

**MILWAUKIE CITY COUNCIL
REGULAR SESSION
DECEMBER 20, 1999**

The one thousand eight hundred and twenty-ninth meeting of the Milwaukie City Council was called to order by Mayor Tomei at 8:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Rob Kappa
Mary King

Larry Lancaster
Jeff Marshall

Also present:

Dan Bartlett,
City Manager

Charlene Richards,
Assistant City Manager

Martha Bennett,
Assistant City Manager

Sue Stepan,
Public Works Director

CONSENT AGENDA

It was moved by Councilor Kappa and seconded by Councilor King to adopt the Consent Agenda that consisted of:

1. City Council Minutes of December 7, 1999; and
2. Liquor License Application for Vic's Tavern.

Motion passed unanimously.

AUDIENCE PARTICIPATION

Roslyn Worsley, 4722 SE Jackson Street. As a 13-year old Milwaukie student active in sports, she supported developing the Milwaukie Middle School site as a youth recreation facility. Many people reject the idea of apartments on that site, and she hoped to see the recreation and youth center a reality in the future.

Joe Loomis, 3610 SE Filbert Street. Members of Milwaukie Junior Baseball, Milwaukie Soccer, North Clackamas Junior Softball, Milwaukie Youth Basketball, Milwaukie Youth Football, and supporters of the outdoor swimming pool have formed an organization called Kids First of Milwaukie. The mission of the group is to preserve and improve the Milwaukie Middle School site for youth-related sports and activities. The group also supports returning the management and operation of city-owned parks and properties to the Milwaukie Park and Recreation Board. Kids First of Milwaukie was seeking Milwaukie City Council support and suggestions for financing development and improvements to the City's recreational facilities.

Alex Walsh, 4970 SE Casa del Rey. He supported the Kids First of Milwaukie proposal. Youth sports have very limited field and court time to do anything other than practice and play league games, and he believed youth needed to have greater access to facilities to simply have fun.

Richard Cayo, 4203 SE Johnson Creek Blvd. He discussed the Mayor's recent Portland State University training and the written response to his question asking how spending \$2,485 benefited the citizens. Even though the City Council approved the expenditure, he felt \$500 per day was an extravagance. He thought the Mayor should be ashamed for having done this and suggested the Mayor and City Manager were running Milwaukie as if it were their kingdom. The Safeway site will cost the City \$500,000; Crandall's contract is about \$250,000; the Cobb property cost \$1.3 million; and the Lowry cost about \$500,000. He asked why the City could not take care of a problem like the "lake" at the intersection of 42nd Avenue and Roswell Street. He had read in the City newsletter that the City was going to raise its monthly storm water fee from \$4 to \$6. Why does a tax that has been in effect for only two years need to be raised by 50%? This type of issue is very discouraging for the tax payer.

Councilor Kappa stated for clarification, that the storm water fee went into effect about five years ago.

Bartlett said staff would prepare a written response to Mr. Cayo's comments. He also clarified that the 42nd Avenue and Roswell Street intersection was part of the Johnson Creek Blvd. improvement project. The City received grant funds to install curbs and gutters on Roswell.

OTHER BUSINESS

Brookside Sewage Pump Station Reconstruction Project

Bennett discussed Milwaukie's connection to the Portland Lents line. If Milwaukie does not complete this project as soon as possible, Portland may charge \$750,000 in connection fees. Portland extended the diversion deadline from October 31, 1999, to allow pump house construction.

The original bid awarded to 4 Rivers Construction did not include the cost of the telemetry system priced at \$15,360. Staff reviewed the bid documents and determined that the section relating to telemetry was confusing and may have been misinterpreted by the contractor.

The engineering plans called for a pump station enclosure. However, after it was installed, the crew found it was too small to perform routine maintenance on the pumps. This problem could be resolved by constructing a small building around the pumps. The engineer's estimate for this structure is \$20,000.

Bennett requested that the City Council increase the bid award amount for the Brookside Project so staff could carry out further negotiations. Because of the agreement with the City of Portland, it is important for Milwaukie to show that it is continuing its work on the project.

Councilor Kappa asked if the increase was being requested in order to offset the contractor's error in his bid.

Bennett said the section relating to telemetry was not as clear as it should have been in the project specifications.

Councilor King asked why the cover was not large enough.

Bennett explained that the operations crew could not leverage the cover enough to maintain the station and added it was an error that should have been caught.

Councilor Lancaster asked for clarification if the telemetry omission was in part due to the bid document language.

Bennett said that was correct. It was the first bid staff developed that included telemetry, and future documents will be reviewed more closely.

Councilor Lancaster asked if the cover was designed by the contractor.

Bennett responded that it was designed by the City's engineering firm. Staff will address the issue with the firm, but she was concerned about Portland's asking for a \$750,000 payment. The City can negotiate for a re-design of the building.

Councilor Lancaster noted that the approximately \$35,360 to cover the cost of telemetry and construction of the building will come from the sewer capital improvement budget line. He asked if that would reduce the amount the City could spend on other projects.

Bennett explained that the contractor's bid was lower than the engineer's estimate, so no other projects would be cut.

Councilor Kappa expressed his concern with the engineering firm and the apparent communication failure.

Councilor Marshall pointed out that contractors are responsible for having a clear understanding of the bid specifications.

It was moved by Councilor King and seconded by Councilor Kappa to authorize an increase in the bid award amount for the Brookside Sewage Pump Station Reconstruction Project by \$35,360. Motion passed unanimously.

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Councilor Marshall moved for a friendly amendment to the motion that the City of Milwaukie must have some concessions, or it cannot be done.

Councilor King and Councilor Kappa accepted the amendment. Motion passed unanimously.

Other Items

Councilor Marshall said it was very difficult listening to people meeting after meeting voicing their concerns and making inaccurate statements that generally misinform the public about things transpiring in the City. He hoped the majority of citizens would take the time to understand what is going on in the City rather than accepting an explanation of events construed to someone's benefit.

Mayor Tomei added that the Council agreed as a group to show restraint and not argue with the public. A lack of response does not mean the City Council concurs with the comments.

Councilor Kappa suggested a work session with the North Clackamas #12 School Board to discuss the Milwaukie Middle School site and service responsibilities.

Councilor King agreed. It is clear that Milwaukie needs not only playing fields, but also a facility for children, youth, and others in the community.

Councilor Lancaster was interested in expanding after school activities and suggested involving the Park and Recreation Board to maximize scarce resources.

Councilor Kappa felt the School Board had a responsibility to work with the City Council.

Bartlett said planning for the Middle School site will be specific within the overall plan. Staff participated in a brainstorming exercise, and the Milwaukie Downtown Development Association (MDDA) is working with the arts and crafts community. There are many groups interested in the site, and it is important to look at compatible uses and to identify funding options. The School District has declared the site surplus and wants an economic return with an unrestricted cash stream, and that might mean the District will go to the private sector. He explained that the site appraisal was jointly funded by the City and District. There will be stakeholder meetings on January 26 and February 2, 2000, to look at what is feasible. The City has not moved irrevocably toward one specific use.

Councilor Kappa recommended that the elected School Board members be invited to those meetings, so they can hear constituent concerns.

Bartlett added that staff would schedule an executive session with the School Board.

Councilor Lancaster acknowledged those residents who were involved with their City government by watching the City Council meetings on cable access.

It was moved by Councilor King and seconded by Councilor Lancaster to adjourn the meeting. Motion passed unanimously.

Mayor Tomei adjourned the meeting at 8:40 p.m.

Pat DuVal

Pat DuVal, Recorder

Correction: Please note the starting time is 8:00 p.m.
Additional "Other Business" item

CITY OF MILWAUKIE
CITY COUNCIL AGENDA
DECEMBER 20, 1999
REVISED 12/17/99

MILWAUKIE CITY HALL
10722 SE Main Street

1829th MEETING

REGULAR SESSION - 8:00 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.)*

A. City Council Minutes of December 7, 1999

B. Liquor License Application for Vic's Tavern, 10901 SE McLoughlin Blvd.
(Greater privilege & Change Trade Name)

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.)*

Increase Authorization for Brookside Lift Station Project (M. Bennett)

VII. INFORMATION

A. Planning Commission Minutes, November 23, 1999

B. Correspondence from Metro Regarding Transit in the South Corridor

VIII. ADJOURNMENT

Correction: Please note the starting time is 8:00 p.m.
Additional "Other Business" item

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.

CITY OF MILWAUKIE
CITY COUNCIL AGENDA
DECEMBER 20, 1999

MILWAUKIE CITY HALL
10722 SE Main Street

1829th 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.)*

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None scheduled.

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None scheduled.

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**MILWAUKIE CITY COUNCIL
REGULAR SESSION
DECEMBER 7, 1999**

The one thousand eight hundred and twenty-eighth meeting of the Milwaukie City Council was called to order by Mayor Tomei at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Rob Kappa
Mary King

Larry Lancaster
Jeff Marshall

Also present:

Dan Bartlett,
City Manager
Tim Ramis,
City Attorney
Charlene Richards,
Assistant City Manager

Martha Bennett,
Assistant City Manager
Paul Roeger,
Civil Engineer

CONSENT AGENDA

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

1. City Council Minutes of November 15 & 16, 1999; and
2. 1999 - 2000 Waterline Improvements -- Phase 1 Project Acceptance

Motion passed unanimously.

AUDIENCE PARTICIPATION

Linda Hatlelid, 8617 SE 36th Avenue, discussed the Johnson Creek Blvd. Improvement Project. It has been seven months since property owners, the Traffic Safety and Transportation Board (TSTB), the Ardenwald Neighborhood District Association (NDA), and residents were promised that the 40- and 44-foot rights-of-way would be marked. She provided copies of a notice from the City of Milwaukie dated October 12, 1999, saying that the City of Portland would be marking the boundaries of the entire project from 36th Avenue to 45th Avenue. She urged the City Council to see to it that this promise was kept so residents could see the true impact of the project on their properties.

Richard Cayo, 4203 SE Johnson Creek Blvd., completed the remarks he began at the November 16, 1999, Council meeting regarding the Safeway building. From the figures he has seen, it appears that taxpayers will lose about \$500,000 on the project. He questioned turning prime, developable land into a bus stop and suggested the City seriously consider selling it to private developers. After

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voters defeated light rail, a developer told him that he had offered the City \$1.1 million for the property, but the City Manager told him the property was not for sale. Cayo suggested siting the transit station on the 2.5 acres on either side of the trestle crossing McLoughlin Boulevard. This would get the buses out of the downtown area and return the streets to parking. He believed locating the transit center on the south side of town would be a good idea since someday there might be commuter rail service between Lake Oswego and Portland on that trunk line. Cayo discussed the current usage of that track.

Mart Hughes, 3006 SE Washington Street. He provided an aerial photo showing the Lewelling School area, the David Green property, and Winsor Court wetlands. Green was not able to attend this Council meeting, so he e-mailed the City Council his concerns about the potential loss of open space in that area. Hughes wished to add support to Green's comments because there are properties in the area along the steep bluff that add open space within urban development. Green's concern was the ongoing erosion of these natural and open space resources. Unfortunately, the City has not been able to start developing a plan that gets these unrecognized areas regulated so there is a natural resource review prior to development. His own concern was with the continued filling of uninventoried wetlands. He urged the City Council to take the opportunity to start a program in order to begin looking closely at these areas and adopt protective measures.

Councilor Marshall understood the property was going to be for sale.

Hughes did not know the current status of that property, but there was the possibility that other properties might be on the market in the future. There may be as many as ten properties in that area, and some appeared to be constricted lots. Hughes understood that the North Clackamas School District owns the bluff. One parcel is for sale, but no buyers have stepped forward.

Councilor King asked the status of the cell tower, and **Bartlett** cautioned that could be an ex parte issue.

Mayor Tomei asked if this was something the Park and Recreation Board (PARB) ought to consider.

Hughes said he was speaking as an individual and not a PARB member. He was concerned, though, with potentially losing some open space in the City.

Bartlett explained that Green's e-mail was forwarded to the Planning Department in the event it might become an ex parte contact.

Hughes explained his concern was with the overall process and exceeded this particular lot.

PUBLIC HEARING**Consider Vacating SE 25th Avenue between SE Beta and SE Stubb Streets**

Mayor Tomei called the public hearing on the vacation of a portion of SE 25th Avenue between SE Beta and SE Stubb Streets to order at 6:12 p.m.

The purpose of the hearing was to consider public testimony on the Oregon Department of Transportation's (ODOT) petition to vacate SE 25th Avenue between SE Beta and SE Stubb Streets. **Mayor Tomei** reviewed the conduct of the hearing.

Staff Report: **Roeger** presented the staff report in which staff recommended the City Council adopt an ordinance vacating the street and reserving utility easements. The Oregon Department of Transportation (ODOT) filed a street vacation petition with the City in October 1999. He reviewed the street vacation process. All abutting property owners and at least two-thirds of the affected property owners signed the petition. The impact of the street vacation on adjacent streets would be minimal. ODOT currently owns all of the property abutting the proposed vacation area, and easements would be retained for all existing utilities. There is a hammerhead turnaround at the north end on Stubb Street that meets Fire Marshall and Public Works standards. The City will retain an easement for public transportation purposes, but SE 25th Avenue is not viewed as a future link in any current multimodal plan. The Planning Commission recommended approval at its November 23, 1999 meeting.

Councilor King asked if ODOT or some future owner could potentially construct a building there.

Roeger said technically adjoining properties are the underlying owners, and in this case, ODOT owns the property on both sides of the street.

Audience Testimony: **George Anderson**, Anderson Die & Mfg. Co., 2425 SE Moores Street. He was concerned that businesses on the north side of Stubb Street depend on having employee parking on 25th Avenue. It was for that reason he objected to the street vacation. If ODOT would agree to either grant or sell a ten-foot strip along 25th Avenue to maintain the current parking, he would be supportive of the request. If ODOT wished to exercise its right in the future, businesses would suffer a severe loss of employee parking.

Mayor Tomei asked if other businesses had expressed a similar concern.

Anderson responded that when the petition was circulated last summer, he had tried to contact Mr. Gagnier of ODOT, but the only response was that ODOT had met the City's criteria for a street vacation. He would be agreeable to the street

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vacation if some of the parking issues were negotiated. He was concerned about his property and others and noted that his company was currently leasing to a business that used on-street parking.

Councilor Kappa asked if the City Council would be stepping out of bounds if it addressed the parking issue.

Ramis responded that the City Council has the latitude to apply conditions on issues of public interest. The Council would not be compelled to make a decision at this meeting and may wish to set over the decision to allow the various parties time to continue discussions.

Councilor Lancaster asked how many parking spaces would be adequate for the four businesses in that area.

Anderson said the number of employees varies because some of the current businesses are seasonal.

Mayor Tomei asked Anderson if he had spoken to the Planning Commission.

Anderson said he had not. He had written a letter to ODOT in June 1999 suggesting that the agency consider granting a ten-foot wide strip along Stubb Street from 25th Avenue to the railroad. He was concerned that Stubb Street might be developed as an entrance to a new ODOT building.

Mayor Tomei commented that she had not been aware of any controversy on the proposed street vacation.

Bartlett suggested closing the public hearing and continuing the item to January 4, 2000, and direct staff to continue meeting with Mr. Anderson and ODOT. Apparently, Anderson understood when signing the petition that there would be some kind of follow through from ODOT on his concerns.

Councilor Kappa agreed with that recommendation because it seemed as if Mr. Anderson had expected some communication from ODOT.

Anderson went on record to say that he had no objection to the street vacation as long as provisions were made for on-street parking.

Jeff Juden, ODOT, 9002 SE McLoughlin Blvd. He said company employees could continue to park on Stubb Street. He did not think ODOT would develop the property because of the slope. The only affected parties would be the truck drivers.

Councilor King felt it would be appropriate for Mr. Anderson, ODOT, and City staff to continue discussions.

Bartlett agreed that discussion needed to continue to ensure there was a clear understanding between parties.

Close Public Testimony: **Mayor Tomei** closed the public testimony portion of the hearing at 6:40 p.m.

Ramis said the range of options before the City Council included approving the application, denying the application, approving it with conditions, or continuing the item to a date certain in order to allow time for further discussions and to gather more information.

Councilor Marshall commented that the City was not responsible for making sure businesses had parking, but he did appreciate the fact that a dead end street was being created. He was concerned about trucks being able to maneuver. If these businesses did require parking, he hoped staff would look at the option of helping develop an agreement between the parties .

Councilor Lancaster suggested it would be helpful for the Council in its decision making to know the range of development possibilities in that area and the potential impact to surrounding organizations.

It was moved by Councilor Kappa and seconded by Councilor King to remand the street vacation petition back to staff to resolve City Council concerns, to direct staff to facilitate the resolution of Mr. Anderson's parking concerns with ODOT, and to continue the decision to January 4, 2000.

Councilor Lancaster said staff should also ensure that all affected parties are notified.

Motion passed unanimously.

OTHER BUSINESS

Extension of Metro Local Share Agreement until December 31, 2000

Richards presented the staff report in which the City Council was requested to adopt a resolution authorizing the Mayor to sign a contract amendment with Metro to extend the agreement to December 31, 2000. Metro has offer this option to all local jurisdictions to allow additional time for property acquisition and developing plans for wetlands and open spaces.

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She reviewed the projects that are currently underway: Minthorn North Addition; Ardenwald to Springwater Access Easement, Furnberg Park Wetland, Roswell Wetland, and Willow Place Wetland. The Kellogg Lake property acquisition is complete. **Richards** clarified that this extension helps safeguard the City from losing Local Share funds and will not cost the City any additional money.

Councilor King noted that one of the issues with the Springwater entrance project has been a lack of cohesiveness among the neighbors.

Richards responded that the neighbors had differing opinions on the project.

Councilor Marshall was not opposed to the extension, but he had some comments on the properties. He suggested the City Council meet in executive session.

It was moved by Councilor King and seconded by Councilor Kappa to adopt the resolution authorizing the Mayor to sign a contract amendment with Metro to extend the agreement to December 31, 2000. Motion passed unanimously.

RESOLUTION NO. 42-1999:

A RESOLUTION AUTHORIZING AMENDMENT OF THE METRO LOCAL SHARE INTERGOVERNMENTAL AGREEMENT (IGA) WITH THE CITY OF MILWAUKIE, OREGON, EXTENDING THE SCOPE OF WORK DEADLINE TO DECEMBER 31, 2000.

Traffic Calming on 36th Avenue

Bennett provided the staff report in which staff requested direction on Dorothy Snowhill's request for speed bumps on 36th Avenue. At the last meeting on this issue, Snowhill requested the City Council to waive the Neighborhood Traffic Management Program (NTMP) criteria in order to install traffic calming on 36th Avenue. Milwaukie Providence Hospital has agreed to pay up to \$5,000 for installation of these devices if certain conditions are met. She reviewed how points were assigned to projects based on adopted NTMP criteria. The City Council also directed staff to prepare a policy regarding privately funded traffic calming.

Staff recommends following the NTMP guidelines and taking no further action to install traffic calming on 36th Avenue although the Hospital has offer up to \$5,000 for the project. If the City Council disagrees with the staff recommendation, it may wish to adopt findings that distinguish this street from other residential streets. The findings would be needed so the City does not create a precedent for waiving an adopted program and policy.

Councilor Kappa asked if the Providence Milwaukie conditions have been met.

Bennett responded that staff time will not be expended unless the City Council waives the NTMP criteria for this particular street.

Dorothy Snowhill felt that 36th Avenue was being overlooked and not treated fairly. The street is unique because of the hospital, and the circumstances, she felt, extended beyond the NTMP criteria. If traffic calming was installed, speed and volume would be reduced, and ambulances would not chose to use 36th Avenue. She provided information including a quit claim deed disclaimer having to do with approved uses. The private road, easement, and non-use of that entrance for ambulances are covered under applicable land use, but the hospital was not aware of this.

Councilor Kappa asked the City Attorney what bearing the quit claim deed might have on the proceedings.

Ramis said he would have to review the document.

It was Council consensus to set the decision on 36th Avenue traffic calming over to the January 4, 2000 meeting.

Councilor Lancaster observed that the crux of the issue seemed to be ambulance traffic, and he asked if drivers could be required to use 32nd Avenue.

Rita Kester, Providence Milwaukie Hospital, responded that emergency vehicle drivers and employees have been advised to use 32nd Avenue, but enforcement would be difficult. There are emergency patient transport situations when speed and disposition of the patient would be factors the drivers would have to weigh.

Re-adoption of Local Contracting Rules

Bartlett presented the staff report in which the City Council was requested to adopt an ordinance relating to the City's purchasing rules as required by HB 2024. The Bill requires that all public contracting agencies either adopt the Attorney General's Model Rules or re-adopt their own. Until the Rules are completely analyzed for their applicability to Milwaukie, he recommended re-adopting the City's existing rules. HB 2024 appears to be another erosion of local control and a movement toward statewide rules. The Attorney General has not yet drafted all of the legislative changes, so at this time they are only speculative.

Councilor King recalled the man who addressed the City Council regarding the journeyman clause and asked if that would be included.

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Bartlett said the cities would have to see how the Attorney General builds the rules and develop language that conforms to that of the state.

Councilor Kappa concurred with Bartlett's assessment and recommended waiting on any further action until staff went through the new rules.

It was moved by Councilor Kappa and seconded by Councilor Lancaster to read the ordinance re-adopting the City's current purchasing rules for the first time by title only. Motion passed unanimously. The ordinance was read for the first time by title only.

It was moved by Councilor Kappa and seconded by Councilor Marshall to read the ordinance re-adopting the City's current purchasing rules for the second time by title only. Motion passed unanimously. The ordinance was read for the second time by title only.

It was moved by Councilor Kappa and seconded by Councilor Marshall to adopt the ordinance re-adopting the City's current purchasing rules. Motion passed unanimously.

ORDINANCE NO. 1865:

AN ORDINANCE RELATING TO THE RE-ADOPTION OF THE CURRENT CITY PURCHASING RULES AS REQUIRED BY HOUSE BILL 2024.

Other Items

Councilor Marshall noted that over the past two months he has observed drivers running the stops signs in the transit center area at 21st Avenue and Jackson Street. The signs are not very visible due in part, he believed, by the number of buses, and he was concerned about pedestrian safety.

Councilor Marshall asked the status of right-of-way markings on Johnson Creek Blvd., and **Bartlett** said the issue would be discussed in executive session.

Councilor Kappa agreed with Marshall's comments about the 21st and Jackson intersection. The signs are even more difficult for drivers to see at this time of year.

Bennett responded that staff would look at this intersection issue.

Councilor King noted she had recently received a copy of the 3CMA publication on dealing with the media and found it very helpful.

The group discussed the spring 2000 closure of the Ross Island Bridge for repairs. **Councilor Kappa** suggested looking at what type of impacts bridge closures have on Milwaukie, and **Bartlett** responded that the City does not have staff capacity to do that type of traffic projection.

Councilor Kappa suggested that Milwaukie make a presentation at the 2000 Oregon Livability Conference on riverfront/downtown planning and open spaces.

Councilor King reminded City Council and staff of the discussion about a sign on McLoughlin Blvd. celebrating the waterfront development.

Mayor Tomei announced an executive session pursuant to ORS 192.660 to discuss potential litigation and property acquisition.

ADJOURNMENT

It was moved by Councilor King and seconded by Mayor Tomei to adjourn the meeting. Motion passed unanimously.

Mayor Tomei adjourned the meeting at 7:25 p.m.

Pat DuVal, Recorder



To: Mayor Tomei and Milwaukie City Council
Through: Dan Bartlett, City Manager
From: Larry Kanzler, Chief of Police *LK*
Date: December 8, 1999
Subject: O.L.C.C. Application – Vic's Tavern/10901 S.E. McLoughlin Blvd.

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Vic's Tavern – 10901 S.E. McLoughlin Boulevard.

Background:

We have conducted a background investigation and find no reason to deny the request for liquor license.



TO: Milwaukie City Council

THROUGH: Dan Bartlett, City Manager *[Signature]*

FROM: Martha Bennett, Assistant City Manager *[Signature]*

SUBJECT: Increasing bid award amount for Brookside Liftstation Project

DATE: December 17, 1999 for December 20, 1999 City Council Meeting

Action Requested

Council authorization to increase the amount awarded on the Brookside Liftstation Project.

Background

The City of Milwaukie has been constructing a new sanitary sewer liftstation at the intersection of Brookside Drive and Johnson Creek Boulevard. On Monday, December 20, 1999 we will be asking the Council to authorize an increase over the original bid award for this project. We are waiting for estimates from our contractor, and so the exact award figures are not available as staff is preparing this memo.

We are requesting this increase for two reasons. First, we would like the ability to negotiate with the contractor over a bid item that was confusing in the project specifications. The contractor who was awarded the bid did not include this item in their bid. Even if the total value of this item had been included, the contractor who was the low bidder on this project would still be the lowest bidder. Because the bid documents were confusing, staff would like to negotiate with the contractor.

Second, the cover that was designed for the lift station is not large enough to permit City staff to operate and maintain the lift station. Therefore, staff has worked to design a small building that will permit us to both operate and maintain the station. We do not have sufficient funds within the authorized bid, however, to correct this small building.

Completion of the Brookside Liftstation will allow the City of Milwaukie to divert sewer customers from the City of Portland's Lents trunk line to the Kellogg Treatment Plant, and thus avoid large connection charges from the City of Portland. We are currently past the original deadline of our agreement with the City of Portland, and Portland has granted us an informal extension to permit us to complete this project since we are showing a good faith effort to finish the work.

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Budget Impact

Staff will have the dollar estimate prepared for your December 20, 1999 meeting. The costs will be absorbed by the sewer fund. Even with this increase, the project is within the original budget estimate.

DRAFTCITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, NOVEMBER 23, 1999**COMMISSIONERS PRESENT**

Donald Hammang, Chair
Barbara Cartmill
Tracy Cook
Mike Miller
Doug Ouderkirk
Howard Steward

COMMISSIONERS ABSENT

Judith Borden

STAFF PRESENT

Alice Rouyer,
Planning Director
Paul Roeger
Civil Engineer
Gary Firestone,
City Attorney
Shirley Richardson,
Hearings Reporter

1.0 CALL TO ORDER

The meeting was called to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 INFORMATION ITEMS -- City Council Minutes

3.1 City Council, NDA, Boards and Commissions Visions Workshop

3.2 October 18, 1999 Worksession

3.3 October 19, 1999, Regular Session

4.0 PLANNING COMMISSION MINUTES -- October 26, and November 9, 1999

Tracy Cook moved to approve the Planning Commission minutes of October 26, 1999, as presented. **Barbara Cartmill** seconded. MOTION CARRIED 5-0 with one abstention. Howard Steward was not at that meeting.

Ayes: Hammang, Cartmill, Cook, Miller, Ouderkirk; Nays: None.

Mike Miller moved to approve the Planning Commission minutes of November 9, 1999, as presented. **Doug Ouderkirk** seconded. MOTION CARRIED 5-0 with one abstention. Tracy Cook was not at that meeting.

Ayes: Hammang, Cartmill, Miller, Ouderkirk, Steward; Nays: None.

5.0 PUBLIC COMMENT -- None.

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6.0 PUBLIC HEARINGS -- None

7.0 WORKSESSION

7.1 Urban Forestry

Alice Rouyer went over the Urban Forestry schedule with the Commission.

- November 23, 1999 -- Review the remaining policy questions
- November 24-December 22 -- Staff prepare a working draft Policy
- December 23, 1999 -- Metro, Ballot Measure 56, and DLCD notices will be mailed which will include a hearing and open house schedule and a description of the proposed ordinance.
- January, 2000 -- Public Outreach, summary sheets and Pilot articles to NDAs
- January 19, 2000 -- Open House at PSB regarding Urban Forestry
- February 8, 2000 -- First hearing on Urban Forestry Ordinance
- February 22, 2000 -- Backup hearing on Urban Forestry Ordinance
- March 21, 2000 -- City Council hearing on Urban Forestry Ordinance

Alice Rouyer reported that at the November 15th City Council worksession she gave an update on Urban Forestry. Concern was expressed by some Council members about the impact this Ordinance would have on private property owners. A suggestion was made to wait on the Ordinance and work on educational efforts in the coming year. However, it was the consensus of the Council to move ahead with the Ordinance and see how the public responds.

Discussion continued on the remaining issues of the Ordinance.

Tree removal for four or more trees during a calendar year -- The question remaining is whether this should apply to all lots or only those lots with development potential. **Alice Rouyer** presented maps showing three different options and the degree to which these options would affect different properties. The lot descriptions included were:

- Any commercial or industrial lots (blue highlighting)
- Any residential lot conforming to the minimum lot size in a zone (purple highlighting)
- Lots that may be legally subdivided or partitioned (orange highlighting)

There is a total of 1,668 lots that represent 1,401 acres.

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One map showed the results of Option 1, removal of four or more trees sized six inches or larger in diameter in a calendar year. A second map showed the affect of Option 2, removal of four or more trees in a calendar year from a single parcel of land or continuous parcels of land under the same ownership over 10,000 square feet. A third map was presented which included commercial and industrial properties and residential lots greater than 20,000 sq.ft. in size. These maps give a good visual of which lots would be affected by this Ordinance.

Howard Steward stated that this is such a difficult decision because there has been no precedent set to help guide the Commission. There should be a way to include the public in this process to help with these decisions. This is such an emotional issue and people are not going to want government to "mess with their property."

Barbara Cartmill stated that she is concerned about administration of Option One. Option Two impacts properties in a way that it will probably not be an issue. Option Three takes on more than the Commission would want to handle.

Donald Hammang stated that he likes Option Two. However, it seems to be creating a sliding class of property owners (unless you have a 10,000 sq.ft. lot, this does not apply). He asked if this will this create greater enforcement issues.

Gary Firestone stated that this is the type of distinction that a City can make. He does not foresee any legal challenges.

Mike Miller stated that he has concerns that some people will be regulated and some will not. His greatest concern is the saving of the trees. The larger lot owners of the City are under this regulation and those with smaller lots are not. This is not treating all homeowners fairly. He would prefer that all lots have the same regulation. He preference is Option Two; he would rather have an Ordinance that covers half the City than no Ordinance at all.

It was the consensus of the Commission that Option Two would be a good starting point for public comments and input. **Donald Hammang** suggested that there be paper mache models of the class of trees to give the public a visual representation of what is being discussed.

Doug Ouderkirk stated that he is satisfied going with Option Two and waiting to see what the public reaction will be. **Howard Steward** stated that he is happy with Option Two and looks forward to hearing what the public has to say.

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Alice Rouyer explained that the Commission's decision would be presented to the public as the recommended Ordinance. The Ordinance will go to hearings and the public will have opportunities to have input on this draft. She cautioned the Commissioners that Ballot Measure 56 notice does not allow for a very adequate comment period. It will be up to staff to keep the process going smoothly within the allotted time.

Donald Hammang asked if Commission members could attend these open houses and advocate for the Ordinance? **Gary Firestone** stated that the Commissioners could attend the open houses to stay apprised of the public's opinions. He recommended that no comments be made to the public regarding the issues.

Tracy Cook stated that she felt that Option Two was the clearest of the three options. She feels it will be a good starting point.

Alice Rouyer reviewed with the Commission the decisions on the Urban Forestry Ordinance.

- A permit is required if the applicant proposes removal of four or more trees in a calendar year greater than six inches in diameter.
- Regulation of single trees greater than 18 inches in diameter.
- Removal and major pruning of significant trees. Property owners must agree to "significant" designation.
- Tree removal during development/redevelopment of four or more trees greater than 6 inches in diameter.

Alice Rouyer asked the commission for comments on the proposed review criteria.

Tree removal of four or more trees per calendar year:

Donald Hammang asked what would be the determining factor on the decision on whether the tree is dangerous, diseased, or weakened to the point of removal? **Alice Rouyer** stated that the draft Ordinance only requires an Arborist in the area of "significant trees." All other areas do not require an Arborist report. If there is a determination of "damaged tree" in an application, staff can go out and view the tree and determine if it is damaged in most cases. The decision will be made by the Community Development Director. Other resources may be called in from staff or the community.

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Removal of significant trees or groves of trees:

Mike Miller voiced concern over how "nuisance" will be determined. **Alice Rouyer** stated that the Ordinance allows for a two-part test. First that there is a nuisance and secondly that extraordinary maintenance is required to prevent damage to such improvements or property.

Major pruning of significant trees or groves of trees:

Donald Hammang asked if these rules would apply to public agencies as well as citizens? **Alice Rouyer** stated that these rules would apply to public parks, etc. The Ordinance is more restrictive for public properties because removal of one tree of any size on public property would require a permit.

Tree removal during development/redevelopment:

No comments or corrections.

Another process and review criteria option:

Alice Rouyer explained that staff has developed an option to merge the review process and criteria for "Tree Removal of Four or More Trees per Calendar Year", and "Tree Removal During Development/Redevelopment." Applicants would be judged against the same criteria for both processes rather than having separate criteria. She handed out a revised outline of this option.

Criterion (d) has been changed to include, "The applicant shall also demonstrate that sufficient existing trees are preserved if applicable along all drainageways and water areas to preserve riparian habitats and minimize erosion; and along all property lines to serve as buffers to adjacent property and in sufficiently large areas and in dense stands to insure against wind throw."

Donald Hammang asked if the Subdivision Ordinance allows for a density transfer to mitigate a grove of trees? **Gary Firestone** stated that this tool could be added if the Commission wanted it included. **Alice Rouyer** stated that there is an exception in the variance area. People can always ask for a variance. In the Natural Resources code there is a density transfer provision. It can be added to the Tree Ordinance.

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It was the consensus of the Commission that all the criteria were adequate. The Commission would like to have the density transfer provision added to the Tree Ordinance. Alice Rouyer was complimented on a job well done in presenting the background for the Tree Ordinance.

8.0 DISCUSSION ITEMS

9.0 OLD BUSINESS

Howard Steward asked staff to provide an update on the Thomason Ford office-use vacation application.

Alice Rouyer reported that the City Attorney is drafting language to shorten the quasi-judicial scripts that are read by the Commission Chair. The new scripts should be ready for the December 14th meeting.

10.0 OTHER BUSINESS/UPDATES

10.1 Matters from the Planning Director

10.1a Right-of-way Vacation Requests

Paul Roeger reported that the request for vacation of SE 24th Avenue from SE Ochoco Street to SE Stubb Street has been withdrawn because it was found that it was not a public right-of-way.

A request was received from the Oregon Department of Transportation (ODOT) to vacate 25th Avenue from SE Beta Street to SE Stubb Street. ODOT owns all the property from McLoughlin Blvd. to the railroad tracks between these two streets. ODOT would like to vacate this portion of street to connect their maintenance yard and maintenance building. It was noted that Main Street goes through Oregon Public Transportation property. Easements for water sewer, gas, power, telephone, cable, and public transit will be retained. A public hearing is requested for December 7, 1999, by City Council. Staff is asking the Planning Commission for a recommendation of approval of this vacation.

Mike Miller asked if anyone other than ODOT uses this portion of the street? **Paul Roeger** stated that the transit warehousing staff park their trucks there sometimes. A hammerhead turn-around will be reserved at the east end of SE Stubb Street and 25th Avenue.

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Doug Ouderkirk asked if there were any emergency vehicle issues for the turn-around? **Paul Roeger** stated there is a lot of pavement in this area and that responses have been received from the Fire Department that the space is adequate.

Barbara Cartmill moved to recommend to City Council approval to vacate SE 25th Avenue from SE Beta Street to SE Stubb Street. **Mike Miller** seconded. MOTION CARRIED 6-0.

Ayes: Hammang, Cartmill, Cook, Miller, Ouderkirk, Steward; Nays: None.

10.1b Wetland Enforcement Letter to the Division of State Lands

Alice Rouyer stated that subsequent to her drafting the Commission's requested letter to the Division of State Lands (DSL), she received a call from Tami Hubert the DSL Resource Coordinator, with updates about the two subject properties.

There were no violations found on Linwood Avenue and issues are still being researched on the property at 11511 SE 37th Avenue. Staff will keep the Commission updated as information becomes available.

10.1c Sign Code Amendment Request from Private Citizen

Alice Rouyer reported that a request had been made from Siri Bernard to address the issue of real estate signs in the right-of-way. Currently signs are not allowed in the public right-of-way and are removed when found.

Mike Miller voiced concern on how this Ordinance affects Garage Sale signs. City staff go out on Fridays and tear down all signs in the public right-of-way. He would like to see some language for an exception that citizens who have garage sales are responsible for taking down the garage sale signs. He suggested a penalty be imposed on those who do not take down their signs.

Howard Steward suggested that the City take down the signs on Mondays rather than Fridays. When signs are left up, a fine could be imposed on the signs that are left. **Gary Firestone** stated that an Ordinance that specifically refers to garage sale signs would be a content-based regulation. It would not survive a constitutional challenge. The date of the pick-up could be changed, but the language must apply to all signs.

It was decided that there would be no changes to the language of the Ordinance. The Commission recommended a change in enforcement procedures. The

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Commission suggested removing signs at the beginning of the week. **Alice Rouyer** stated that she would pass on the Commissions opinion to the City Manager.

10.1.d Title 1/Title 6 -- Deadline Extension Request to Metro

Alice Rouyer reported that there is a deadline of December 31, 1999, for Title 1 and March 31, 2000, for Title 6. Staff will be asking for an extension to July 31, 2000. Title 1 deals with main streets and Title 6 addresses cul-de-sac lengths and requirements. Staff will get back to the Commission with more information on these projects in early 2000.

10.2 Historic Resources Commission Report

Donald Hammang reported that new members were introduced at this meeting. A hearing will be held on the design issues of the Milwaukie High School expansion on November 29, 1999. The Planning Commission will be reviewing this Community Service Overlay and Transportation Planning Review applications on December 14, 1999.

10.3 Meeting Schedule for December

Alice Rouyer asked if the Council wanted to meet on December 28, 1999. It was the consensus of the Commission that there would be no December 28, 1999, meeting. The next meeting will be December 14, 1999, and the following meeting will be January 11, 2000.

11.0 NEXT MEETING -- December 14, 1999

11.1 CSO-99-05; HR-99-05; TPR-99-06 -- NCSD #12, Milwaukie High School

11.2 CSO-99-06; TPR-99-09 -- Clackamas ESD

Mike Miller moved to adjourn the meeting of November 23, 1999. **Barbara Cartmill** seconded. MOTION PASSED UNANIMOUSLY. The meeting adjourned at 8:19 p.m.

Donald Hammang, Chair

Shirley Richardson, Hearings Reporter



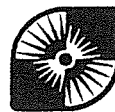
To: Planning Commission
From: Alice Rouyer, Planning Director *AR*
Subject: Information Item: Thank you from Eye Health Northwest
Date: December 7, 1999
Meeting Date: December 14, 1999

Action Requested

Information only. Please see the attached letter from Eye Health Northwest.

Donald Hammang
Chair, Milwaukie Planning Commission
c/o Community Development Department
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

November 17, 1999



EyeHealth™

NORTHWEST

Oregon Eye Care

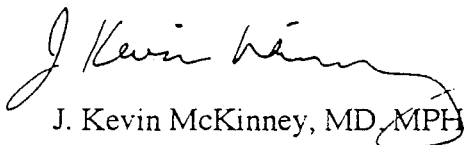
1306 Division St. • Oregon City, OR 97045
10818 S.E. Oak St. • Milwaukie, OR 97222
503/656-4221

Dear Mr. Hammang,

On behalf of Eye Health Builders and Eye Health Northwest, I would like to tender a note of thanks to the members of the Planning Commission and Community Development Department who have facilitated the process of our application for development in the Milwaukie Marketplace. We have been so pleased with the relative ease of this process and the congenial assistance we have received from the Planning Staff. In particular, it has been a pleasure to work with John Gessner. The atmosphere of the Public Hearing was constructive and collegial, and the process organized and "user-friendly".

We look forward to completing the task with your guidance and assistance. Thank you again for your able cooperation.

Sincerely yours,


J. Kevin McKinney, MD, MPH

JKM:lgb

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NOV 22 1999

PUBLIC WORKS

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797



METRO

November 17, 1999

Mayor Carolyn Tomei
City of Milwaukie
10722 SE Main Street
Milwaukie, Oregon 97222

Dear Mayor Tomei

Thank you for your thoughtful letter regarding transit in the South Corridor. Your continuing support for development of the region's transit system, both for the South Corridor Transportation Alternatives Study (SCTAS) and the Interstate MAX light rail line, is indicative of the strong partnership between Metro and the City of Milwaukie.

Our Transportation Department is moving forward with the SCTAS in conjunction with your staff and staff from the City of Portland, ODOT, Clackamas County and Oregon City. Recent interviews with neighborhood and community leaders in the South Corridor area will help us frame the crucial questions we must address in the SCTAS. Currently, we are soliciting recommendations from neighborhood groups and community planning organizations for members to serve on three citizens Working Groups for each of the Corridor segments – Portland to Milwaukie, Milwaukie to Oregon City and Milwaukie to Clackamas Regional Center. As you can see, Milwaukie is the one point where all three SCTAS study segments come together, and your support will be critical to the success of this planning effort and the next major transit capital investment in the region.

The Milwaukie Transit Center is a high priority in this Corridor. This project makes sense no matter which transit option we ultimately choose to develop. It is my understanding that Tri-Met is ready to purchase the Safeway site to develop the new Transit Center and to begin more detailed design work for the facility. The Transit Center supports the Region 2040 Plan, is well integrated into your own Downtown and Riverfront planning efforts and makes good operational sense. Metro and Tri-Met are also evaluating other potential improvements that would enhance transit service in the Corridor, such as a Roethe Road park-and-ride lot, New Hope Church park-and-ride lot, and other capital improvements which could be implemented in the near term. In doing so, we are trying to ensure that what can be implemented in the short term is also compatible with a broader strategy which will be implemented over a longer period of time.

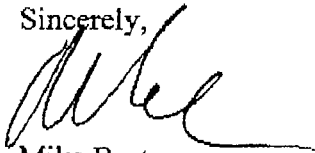
www.metro-region.org
Recycled paper

Mayor Carolyn Tomei
November 17, 1999
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At its January 2000 meeting, JPACT will approve a list of projects for which the region will seek federal funding in FY 2001. I would expect and support the Milwaukie Transit Center being included on this list and understand that staff from the participating governments are determining if there are other viable projects by early December.

I look forward to working with you to address the transit needs in the South Corridor. If you have any questions, please call me or Richard Brandman at 797-1749.

Sincerely,



Mike Burton
Executive Officer

MB:GWB:rmb

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