

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION NOVEMBER 3, 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, Planning Director John Gessner, Engineering Director Paul Shirey, and Civil Engineer Brion Barnett.

Information Sharing

1. **Councilor Barnes** provided an update on current efforts to form a community theatre.
2. **Mayor Bernard** announced the Farmers Market would contribute \$1,000 to Celebrate Milwaukie, Inc.
3. The group briefly discussed changing the November 18 meeting date in order to attend the opening of North Clackamas School District's Schellenberg Center; the feasibility of implementing a PGE privilege tax; and traffic congestion at the intersection of Harmony Road and Linwood Avenue.

Consider Meeting Date of Second Council Meeting of November

City Manager Mike Swanson said there is a conflict with the regular session on November 18 and dedication of North Clackamas School District's dedication of the Schellenberg Center. The Charter requires the Council hold 2 regular meetings each month, so the question is when to hold that meeting. There are few work session topics on the November 17, so the regular session could be called to order at 6:00 p.m. followed by the work session. He discussed rescheduling the water and sewer rate hearing. The sewer rate issue, in any event, would be delayed because the consolidation study is nearly finished, and some of that information will be brought into the rate consideration. Although the water and sewer rates are not linked, Council had indicated it wished to consider them simultaneously.

Councilor Loomis was in favor of considering both the water and sewer rates at the same meeting.

Mayor Bernard complimented the Johnson Creek Facility staff on its work on the Bob's Red Mill project. The contractor particularly appreciated the work done by Bonnie Lanz, Tom Larsen, Brion Barnett, and the water and sewer staff. City

Manager Mike Swanson was instrumental in facilitating contacts between staff, the business owner, and the construction contractor.

McLoughlin Boulevard Improvements Project, Introduction of Design Team and Project Next Steps

Civil Engineer Brion Barnett introduced Project Manager Walt Bartell of David Evans and Associates, Inc. (DEA). Planning Commission members present were Chair Donald Hammang, Brent Carter, Howard Steward, Rosemary Crites, and Teresa Bresaw.

Bartell reviewed the history of the project, which he has followed since 1991 as Oregon Department of Transportation (ODOT) assistant region manager. He has worked with DEA for about 2 years and is glad to see the project at the point of being implemented. Subconsultants on the project team are Archeological Investigations NW which is responsible for the historic study of the properties along the waterfront; Cascade Earth Sciences is responsible for the Level 2 Hazmat work dealing with site contamination; Pavement Services, Inc. who will design the pavement; Geo Design, Inc. responsible for issues related to the detention facilities and retaining walls; and Jeanne Lawson & Associates that will handle the public involvement process. Final plans should be ready by the end of summer 2004.

Responding to a comment from Councilor Lancaster about a pedestrian underpass, **Barnett** said a pedestrian/bike bridge would cost about \$5 - \$10 million. The project is at the point of implementing boulevard improvements once the final design is completed. He discussed the role of the Public Advisory Committee (PAC) that involves key stakeholders including the Riverfront Board, boating community, treatment plant, business representatives, and technical advisors. The purpose of establishing this type of group is to ensure all concerns are addressed in one forum and to streamline the process as much as possible. The PAC is charged with endorsing a final alternative to the City Council in February or March 2004. There will be public open houses throughout the project to keep the general public informed and offer an opportunity for input. Council will be asked for direction at its first March meeting so DEA can begin its design work. The Planning Commission will consider the project as it relates to the Willamette Greenway in April or May. The public open houses planned for July and August will show the project in its more finished stages before the design is finalized. Plans will be sufficiently complete in August/September 2004 to identify such things as refined cost estimates, traffic detours, and business impacts. Although the federal funds are available, there must be a request to have appropriate funds obligated at each phase. The City is responsible for matching funds during the course of the project. The estimated cost to the City is about \$220,000. An additional \$50,000 - \$60,000 will go to property acquisition once the ultimate west line of the project is established.

Mayor Bernard asked if certain elements such as the street lighting identified in the Downtown Riverfront Plan would be included.

Bartell responded that they are.

Barnett said it is important that Milwaukie has an adopted Plan, and these elements will be part of the design work negotiated with ODOT in a maintenance agreement.

Bartell hopes that traffic will not have to be detoured from McLoughlin Boulevard and that it can be staged based on certain restrictions in the contractor's work schedule. He discussed minimizing project costs by salvaging concrete under the current asphalt layer.

Barnett said the intent is to avoid detouring traffic through downtown.

Councilor Stone asked if Pavement Services, Inc. would look at different kinds of surfaces to designate crosswalks.

Bartell said, if the City wants a crosswalk treatment, there are certainly things that can be considered but would not normally be seen in a pavement design report. Pavement Services considers actual axle loading, and ODOT will require testing, traffic data, and a road design that will be good for 20 years.

Barnett added Pavement Services, Inc. would look at the structural aspect but noting aesthetic. He assured Council that treatments would be considered within the constraints of the project budget.

Hammang did not believe the Commission had any questions at this time and added he believed all members looking forward to the project.

Bresaw asked if there would be a sprinkler system in the median strip.

Barnett said irrigation is normal and will be considered in the greater maintenance agreement with ODOT.

Bartell added normally a drip system is installed.

Other

Councilor Barnes reminded people that Centennial Dogwoods could be picked up on Saturday, November 8.

Rotary Sign Donation

Councilor Stone understands this issue came before the Design and Landmarks Commission (DLC) last month, and Gessner explained this review was not within the Commission's guidelines. In speaking with one of the members, she understands they all expressed an interest in changing the ordinance to be able to look at these types of signs. She referred to evaluation criteria for graphic design and signage that she believes was given to DLC members in October. She understands a code amendment will be considered.

Mayor Bernard does not believe the ordinance is on the Council's agenda in the near future but felt it could be considered. The Commission does not really have jurisdiction at this time.

Councilor Stone is looking at it strictly from a professional artistic viewpoint in terms of sign design and criteria. Although she does not know about the Planning Commission, she knows there are DLC members who are architects and graphic arts designers who know a lot about sign design. She would like to see them be able to review signs.

Mayor Bernard said an ordinance could certainly be considered in the future.

Councilor Stone asked the criteria used when the City Council selected a design at its last meeting. She asked what the rush was on the sign. Will the sign be up by December 31? It seems like there is a real push.

Mayor Bernard said the Rotary Club is ready and wants to move on the project. Club members have been working on this project for about 2 years. The Milwaukie Downtown Development Association began looking at signs some time ago, and at this point the Rotary has volunteered to pay for it. They would simply like to wrap up the project. He thinks the sign is great, and he is ready to go with it. Council discussed it at the last meeting and felt it was a much better design and were ready to go with it.

Councilor Stone was concerned because this is going to be a highly visible sign. She is also concerned about the dimensions. She still thinks it is a good idea to send it to DLC. She asked if the Planning Commission had seen the design, and if it had not, should it?

Mayor Bernard believed at this point it is the Council's decision, and the design does not have to go to the Planning Commission.

Swanson clarified that the municipal code outlines standards to which people and designers must adhere. Those criteria are developed so people have some kind of independent guidelines when investing in a sign. The City does not add any criteria other than those set out in the code, and these are what people are expected to follow. It is always permissible to change or add to the criteria as long as it is done through the code. The Planning Commission does not review

individual designs. The DLC does have review of internally illuminated signs in the downtown. When considering a sign application, staff looks at the proposal and compares it with standards in the code. If the sign does not meet those standards, then the staff will not issue a permit and the applicant is advised of the variance procedure. The DLC has the responsibility to grant variances from the sign code in the downtown zone. Other than that, a separate body does not review each sign except for those, which are internally illuminated. Additionally, such things as pole toppers and neighborhood welcome signs go through the planning department and are weighed against the code. The City Council, by adopting ordinances, sets the standards.

Councilor Stone understands staff is looking more at sign dimension and not looking at them artistically.

Swanson said it is difficult to set artistic standards. There are problems with turning down signs based on a lack of artistic merit and not applying standards. We are not allowed to do that. Standards have to be reasonable and guide judgments with decisions measured against the standards in the code. Creating new expectations is unfair to applicants. Artistic merit is a difficult area because artistic taste can vary so greatly. Other issues such as size, illumination, placement, and moving parts are standards upon which decisions can be based. Making determinations on artistic merit are difficult. Signs are a form of speech and are afforded a different status because of Constitutional protections. Sign ordinances sometimes regulate too much and are seen as interfering with one's freedom of speech and do not hold up legally when challenged.

Councilor Stone said the DLC certainly measures artistic merit with the downtown design plan in terms of what it will look like. The members are experts in architecture and graphic arts, so that is very important to them. She thinks it is not out of the question for the DLC to look at things like this. It is a matter of just changing the ordinance.

Gessner said the DLC was interested in seeing additional signs particularly downtown if limited only to municipal signs. The direction given to staff was to look at the legal and administrative issues and report back to the DLC to determine if a formal request should be made to Council. Staff will spend some time on this issue and report back to Council. Due to workload and staffing issues, this may not be for some time.

Councilor Stone asked if there is a target date.

Mayor Bernard commented the City has standards for review. At some point he would like to make the decision, and he is comfortable with the sign. One person who saw this design suggested putting "river city" on it, but other than that, people have responded positively. He would like to make a decision so the Rotary can carry on.

Councilor Stone asked if the sign was being made right now. The City has these experts in art on a commission, and she wants to see them utilized and make sure a good choice is being made. She does not see anything wrong with waiting.

Councilor Barnes suggested voting on the design.

Councilor Barnes moved to accept the sign the way it is and request the Rotary to begin work. Mayor Bernard seconded the motion.

Councilor Loomis feels this is basic, but, if another Councilor has a problem, it should be discussed further. The first sign was too much. The current simple design is better and will probably raise fewer issues. He asked if the DLC would review only public signs or would business signs be included. He understands the proposed sign meets current standards.

Mayor Bernard said this sign went through the planning department, and it meets existing standards.

Councilor Loomis would be in favor of public signs going through the DLC but not business signs that meet City standards.

Swanson said it is very difficult to set an objective standard on art and grafted on that is the freedom of speech issue.

Gessner added those difficulties are well represented in today's sign ordinance. The Planning Commission has the authority to review community service overlay and conditional use signs. The code does tie the Commission's hands when it comes to review of actual design or content.

Councilor Lancaster's only concern with sending the design to the Commission is that unless it is simply applying the standards, there is no other reason to look at it other than for artistic value. This puts the City in a bad place. He thinks doing it that way could create a problem. The alternatives would be for the DLC, rather than staff, to apply the standards on an objective basis or continue with current practice.

Councilor Loomis understands the DLC would provide a recommendation.

Councilor Stone said that is correct.

Mayor Bernard pointed out the sign already meets the standards.

Councilor Loomis said the DLC is made up of citizens and represent Milwaukie. The Council wants something everybody likes and finds attractive. If a sign is for

a private business that meets the standards, the DLC and Council do not have a right to tell the applicant it should be green or red. If it is a public sign representing all of us, he thinks the DLC recommendation would have some weight in the Council's decision.

Councilor Stone asked if it would make a difference if this sign were one the City was purchasing versus one being donated in terms of artistic standards. The DLC has the experts. The Council members are not experts. She would not know anything about the typography of the sign. The size is also important. She does not want people to drive by and say, "You can't even read it. Why is there a sign there?" There has been a lot of ridicule in the past about the "art" previously displayed in that area. She wants to present the City in its best light.

Mayor Bernard was involved in the art display. Some were critical while others thought it was fantastic. What was important was that people saw the art and took notice of Milwaukie. Although he was not involved in the selection, he thought there were some great pieces of art around town. He asked what the process is for approving the neighborhood pole toppers.

Gessner believes it has been handled by neighborhood services and public works. Pole toppers are exempt signs and are not subject to specific design standards in the code.

Councilor Barnes commented this is an example of Milwaukie neighborhoods making their own decisions. She called for the question.

Motion passed 3 – 2 with the following vote: Mayor Bernard, Councilor Barnes, and Councilor Lancaster aye; Councilor Loomis and Councilor Stone nay.

Update on Johnson Creek Boulevard Project

Engineering Director Paul Shirey said signage indicates the project will be complete on November 30, and that is when the road will re-open. As he has explained to residents, there was a good reason why the City of Portland extended the contract by one week. The contractor wants more time because of the slowness of the utilities. Unless Portland approves an additional extension, the contract calls for liquidated damages to accrue at \$700 a day. The sidewalks, curbs, and driveways are slowly coming together. The rock base is down, and the initial asphalt portion is a 5-day job. Typically, the top layer of asphalt does not go on until everything else is done, however, it is sensitive to temperature and weather conditions. Depending on the weather, the top layer may or may not be done, but the road would be usable without it. The objective is to get the job done, but the road may open with only the base layers and completed spring 2004.

The group discussed the improvements. **Councilor Loomis** asked how long the street would be closed to put on the top layer.

Shirey said that would be about a 2-day job done under traffic. The fences are weather dependent but are not crucial to opening the road.

Mayor Bernard adjourned the meeting at 6:55 p.m.

Pat DuVal

Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL WORK SESSION NOVEMBER 3, 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 ➤ Council questions and comments on November 4 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. 5:50 p.m.	Consider Date of Second Council Meeting of November	Mike Swanson
3. 6:00 p.m.	McLoughlin Boulevard Improvements Project, introduction of project design team and project next steps	Brian Barnett, Paul Shirey & Consultant
4. 6:30 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



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: October 27, 2003
RE: Proposed Resolution Changing the Date of the November 18, 2004 Regular Council Meeting

ACTION REQUESTED

Adoption of the proposed resolution changing the date of the November 18, 2003 regular Council meeting.

BACKGROUND

Chapter VI, Section 20 of the Milwaukie Charter of 1975 provides, in part, as follows:

"The council shall hold a regular meeting at least twice each month at a time and place which it designates."

Section 20.04.070, Milwaukie Municipal Code, gives further definition to that Charter provision as follows:

"Regular 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."¹

It is not unusual for something to unexpectedly arise during the year that argues for a change in that regular meeting date. The change is implemented by resolution.

¹ At the first meeting of the calendar year the Council traditionally enacts a resolution formally scheduling the regular meetings for the first and third Tuesdays of each month. The resolution also notes that each meeting will be "called to order at 6:00 P.M." In addition, one week prior to each regular meeting the City publishes an agenda that clearly sets 6:00 P.M. as the meeting time. Each of these acts constitutes "appropriate notice" for the change from the Code's "seven p.m." starting time.

After November 18, 2003 was set as a regular meeting date, the North Clackamas School District scheduled the dedication of the new Schellenberg Center for the same evening from 6:00 to 8:00 P.M. Council will be invited to the dedication, and a request has been made to change the date of that regularly scheduled meeting. One possibility is to move it back one night to November 17, 2003, the date of the regularly scheduled work session.²

The Council rescheduled consideration of a water rate increase originally scheduled for September 16, 2003 to November 18, 2003 and scheduled a reconsideration of a previous increase in rates for wastewater treatment on the same evening. Due to a delay in the wastewater "consolidation study" staff was going to request that information be taken on the water rate issue but that any decision be delayed. The reason for retaining the November 18 date is twofold: first, the date has been coordinated with the rate consultant; and second, the hearing date has been publicized. For example, the November 18 date has been given some prominence on the City's web site.

Thus, the question before Council is whether or not to change the regularly scheduled meeting, and, if so, to what date. If it is changed, staff will seek to widely publicize that change to minimize disruption to those who might have planned to attend the November 18, 2003 rate hearings.

² The only items that has been scheduled thus far are: (1) Update on Tri-Met Light Rail Working Group; (2) Centennial year Final Events; (3) North Main Update; and (4) Downtown Implementation Plan with Oregon Downtown Development Association.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DETERMINING THE SECOND REGULAR COUNCIL SESSION OF NOVEMBER 2003 WILL BE CALLED TO ORDER ON _____.

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

WHEREAS, the North Clackamas School District has invited the Milwaukie City Council to attend the dedication of the new Schellenberg Center on the same evening as the Council's regular session on November 18, 2003; and

WHEREAS the City Council wishes to mark this important by attending the Schellenberg Center dedication;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Milwaukie, Oregon, that the second regular City Council meeting of November 2003 will be called to order at _____;

Introduced and adopted by the City Council on November 4, 2003.

This resolution is effective on November 4, 2003.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis, Crew, Corrigan & Bachrach, LLP



To: Mayor, City Council and Planning Commission

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

From: Paul Shirey, Director of Engineering *PJS*
Brion Barnett, Civil Engineer *BB*

Subject: McLoughlin Boulevard Improvements Project, introduction of project design team and project next steps (information only)

Date: October 17, 2003 for the November 3 Work Session

Action Requested

Meet the project team and listen to a status report.

Background

The City received funding for the McLoughlin Boulevard project in 2001. This funding will allow the City to improve safety for all modes of traffic along McLoughlin Boulevard in downtown Milwaukie and improve connections between the riverfront and business district. The project will beautify McLoughlin Boulevard between Harrison Street and the Kellogg Street Bridge by incorporating street trees, landscaped medians and setback sidewalks.

In the past two years, staff has made several appearances at Council to present preliminary design concepts, and gain approval for needed intergovernmental agreements and contracts to move the project forward. Most recently, the City entered into an agreement with David Evans and Associates (DEA) to complete the design of the project and also received approval to have the Oregon Department of Transportation (ODOT) represent the City for the right-of-way (ROW) acquisition process.

The City of Milwaukie is managing the design project with DEA and coordinating closely with ODOT, since McLoughlin Boulevard is under ODOT jurisdiction. Representatives of the City's Community Development, Planning, Engineering, and Neighborhood Services Departments will participate in the project along with a Project Advisory Committee (PAC). The PAC will make recommendations on project alternatives to the design team, and the design team will carry these recommendations forward to Council. The PAC will include representatives from the City, ODOT, Metro, Riverfront Board, Historic Milwaukie Neighborhood Association, and downtown business owners. Public outreach beyond the PAC will be conducted throughout the design process through a series of public open houses, the City's website, and the Milwaukie Pilot.

Over the course of the next year, the City and DEA design team will refine the preliminary design concept and make two additional presentations to Council and one to the Planning Commission. Following are projected Council, Planning Commission and public outreach dates:

- Public Open House #1 (February-March 2004) – The first open house will allow for public review of the design alternatives and provide a forum for the public to ask questions and receive feedback. A summary of the public comments received will be provided at the next Council City Council Review session.
- City Council Review #2 (February-March 2004) – The second Council date will be held to review, evaluate, and endorse a preferred design alternative as recommended by the Project Advisory Committee (PAC).
- Planning Commission Review #1 (April-May 2004) – DEA will prepare and present the Willamette Greenway Zone and Natural Resources application for Planning Commission review and approval.
- Public Open House #2 (July-August 2004) - The second open house will allow for public review of the preferred design alternative (75% complete) and provide a forum for the public to ask questions and receive feedback. A summary of the public comments received will be provided at the next Council City Council Review session.
- City Council Review #3 (August-September 2004) - The final Council date will be held to review the advance (90% complete) design.