

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION SEPTEMBER 15, 2003

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 and Alice Rouyer Community Development and Public Works Director.

Information Sharing

1. **Councilor Barnes** attended the first meeting of the Milwaukie Civic Community Theatre Group and announced Sabin/Schellenberg is interested in doing a semiannual dinner theatre. The planning group is researching the feasibility of doing something in the downtown area.
2. **Swanson** will attend a Clackamas County Board of Commissioners meeting to explain and seek support for the North Main Project vertical tax abatement. The Board of County Commissioners is the governing body for the North Clackamas Parks and Recreation District (NCPRD), and at a recent meeting, three members of the NCPRD Board voted to opt out. Swanson provided the Council with a copy of his report to the Commissioners in which he explains the tax abatement.
3. **Swanson** received a question from Councilor Loomis regarding the proposed water rate increase and how the Council might reconsider the sanitary sewer volume rate adopted in July. If the Council wishes to discuss these rates together, he suggested Council could pass a motion at the regular session that postpones consideration of the water rate to a date certain and at which time the sewer rate could be reconsidered.

Councilor Loomis understands the utilities operate independently, but staff did present an option that would lower the sanitary sewer volume rate. He is concerned about increasing both rates.

Mayor Bernard pointed out the City did get a \$1 million bill from the County for wastewater treatment facility improvements. He would be in favor of holding the adopted rates until that bill is paid.

Rouyer said the City signed a 10-year payment agreement with the County, but, with the current revenue stream, she anticipates it can be paid off in 3 to 5 years.

Mayor Bernard said the other issue to keep in mind is how much it will cost to decommission the Kellogg Treatment Plant.

Swanson said the argument on the parts of some cities and perhaps the unincorporated areas is that decommissioning the plant will benefit Milwaukie. They may want to know how much Milwaukie is willing to contribute to making that happen. He in turn would argue that Milwaukie has lived with a devaluation of its property because of the Kellogg facility.

Councilor Lancaster believes it is important to remember to focus on the future and the goal of moving the treatment plant. The region is targeting growth to this area. Over a relatively short period of time the wastewater treatment costs will go back down, and we would be millions of dollars ahead locally.

There was Council consensus to set the water rate hearing over to a date certain and to also reconsider the sanitary sewer rates at that time.

4. **Mayor Bernard** said he would propose a resolution opposing the formation of an Electrical People's Utility District (PUD) in Yamhill County at the regular session.

Councilor Loomis said he felt the other side should be able to comment if the Milwaukie City Council is taking a position.

Councilor Barnes said she would argue the appropriateness of the Milwaukie City Council's making a decision for Yamhill County. She did not have the same concern when taking a position on the proposed Multnomah County PUD because many Milwaukie residents work there. She feels Yamhill County is out of Milwaukie's jurisdiction.

Councilor Stone had similar thoughts.

5. **Councilor Loomis** said e-mail comments were traded about the "Welcome to Milwaukie" sign. He showed the drawing to several people, and, although there are no problems with the carver, people asked, "Are those the colors?" He felt it would be best to change the colors or put the artist's concept before someone rather than going ahead with the project and then having people send letters to the newspaper.

Mayor Bernard said he would ask Mrs. Klein on a redraft of the drawing.

Councilor Barnes suggested a computer printout of what she actually has in mind.

Rouyer understands the Rotary Club used a graphic designer, pro bono, from the Clackamas County Education Service District (ESD). This person developed numerous concepts that Rotary Club members reviewed and

refined to this one design. It was sent to Mrs. Klein, and the drawing before Council is her interpretation. This could be amended. She asked if it were Council's consensus to send the design to the Design and Landmarks Commission (DLC).

Mayor Bernard and **Councilor Barnes** thought it should stay with Council since this body will make the final decision. In adopting the downtown design guidelines, the Council knows what the DLC wants to see downtown and on the riverfront. Mayor Bernard asked Councilor Barnes if Scott Webb could prepare a design, and Councilor Barnes replied he probably could if the rest of Council did not object.

Councilor Stone thought the Council decided at its last meeting that it is appropriate to follow the process in place with a Commission that has done a lot of work in terms of standardizing signs and building fronts in the downtown area. This sign is going to be quite a marquee type of sign and markets the downtown area. The DLC has architects and graphic arts designers who are in the profession. She thought at the last Council meeting that the DLC would take a look at it and ultimately come back to the Council for the final decision.

Mayor Bernard said that was discussed. He would like to speed up the process because the Rotary has spent 1-1/2 years on this project and are about to say, "Forget it."

Councilor Stone said, when the Ardenwald Neighborhood did its sign, it took a good year to get it all together. It takes some time to come up with the best design and shows the City at its best. Hundreds of thousands of people are going to see this sign on what is a major highway. She feels it is appropriate to have the DLC review the design. Part of the process, in terms of helping the City Council, is for these boards and commissions to support and be advisory to the Council.

Rouyer added the DLC meets the last Wednesday of September.

Mayor Bernard asked if any members of Council objected to Scott's doing a quick design and giving both to the DLC.

Swanson discussed separating the art from the function. An artist who is a carver whose tools are knives and not pens prepared the sketch. He has seen Mrs. Klein's work, and it is incredible. It is difficult or impossible to capture her art on paper. He believed the sketch was done more to give everyone an idea of what the sign will look like. He would characterize the person doing the work as an artist on a different level. Personally, he was not that concerned about the colors, for example, because there will be an entirely different perspective when the sign is completed. This is what Mrs. Klein compiled from the 28 ideas she got.

Rouyer said the graphic artist suggested the font. Mrs. Klein took the graphic artist's ideas and came up with this interpretation.

Swanson believed the final product would be an artistic piece rather than a copy of a lot of ideas.

Councilor Loomis thought there was a whale with a hat on in the sketch.

Mayor Bernard was in favor of telling the Rotary to go ahead with the project.

Councilor Stone felt uncomfortable because the sign will be so visible. She has shown the sketch to graphic arts people, and they have some comments. She thinks the design people on the Commission need to look at it first. It never hurts to have some input. It has already been a year. The Commission is meeting in a couple of week, and then it will come back to the City Council. It is not making the process that much lengthier. She wants to make sure the sign shows the City of Milwaukie in the best light.

Councilor Loomis asked if this is something the DLC would normally consider.

Rouyer did not have a precise answer, but she did respond there are adopted design guidelines for signs. The size of the sign may trigger its going to DLC.

Councilor Loomis said if the sign did fall under those guidelines, he would like the DLC to make a review. Board and commission members sometimes are discouraged when they are not asked for their opinions.

Councilor Stone said, though not an art expert, she looks at people on these boards and commissions as having some background and expertise. It seems they are in their positions to be advisory to the Council and help it make the best decisions. This Commission is in place, so she recommended utilizing it.

Councilor Barnes said the difference for her is that this sign is a gift. She was concerned about placing a lot of conditions on people wishing to give the City a gift, which ultimately may or may not be accepted. She suggested a compromise in this case of the Council's coming up with more detailed ideas and working with the Rotary on them. She does not think the City Council wants to spend an additional month sending it to a Commission, since approved guidelines are already in place. The Council's saying to this group that its gift may not be good enough and sending it to a Commission for a recommendation is not a direction she would like to see taken.

Councilor Stone said this is a rare gift. Not everyone is going to offer a gift that will be on public display.

Councilor Barnes said that makes it even more imperative that someone's feelings are not hurt.

Councilor Stone said that makes it more imperative that the City has the most beautiful sign it can get. The goal of having a really nice sign would probably be the goal of the artist and the Rotary. She did not know if the sign dimensions were appropriate for all the detail. She is not the expert. There is a Commission in place, and no one objected at the last Council meeting to having the DLC make a recommendation. She thought it was going to happen.

Councilor Lancaster had no strong feeling one way or another. Everyone has good points. Any gift needs to be considered on a case-by-case basis. It seems like it would be a natural process for this to go before the DLC, but it should be done on an expedited basis.

Open Public Forum

No public Comment.

Web-Based Crime Analysis Class

Mayor Bernard described the program based on the intergovernmental agreement between the City of Milwaukie, City of Portland, and Clackamas Community College.

New Fine Structure for Violations of State Traffic Code

Swanson said in May Council adopted a minimum fine structure effectively adopting the state traffic code together with the then existing fine structure within that code. The plan at that time was to re-adopt with each publication the newly revised Oregon Revised Statutes (ORS) to keep everything current. One of the reasons for doing that is that it is easier for the officers.

The intention all along has been to readopt at such time as the newly revised edition of the ORS are published, which in this case will be some time in 2004. The legislature adopted an entirely new fine structure, and the governor signed them into law on August 29 with an effective date of September 1, 2003. Milwaukie established minimum fines for deterrent purposes. These new fines upon which the minimums would be calculated are all higher and would certainly be in line with the deterrent effect. The question is, does the Council wish to adopt the new fine structure immediately or when the state published the new statutes? It is essentially a question of timing.

Councilor Stone said according to Swanson's report, even if the new fines were not adopted, it could be in effect if an officer cites under state law versus the municipal code. The judge certainly has discretion. Class D for example goes up from \$7.50 to \$15.00, and Class A goes up from \$60.00 to \$120.00. It is not

significant and not huge amounts of money in terms of being a deterrent. She is comfortable leaving it as it is until 2004.

Mayor Bernard and Councilor Loomis agreed with Stone's comments.

Councilor Lancaster saw no point in waiting. It seems the City would be saying violators would be given a break until next year, and he believes this is the wrong message.

Mayor Bernard would like to wait because the economy is tight and all fees are going up.

Councilor Lancaster did not think fees and fines should be considered together. People have complete control over their driving behavior.

Councilor Loomis hoped to look at the minimum fines again. Judge Gray indicated he does not feel it is a deterrent.

Councilor Stone thought it would be more of a deterrent if fines were higher.

Councilor Lancaster said all Council did was set a minimum, and Judge Gray can still charge the maximum.

Councilor Stone said officers could still use the state traffic code.

Councilor Barnes was in favor of waiting.

Swanson said there would be a simple amendment to the code provision adopting the 2003 ORS as soon as it becomes available.

Councilor Lancaster asked Loomis if Judge Gray had elucidated what he considered to be a deterrent.

Councilor Loomis understood that Judge Gray feels better about giving first time offenders a break.

Swanson said when minimum fines were first proposed, he and Judge Gray had a long discussion. Gray already had to tell people that state and county assessments were very large, and now he would have to tell people the City fine was large also. This would make people angry. Swanson believed Gray's point was that the City was looking good because the county and state were looking bad because their assessments were so high. Word does get out about not getting caught in Milwaukie because it will be expensive. People who continue to drive with suspended licenses, on the other hand, will not care one way or another about the minimum. The trucking company network will also pick on the minimum fines for weight violations.

Councilor Loomis asked if there were a way to communicate this to Milwaukie and LaSalle high school students in a friendly manner.

Swanson said he would be happy to call those schools and let them know what being issued a traffic citation in Milwaukie means.

Draft Mayor/Council Communication Agreements

Swanson said he tried to break the draft agreement into four groups: meeting rules; working within one's own group; working with the community; and the common thread of mutual respect. Since these will not answer every question, he recommends going back to the common thread of mutual respect for guidance.

Councilor Barnes asked if this agreement would address the content of Council's monthly *Pilot* column?

Swanson sees a number of areas in item #1 that would apply. In #2, the writer should make sure, if addressing an issue the Council has worked on, to prepare the article in such a way that is respectful. He believed items #1 and #2 would provide guidelines for dealing with this issue. As far as the subject matter goes, staff is hands off.

Mayor Bernard understands once a decision is made, though he may disagree, he needs to accept it.

Councilor Lancaster suggested only a minor change to item #2, bullet #2 by changing "action" to "actions." He was thinking more in terms of taking a position. Item #1, bullet #2, delete the word "that" at the end of the sentence. Item #1, bullet #5, he thought would be more clear if it read, "I clearly state my own opinion as being mine." Item #2, bullet #2 would read better as "City's opinion." Item #2, bullet #3 change to, "I work toward consensus, accept and respect the group decision."

Swanson suggested, "I work toward consensus; accept and respect the group decision."

Councilor Lancaster said the last consideration was item #2, bullet #4. He felt it should read "any concern" rather than "a concern."

Swanson said in past this agreement has been posted on the back wall of the Council Chambers and forgotten. He proposed continually including these in the agenda packet, so it will always be in front of people.

Councilor Stone commented on item #2, bullet #2 and suggested the type of body be clarified.

Councilor Barnes did not want the Council to make a decision and have a member or members go out and publicly bad mouth the Council as a team. She felt that should be included so there is no misunderstanding that when the Council as a team makes a decision, from that point forward, members move on. She does not want to hear about it on a radio station, in *The Oregonian*, or in some way that actively seeks to bad mouth the Council as a whole.

Councilor Lancaster thought that should be encompassed in the respect of the group decision.

Councilor Loomis commented an agreement is only as good as the people making it.

Mayor Bernard supported the stronger language.

Councilor Lancaster was concerned about trying to make the agreement cover every circumstance.

Councilor Barnes would want it basic. After a vote of the Council, no individual member will publicly ridicule that body's decision. Once the vote is done; it is done.

Councilor Loomis thought it just makes that person look bad. He would be willing to add language, but these are words with no penalty involved. If someone wants to be a jerk, he/she will.

Mayor Bernard announced the City Council would meet in executive session immediately following adjournment of the work session to discuss real property pursuant to ORS 192.660.

Mayor Bernard adjourned the work session adjourned at 6:50 p.m.



Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL WORK SESSION SEPTEMBER 15, 2003

WORK SESSION – 5:30 p.m.
Second Floor Conference Room

MILWAUKIE CITY HALL
10722 SE Main Street

Discussion Items

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>
1.	5:30 p.m.	Dinner and Information Sharing <ul style="list-style-type: none">• Council questions and comments on September 16 Agenda Items – these questions and/or comments can only be on those items that are legislative and not on those that are quasi-judicial, like land use or liquor license hearings	Group
2.	6:00 p.m.	Open Public Forum	Group
3.	6:30 p.m.	New Fine Structure for Violations of State Traffic Code	Mike Swanson
4.	7:00 p.m.	Draft Mayor/Council Communications Agreements	Mike Swanson
5.	7:30 p.m.	Adjourn	

Public Notice

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the preceding items.
- Executive Session: The Milwaukie City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. 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 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

FROM: Mike Swanson, City Manager

DATE: September 8, 2003

RE: New Fine Structure for Violations of State Traffic Code

Action Requested

Council direction on whether to adopt the higher fines for violation of the State Traffic Code recently enacted by the Legislature and signed into law by the Governor for violations of the City's Traffic Code.

Background

On May 20, 2003 Council adopted Ordinance No. 1922. It amended the Municipal Code by adding Section 1.12.020 adopting the State Traffic Code (Oregon Revised Statutes, 2001 Edition, Chapters 153 and 801 through 826) and weight restrictions (Oregon Administrative Rule 740-100-0010) as violations of the Milwaukie Municipal Code.

In addition, adoption of each of the above included adoption of the accompanying fine structure. However, the ordinance established a minimum City fine by requiring that any City fine "must be at least fifty (50) percent of the maximum penalty or fine, exclusive of all costs and assessments."

The 2003 Legislature passed HB 2759, which increased filing fees and amounts paid for other services provided by courts as well as the amounts paid for violations of the law, including the State Traffic Code. The Governor signed HB 2759 on August 29, 2003; it became effective on September 1, 2003.

Enactment of the new fine State fine structure does not automatically incorporate that new fine structure into the Milwaukie Municipal Code. That requires Council adoption of an ordinance adopting the new fine schedule.¹

The following table describes the existing maximum fine and minimum fine to be assessed pursuant to the Municipal Code, the new maximum fine under HB 2759 and the minimum fine that would be assessed, and a few representative traffic violations within each of the classes:

COLUMN A VIOLATION CLASS	COLUMN B MUNICIPAL CODE MAXIMUM FINE/ MINIMUM FINE	COLUMN C HB2759 MAXIMUM FINE/ MINIMUM FINE	COLUMN D REPRESENTATIVE VIOLATIONS
CLASS A	\$600/\$300	\$720/\$360	Speeding over 30 mph excess; driving while suspended or revoked (except felony); careless driving (contributing to an accident)
CLASS B	\$300/\$150	\$360/\$180	Speeding 21 mph to 30 mph excess; failure to stop at a stop sign; unlawful u-turn (contributing to an accident); careless driving (not contributing to an accident)
CLASS C	\$150/\$75	\$180/\$90	Speeding 11 mph to 20 mph excess; unlawful u-turn (not contributing to an accident)
CLASS D	\$75/\$37.50	\$90/\$45	Speeding 1 mph to 10 mph excess; failure to use a seat belt

Therefore, the question is whether to adopt the new fine schedule for inclusion in the Municipal Code. There is no requirement that the City do so, and the effect of choosing this course is to retain the current fee structure represented in column B in the above Table.²

¹ There are two ways in which the new State fee structure might, in effect be implemented. First, officers can choose to cite a violator under either the State Traffic Code or the City Municipal Code. If he/she chooses the former, the City's minimum fine requirement does not apply. Second, the Municipal Judge could choose to impose a fine that would be no less than fifty percent of the new maximums. However, this would be solely at the discretion of the Court.

² As soon as all changes made by the Legislature are ready for inclusion in a newly revised edition of the ORS, we will present a more comprehensive amendment of the original ordinance for adoption as the 2003 Edition. This was always the plan in order to maintain conformance with the State Traffic Code. This simply makes it easier for those administering both the State and City Codes to work with them. This comprehensive amendment will include the changes to the fines outlined above, and the best guess is that it will occur some time in 2004.

Recommendation

I am recommending that Council immediately adopt the changes to the fine schedule made by HB2759. In adopting the new Municipal Code Section 1.12.020 we cited the need to impose real penalties to deter violations of the traffic laws. The staff memo recommending the new section states:

“. . . enforcement is effective as a deterrent only if it can be backed up by real consequences. Penalties that do not have a significant impact do not change behavior. Thus, we see many states doubling the fines in school and road worker zones. The policy underlying both recognizes that there are vulnerable parties present who may well be harmed by traffic violators. If you impose real financial pain through fines, the deterrent effect may prevent loss of life or serious injury.”

The Council stated that it “recogniz[ed] the interest of the City in ensuring both the safety of its citizens and the driving public.” In addition, it recognized the fact that “major regional and State traffic routes flow through the City, and those routes generate traffic through City neighborhoods.” Increasing the penalties for traffic violations at a time when the State sees fit to do so also serves the interest first set forth when the ordinance was originally adopted.

If Council wishes to do so, we will have an appropriate ordinance prepared for the October 7, 2003 Council meeting.

Fiscal Impact

The ordinance would have an emergency clause providing for its immediate implementation. Thus, it would be in effect for approximately ten months during the current fiscal year. It is not clear how much revenue the additional fine structure would generate. In any event, the policy underlying implementation of this recommendation is one of deterrence.

DRAFT

MAYOR/COUNCIL COMMUNICATION AGREEMENTS

It is a basic value of the City of Milwaukie that we conduct business so as to ensure public access to information that is clear, concise, and understandable. These agreements are intended to ensure that our conduct gives real meaning to that value.

The agreements that follow have one common thread—mutual respect. Thus, in the likely event that the list does not answer a question, reference to that common thread will help to fashion an appropriate response.

1. In all Council events, work sessions, and meetings:
 - I demonstrate respect for all who are involved;
 - I respect all thoughts and ideas that;
 - I clarify facts and opinions to ensure understanding;
 - I do not personalize my comments;
 - I clearly state my opinion as being mine;
 - I look for ways to praise efforts and accomplishments; and
 - I stay focused and participate.

2. In working with the Mayor and Councilors:
 - I provide them with reasonable notice of matters I am introducing at meetings;
 - I always represent the City position before other bodies unless none has been adopted, in which case I inform the Mayor and Council in a timely manner of action I took;
 - I work toward consensus, and I accept and respect the group decision;
 - I first address a concern about a violation of these agreements or any other concern in a direct, appropriate, private, and timely manner.

3. In furtherance of our effort to seek broad based community support and information, I engage the community in a shared dialogue.

4. In my work with staff:
 - I communicate with staff to gather information; and
 - I exchange ideas with staff and give direction through the City Manager with the concurrence of the Mayor and Council.

2003 Milwaukie City Council Retreat Facilitator's Draft Notes

Our council members share the same goal: Improve our City. We value our citizens, employees, neighborhood system, business community, environmental assets, and each other. The diversity of our backgrounds gives us the perspectives necessary to serve the City we love. We have individual and collective energy and passion. We are caring individuals who take our work seriously. We are involved in the community and understand the need for fiscal responsibility. We have the willingness to learn and grow as a team.

Our work will be enhanced when we:

- Involve all members in an open and honest exploration of the issues
- Allow each other to speak freely -- disagreeing without being disagreeable
- Listen with both ears and assume positive intent
- Communicate directly, fairly and supportively without personal attack
- Give a heads-up to each other by phone, or face-to-face if there is problem
- Make decisions on the merits with a focus on the whole, not on personalities or politics
- Start anew, taking the time to know each other, and bond as a team
- Go to community meetings/events - individually and as a group
- Actively participate with and in the community, perhaps developing a marquee project to bring the City further together
- Have sufficient time to discuss issues at a Work Session - reserving time for public comment the next day
- Create a mutually agreeable Council "vision"