

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
JUNE 20, 2000**

Call to Order

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

Jeff Marshall

Brian Newman

Also present:

Dan Bartlett,
City Manager

Dom Colletta,
City Attorney

Charlene Richards,
Assistant City Manager

Martha Bennett,
Assistant City Manager

Michelle Gregory
Neighborhood Services Manager

JoAnn Herrigel,
Program Specialist

Jan Gehlen,
Finance Director

Pledge of Allegiance

Proclamations, Commendations, Special Reports and Awards

Veteran Neighborhood Officers Retiring

Mayor Tomei and **Councilors Marshall and Newman** gave special recognition to outgoing Neighborhood District Association (NDA) officers Tracy Cook, Jean Johnson, Darlene Walsh, and Patty Wisner for their contributions to the community.

Solid Waste Annual Report

Herrigel provided information on the annual financial data received from the haulers which showed a 9.9% rate of return before taxes for calendar year 1999. This fell within the rate guidelines established by Clackamas County, so no increase was requested. Herrigel also provided a summary comparing Milwaukie's rates with other jurisdictions in the region.

Consent Agenda

Councilor Newman indicated the **June 5, 2000, work session minutes** incorrectly stated **Councilor Lancaster** was present. It was moved by **Councilor Newman** and seconded by **Councilor Marshall** to adopt the **Consent Agenda** with the correction to the **June 5, 2000, minutes**. **Consent Agenda** items included:

1. **City Council minutes of June 5 and 6, 2000;**
2. **Accept Easements for Roswell Street Projects; and**
3. **Resolution No. 18-2000: A Resolution of the City Council of the City of Milwaukie, Oregon, Declaring the Need to Acquire Property for the Purpose of Providing Park and Open Space.**

Motion passed unanimously among the members present.

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

2000 - 2001 Budget Hearing

Mayor Tomei called the hearing to order at 6:15 p.m.

The purpose of the hearing was to consider an ordinance and resolutions which are required to be enacted prior to the beginning of fiscal 2000 - 2001. She reviewed the conduct of the hearing.

Staff Report: **Bartlett** noted that the original staff report had been amended to reflect several deliveries that would not arrive until after July 1, 2000. Carryovers included replacement hardware for the Interactive Bulletin Board, computer hardware, office furniture, and consultant contract for cost of services study. He reviewed several other adjustments and noted the net change was under what the Budget Committee approved. The total carryover was \$83,000 bringing the total amount of the budget request to \$34,896,350. This authorizes the full tax rate of \$6.54 per thousand assessed value and \$478,460 to pay the debt service in the public safety fund.

Correspondence: None.

Audience Testimony: None.

Staff Comments: None.

Questions of Clarification: **Councilor Newman** asked for more detail on how much the cost of service study will cost and when it would be done.

Gehlen said the study was originally budgeted at \$50,000, and she is preparing the request for proposals.

Bartlett discussed the possible ramifications of Sizemore's measure if it were to pass in November.

Mayor Tomei closed the public testimony portion of the hearing on adoption of the budget for 2000 - 2001 at 6:23 p.m.

It was moved by Councilor Marshall and seconded by Councilor Newman to adopt the resolution adopting the 2000 - 2001 budget, making appropriations, and levying and categorizing taxes. Motion passed unanimously among the members present.

RESOLUTION NO. 19-2000:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON, TO ADOPT THE BUDGET, MAKE APPROPRIATIONS AND DECLARING AND CATEGORIZING THE AD VALOREM TAX LEVY FOR FISCAL YEAR 2000 - 2001.

It was moved by Councilor Newman and seconded by Councilor Marshall to read the ordinance declaring the City's election to receive state revenues for the first time by title only. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.

It was moved by Councilor Newman and seconded by Councilor Marshall to read the ordinance declaring the City's election to receive state revenues for the second time by title only. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.

It was moved by Councilor Marshall and seconded by Councilor Newman to adopt the ordinance declaring the City's election to receive state revenues. Motion passed unanimously among the members present.

ORDINANCE NO. 1876:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES.

It was moved by Mayor Tomei and seconded by Councilor Marshall to adopt the resolution certifying services provided for state revenue sharing. Motion passed unanimously among the members present.

RESOLUTION NO. 20-2000:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CERTIFYING SERVICES PROVIDED FOR STATE REVENUE SHARING.

OTHER BUSINESS

Garbage Franchise Fee Relief

Herrigel and **Estele Harlan**, consultant to solid waste haulers, presented the staff report. Herrigel requested the City Council authorize staff to give temporary franchise fee relief for hauling from a single source business to a manufacturing recycling center. She also requested that the current prohibition on competing for this service be lifted.

Herrigel discussed a recent U.S. District Court injunction against Washington County and the City of Beaverton barring enforcement of exclusive franchises and specifically from imposing substantive standards. Legal counsel advised staff there could be similar implications for Milwaukie since it has the same type of exclusive franchise agreements. Financially, in the short term, the City could lose about \$35,000 of its annual \$93,000 fee revenue. She will return to the City Council with a longer term solution which would likely include a permit system and fee.

It was moved by Mayor Tomei and seconded by Councilor Marshall to authorize staff to temporarily modify Milwaukie's administrative policies related to solid waste services and direct staff to lift the existing prohibition on competition among haulers franchised by the City for this services. Motion passed unanimously among the members present.

Purchase Order with Happy Valley for Building Inspection Services

Bennett presented the staff report to City Council which requested to increase the amount authorized in the City's purchase order with Happy Valley from \$120,000 to \$150,000 to cover additional expenses. May was an unusually active month in building, so a large volume of revenue was collected. Subsequently, this means that Milwaukie will pay more to the City of Happy Valley for the services it provides.

It was moved by Councilor Marshall and seconded by Councilor Newman to authorize an increase in the Happy Valley purchase order for building inspection services up to \$150,000. Motion passed unanimously among the members present.

Johnson Creek Boulevard Right-of-way Agreement

Bennett asked the City Council to authorize the Mayor to sign an agreement for phase 3 of the Johnson Creek Boulevard improvement project. It recognizes ODOT as the agent for right-of-way acquisition.

Linda Hatlelid responded to comments made at the City Council's June 19, 2000, work session. Documents she reviewed from the City of Portland archives made no reference to the 44-foot right-of-way, and she requested a copy of any contract that specified that width. She also understood Milwaukie has the final say on the right-of-way issue. At the work session, there was mention of five affected properties, but

previously there were only four. She also understood the project would use the 1917 survey, but there is nothing to authenticate that plat. The Traffic Safety Board, neighborhood association, residents, and property owners all support keeping the project in the existing 40-foot right-of-way. The concerns about Johnson Creek Boulevard have been resident driven since the 1970's, and she believed the multimodal road could be built in the 40-foot right-of-way. It is possible to stay within the existing right-of-way in the area of the steep slope because the environmental zone goes to the middle of the road wherever that may be. The intent was to repave the street not create the monstrosity before us today. She suggested letting people vote on a road which would provide both safety and livability. Residents have been waiting over a year for the complete staking of the project.

Bennett explained that both the 1917 and 1924 surveys were recorded at Clackamas County, and there is a process to follow that determines where the right-of-way and property lines are.

Rebecca Lillie and **Mr. Inman** pointed out that City of Portland Engineer Kesterson said no houses would be affected. It was, however, the Portland survey crew that showed the right-of-way line going through her home. She found it interesting that no one is addressing the 1914 plat that is more similar to the one done in 1924. Filing a plat with the county surveyor only indicates that certain criteria have been met, not that it is approved or is correct.

Inman commented the 1917 plat seems to have fewer points plotted where there should be curves so gives up more land.

Lillie understood affected property owners would be getting information packets, but she has not received anything.

Bennett said ODOT will provide information to all property owners for consistency.

Councilor Newman understood the process would continue whether or not the City of Milwaukie signed this particular agreement, and he asked the reasons.

Bennett said, based on the prior agreement, the City of Portland can go forward with ODOT as the right-of-way acquisition agent. Milwaukie is only agreeing that Portland should go forward because ODOT has greater expertise in that area.

Mayor Tomei referred to the packet containing 1995 correspondence from Portland stating the minimum right-of-way must be 44-feet, so this was a decision made long ago. The confusion with the plats is unfortunate, but it is not an issue the City Council can resolve.

Mayor Tomei and **Councilor Newman** supported the agreement. Councilor Newman indicated the material he read was sufficient for him to make the decision. He understood how frustrating the inconsistencies of the surveys were and recommended the City Council send a letter to Clackamas County urging them to expedite a resolution.

Bartlett said County Commissioner Jordan offered to speak with County Counsel on this issue. He agreed there should be a letter from the Milwaukie City Council to the full County Board of Commissioners asking it to resolve the issue.

It was moved by Councilor Marshall and seconded by Councilor Newman to approve the intergovernmental agreement between the City of Milwaukie, City of Portland, and Oregon Department of Transportation for acquisition of right-of-way. Motion passed unanimously among the members present.

Fees and Charges for Fiscal Year 2000 - 2001 -- Resolution

Bartlett presented the staff report in which the City Council was requested to adopt a resolution establishing fees and charges for fiscal year 2000 - 2001. This fee schedule is consistent with the 3.3% Portland consumer price increase.

It was moved by Councilor Newman and seconded by Councilor Marshall to adopt the resolution setting fees for service. Motion passed unanimously among the members present.

RESOLUTION NO. 21-2000:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SETTING FEES FOR SERVICES, CLASSIFYING THE FEES IMPOSED BY THIS RESOLUTION AS NOT SUBJECT TO ARTICLE XI, SECTION 11B OF THE OREGON CONSTITUTION; AND REPEALING RESOLUTIONS 15-1999, 18-1999, 36-1999, 37-1999, 3-2000, AND 6-2000.

Blanket Purchase Orders for Fiscal Year 2000 - 2001 -- Resolution

Bartlett presented the staff report in which the City Council was requested to authorize the City Manager to execute certain contracts and purchase orders exceeding \$25,000 for fiscal year 2000 - 2001. Purchase orders are issued to organizations from whom the City makes ongoing purchases including the City Attorney, US Postmaster, Clackamas Fire District, Clackamas River Water, and Water Environment Services. This process allows for approval of several purchase orders above the City Manager's signature authority in one action.

Councilor Newman noted there was an agreement to pay \$108,000 for Safeway leases and taxes. He asked if this would be the last year.

Bartlett said this will be the final year contingent upon negotiations with Tri-Met. He discussed part of the property's being offered as transit-oriented development.

It was moved by Mayor Tomei and seconded by Councilor Newman to authorize the City Manager to execute certain contracts for fiscal year 2000 - 2001. Motion passed unanimously among the members present.

RESOLUTION NO. 22-2000:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE CERTAIN CONTRACTS FOR FISCAL YEAR 2000 - 2001.

Letter to Oregon State Marine Board

Bartlett prepared a letter to the Oregon State Marine Board based on a motion by the Riverfront Board. The City was invited to comment on proposed boating regulations on the Willamette River. The letter prepared for Council consideration requested that the seasonal pass through zone for personal watercraft be extended from the Southern Pacific Bridge to the south end of Waverley County Club. The Board felt this would help protect Milwaukie Bay.

Councilor Newman noticed a typographical error, and **Bartlett** said he would correct it.

The Council concurred with the Mayor's signing the letter to the Oregon State Marine Board on behalf of the City of Milwaukie.

INFORMATION

Councilor Marshall had been informed the Traffic Safety Board was short on members and there were applications waiting. Staff will provide the Mayor and Council with copies. The group discussed the appointment process.

ADJOURNMENT

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

Mayor Tomei adjourned the meeting at 7:00 p.m.

Pat DuVal, Recorder