO EXCUSE THE CITY ATTORNEY FROM REGULAR AND SPECIAL MEETINGS OF THE CITY COUNCIL PURSUANT TO MILWAUKIE MUNICIPAL CODE SECTION 2.04.120.

WHEREAS, Milwaukie Municipal Code Section 2.04.120 requires the attendance of the City Attorney at "all regular and special meetings" of the Council "[u]nless excused by the council;" and

WHEREAS, the City Attorney is a contract position that is billed on an hourly basis; and

WHEREAS, there is a cost savings to the City when the City Attorney does not attend Council meetings when there is nothing on the agenda that requires City Attorney advice; and

WHEREAS, it is the policy of the City Council that the City is best served when it errs on the side of maximizing the use of its legal advisor; and

WHEREAS, it is likewise the policy of the City to provide quality services at the most reasonable cost and to implement cost savings where possible; and

WHEREAS, when an agenda does not require the presence of the City Attorney, the required consent of Council is often impossible to ascertain in advance of the meeting;

WHEREAS, the City Manager is aware of Council agendas in advance and is able to determine whether any agenda item requires the presence of the City Attorney.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE THAT:

SECTION 1. The City Council of the City of Milwaukie does hereby find and declare that there are meetings at which it is appropriate to excuse the City Attorney from attendance pursuant to Milwaukie Municipal Code Section 2.04.120; and

SECTION 2. The City Council of the City of Milwaukie further finds that the consent required of the Council to so excuse the City Attorney from attendance pursuant to Milwaukie Municipal Code Section 2.04.120 is often difficult to obtain in a timely manner; and

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SECTION 3. The City Manager is delegated the authority to excuse the City Attorney from attendance at regular and special meetings of City Council after consultation with the City Attorney and in consideration of the policies relating to use of legal advice and cost savings stated above; and

SECTION 4. The City Manager shall state that the City Attorney has been excused from a meeting pursuant to this Resolution and Milwaukie Municipal Code Section 2.04.120 at the commencement of the Council meeting upon recognition by the presiding officer; and

SECTION 5. This resolution shall take effect upon its adoption.

Introduced and adopted by the City Council on this _____ day of March 2003.

Larry Lancaster, Council President

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

RAMIS, CREW, CORRIGAN, & BACRACH, LLP

Date 3-18-07

I wish to address City Council on Agenda Item # _____

Name Arthura Ball

Organization Lewelling N.O.A

Address 4960 S.E. HARVEY

Phone 786-4016

Speaking in Support

Speaking in Opposition

Raising Questions

Providing Information

Comments Update on Lewelling
Community Park