

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
OCTOBER 6, 1998**

The one thousand eight hundredth meeting of the Milwaukie City Council was called to order by Council President Marshall at 6:00 p.m. in the Milwaukie Public Safety Building Community Meeting Room. The following Councilors were present:

Larry Lancaster  
Mary King

Rob Kappa

Also present:

Dan Bartlett,  
City Manager  
Charlene Richards,  
Assistant City Manager  
Jim Coleman,  
City Attorney  
Brent Collier,  
Police Chief

Susan Heiser,  
Planning Director  
Jim Brink,  
Public Works Director  
Rob Shelton,  
Associate Engineer

City Attorney Coleman administered the oath of office to Councilor Larry Lancaster for Position #1.

**PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**

**School Trip Safety Program and Neighborhood Traffic Management Program Updates**

**Shelton** provided an update on the School Trip Safety Program (STSP) and the Neighborhood Traffic Management Program (NTMP). Since the last update in June, several projects have been completed: sidewalks on Madison from 31<sup>st</sup> to the end of the pavement for \$18,337; sidewalk connection on Lake Road from Oatfield Road to Guilford for \$16,715; and various Community Development Block Grant projects throughout the City.

The Neighborhood Speed Watch Program continues and is operated on a first come, first served basis. One speed watch has just ended at 22<sup>nd</sup> Avenue and River Road in the Island Station Neighborhood. Residents continue to show interest in the Program.

The highest-rated NTMP project on the priority list and the first one to be constructed is on Stanley Avenue. The project will include sidewalks on the west side between Harlow and Harlene Streets. The estimated cost of the entire project is \$91,743 with \$60,000 budgeted from the street fund. \$31,000 remains, at this time, unbudgeted. There are also two 14-foot speed humps proposed in that area to calm traffic in the school zone.

The second NTMP project, which is third on the priority list, is 14-foot speed humps on Home Avenue near Hunter Court. This would be a partnership between the City and a developer to help solve a sight distance problem.

Staff is also working with the Hector Campbell Elementary School principal to develop a better site circulation plan at the school's pick up and drop off area. A wooden pole has been installed on River Road so the "*Slow Down Banner*" can be placed in the Island Station Neighborhood.

**Councilor Kappa** asked if the residents requested the speed humps on Stanley Avenue and, if installed, would they be built into the roadway.

**Shelton** said one of the neighbors living on Stanley made the request. Stanley Avenue is at the top of the list because there are no sidewalks, and there is both a school zone and an adult care center. It is also classified as a collector street. The final phase of the process is to approach the neighborhood with the proposal, and it has to be accepted by 50% of the property owners on the street before the project can be constructed.

**Councilor Lancaster** asked how there was a shortfall if only \$60,000 was budgeted.

**Shelton** said the engineer's estimate was \$91,743, and the actual construction bids could be less. The project could be accomplished in two phases with the segment from Harlow Street to Sundial being done at a later date.

**Councilor King** asked if the speed humps were included in the budgeted portion.

**Shelton** replied that they were.

**Council President Marshall** asked the difference between a speed hump and a speed bump.

**Shelton** said speed bumps are normally found in parking lots and are more severe and narrow than the speed hump. Stanley Avenue is a good candidate for speed humps because Linwood Avenue is capable of carrying the traffic.

**Council President Marshall** asked which neighbors had to be 50% in agreement.

**Shelton** understood it was just those people living on that street.

**Councilor Lancaster** asked, since the Stanley and Home Avenue projects were first and third, what was project priority number two.

**Shelton** said the second-ranked project was Stanley between Logus and Willow. It is problematic because it is a county street. He has tried to contact the petitioners but has gotten no response. Property owner response has been positive in the other two areas, and the Home Avenue project will include a partnership with a developer.

**Councilor Lancaster** asked Shelton to estimate the life of the speed hump and when Stanley Avenue will require resurfacing.

**Shelton** said the City has been using the Pavement Quality Index to measure pavement distress. He estimated that the speed humps, if installed this year, would last until Stanley was resurfaced.

**Councilor King** asked if the proposed speed humps on Stanley were the same as those on 34th Avenue.

**Shelton** said the proposed 14-foot speed humps are shorter. The ones on 34<sup>th</sup> Avenue are 22 feet wide.

## **CONSENT AGENDA**

**It was moved by Councilor Kappa and seconded by Councilor King to adopt the Consent Agenda that consisted of City Council Minutes of September 15 and 16, 1998. Motion passed unanimously among the members present.**

## **AUDIENCE PARTICIPATION**

**Dale Potts**, 12177 SE Grove Loop, Milwaukie. He was disappointed that no steps have been taken to resolve the conflict he saw with Bartlett being both part of Milwaukie and Metro. He apologized to Lancaster for voting for him and putting him in a position in which he had to work with someone who has a real problem, and he was sorry the Mayor was not at the meeting so he could tell her directly. She thinks an attack is disagreeing with someone. She thinks it is all right for someone from the audience to say something negative about one of the members or the entire Council, but it is not all right for that person or the group to reply.

**Bill Scott**, 3825 SE Adams, Milwaukie. He stated his remarks were a consensus of an organized group and intended to be constructive and not in any way vindictive. The recent City Council meetings have been interesting because of Jean Schreiber's efforts to "correct the Council's thinking and approach to solving problems." One of her points seemed to be that once a decision is made on an issue, the Council should not change its mind. When does a person cross the line and no longer represent the people? It happens when ideas become set in concrete. This happens when one forgets he is part of the Milwaukie government and elected to represent the people. He believed Jean Schreiber had crossed that line and because of that, she was removed from office. The recall was not just about light rail and density; it was about attitudes and refusal to respect and represent the people.

**Alex Mahan**, 4300 SE Boardman Avenue, Milwaukie, 97267. He wanted to discuss current issues and options as a taxpayer and voter and from the perspective of a skateboarder. He congratulated the City of Milwaukie for the temporary skate park. It was a step forward in City/skateboarder relations. The problem is that the facility was temporary. Skateboarding is safer than most people perceive, and it is less dangerous than organized sports such as football, basketball, and soccer. He urged the City Council not to ban skateboarding before a permanent facility is found for that activity. He understood it would cost a lot to improve the Safeway facility, and he proposed an outdoor park that would be more efficient in the long run.

**Councilor Kappa** said some of the business people are concerned with the liability of someone being hurt in front of their businesses. This proposed ordinance has to do with banning skating in the business district, not the entire City. The City has not gotten into the process of looking at what type of skatepark or youth center is appropriate for the City. He looked forward to hearing Mahan's comments when it came time for the City Council to make its decision on a permanent facility.

**Councilor King** thanked Mahan for his participation. Skateboarding is being banned only in selected areas, not the entire City.

**Councilor Lancaster** commended Mahan for speaking with the City Council. The temporary youth center showed a dramatic need for that kind of facility, and the City Council wants to find a permanent location. He would appreciate Mahan's future participation.

**Council President Marshall** thanked Alex and hoped others in Mahan's age group would participate.

## **PUBLIC HEARING**

### **Economic Improvement District Business License Surcharge Continuation**

**Council President Marshall** called the public hearing to order at 6:45 p.m.

The purpose of the hearing was to consider two ordinances. The first ordinance continued the business license surcharge, granted the right for anyone conducting business within the Economic Improvement District to remonstrate, and set a public hearing date. The second ordinance continued the Economic Improvement District, changed the method of assessment, granted the right for the owner of each lot to be assessed to remonstrate, and set a public hearing date. This was the first of two public hearings.

Staff Report: **Bartlett** said this action establishes the legal process for affected business and property owners to remonstrate by the November 17 hearing. State statute provides a mechanism whereby businesses can assess themselves to provide certain types of services such as planning or management of development or improvement activities, promotions or public events, landscaping, parking, and other economic activities for which an assessment may be made on benefited properties.

The key points are: it is a voluntary assessment against the business or property; it cannot be charged against residential property; and the process is not final until after the remonstrance hearing. The ORS also allows the City to turn over the district operation to a bona fide business association, and the City may ask for an advisory committee. Since 1990, the City has chosen to utilize the Milwaukie Downtown Development Association (MDDA) as the business advisory committee and the vehicle to expend the improvement funds.

The first ordinance was a business license surcharge, and the second ordinance had to do with the Economic Improvement District, amended the previous enabling ordinance, and changed the assessment method to square footage. The "Milwaukie Model" for assessment was developed by an MDDA committee.

The final item was an article likening this type of district to a retail democracy. Businesses can tax themselves for improvements within their boundaries.

**Councilor Lancaster** asked how the recently adopted mixed-use zoning would be impacted.

**Bartlett** said first floor retail would be assessed, but second floor residential would not. He noted a drafting error on staff report page V.17. It should read "Milwaukie Downtown ~~Business~~ Development Association" and should be noted in the motion.

Correspondence: None.

Testimony: None.

Questions of Clarification: **Councilor Kappa** asked the MDDA why the City Council should adopt an ordinance to extend the district for five more years? Up to about a year ago, there was a great deal of criticism of the Association's inactivity and inability to pull programs together. He asked what had changed.

**Dodie Linder**, MDDA Director, responded that the City was on the verge of significant changes involving light rail, waterfront development, revitalization of the downtown district, potential Jr. High School site uses, McLoughlin Blvd. design, and the daily maintenance program. The MDDA represents the voice, opinion, and consensus of the business and property owners and the City. She sees MDDA in the role of communicator and liaison. The MDDA works to keep the District in the public eye and identifies grants and other funding sources. The Association also surveys regional strengths and looks for ways to build upon those in Milwaukie's downtown.

She has noticed a more collaborative spirit, and things are getting done in the downtown area. She sees positive energy and less apathy because people sense a more focused leadership that is getting things done. Business and property owners have someone they can talk to about what they feel is lacking.

**Councilor Kappa** asked Linder how she and the MDDA intended to sustain that momentum for five more years.

**Linder** said the membership will establish the 1999 goals, and the MDDA will work to meet those goals and provide periodic reports to the membership and the City Council.

**Councilor Lancaster** asked what percent of the downtown businesses were actively involved in the Association.

**Linder** estimated about 20% of the 165 downtown businesses participate on the Board or special committees. Both business and property owners are involved. This year funds are allocated to three committees: Niche Development/Business Recruitment, Image, and Membership Participation Committees. It is important to offer tangible evidence that things are changing to overcome the sense of apathy.

**Council President Marshall** closed the public testimony portion of the hearing at 7:00 p.m.

**Councilor King** has been actively involved in the Association's rejuvenation process, and she was very impressed with the commitment to developing the downtown to its potential.

**Councilor Kappa** was critical and skeptical a year ago, but he felt the leadership shown by Jim Bernard and Paul Graham was making a real difference. The key is attitude and fostering partnerships. He added he would like the goals to be realistic and achievable to give a sense of accomplishment and to maintain the momentum.

**Councilor Lancaster** agreed involvement was the key.

**Council President Marshall** added there needs to be a three-way effort: business, City Council, and the community.

**It was moved by Councilor Kappa and seconded by Councilor King to read the ordinance providing for continuing the business license surcharge through 2003 and granting persons conducting business in the district the right to remonstrate for the first time by title only with corrections mentioned by the City Manager. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.**

**It was moved by Councilor King and seconded by Councilor Kappa to read the ordinance providing for continuing the business license surcharge through 2003 and granting persons conducting business in the district the right to remonstrate for the second time by title only with corrections mentioned by the City Manager. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.**

**It was moved by Councilor Kappa and seconded by Councilor Lancaster to adopt the ordinance providing for continuing the business license surcharge through 2003 and granting persons conducting business in the district the right to remonstrate with corrections mentioned by the City Manager. Motion passed unanimously among the members present.**

**ORDINANCE NO. 1844:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON,  
PROVIDING FOR CONTINUING THE BUSINESS LICENSE  
SURCHARGE THROUGH 2003 AND GRANTING PERSONS  
CONDUCTING BUSINESS IN THE DISTRICT THE RIGHT TO  
REMONSTRATE.**

**It was moved by Councilor King and seconded by Councilor Kappa to read the ordinance amending Ordinance 1704 as amended by Ordinance 1710 changing the method of assessment and continuing assessments for a period of five years starting July 1, 1998, and granting property owners in the district the right to remonstrate for the first time by title only with corrections mentioned by the City Manager. Motion passed unanimously among the members present. The ordinance was read for the first time by title only.**

**It was moved by Councilor Kappa and seconded by Councilor Lancaster to read the ordinance amending Ordinance 1704 as amended by Ordinance 1710 changing the method of assessment and continuing assessments for a period of five years starting July 1, 1998, and granting property owners in the district the right to remonstrate for the second time by title only with corrections mentioned by the City Manager. Motion passed unanimously among the members present. The ordinance was read for the second time by title only.**

**It was moved by Councilor Kappa and seconded by Councilor Lancaster to adopt the ordinance amending Ordinance 1704 as amended by Ordinance 1710 changing the method of assessment and continuing assessments for a period of five years starting July 1, 1998, and granting property owners in the district the right to remonstrate with corrections mentioned by the City Manager. Motion passed unanimously among the members present.**

**ORDINANCE NO. 1845:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING ORDINANCE NO. 1704, AS AMENDED BY ORDINANCE NO. 1710, PERTAINING TO THE MILWAUKIE DOWNTOWN ECONOMIC IMPROVEMENT DISTRICT TO CHANGE THE METHOD OF ASSESSMENT AND TO CONTINUE ASSESSMENTS FOR A PERIOD OF FIVE (5) YEARS STARTING WITH THE FISCAL YEAR BEGINNING JULY 1, 1999, GRANTING PROPERTY OWNERS IN THE DISTRICT THE RIGHT TO REMONSTRATE, AND CLASSIFYING ASSESSMENTS AS NOT SUBJECT TO THE LIMITS OF ARTICLE XI, SECTION 11(b) OF THE OREGON CONSTITUTION.**

## **OTHER BUSINESS**

### **Amend Section 10.44.070 of the Milwaukie Municipal Code Regarding Rollerskate, Skateboard, and In-Line Skate Regulations**

**Collier** presented the staff report. He expressed his appreciation to Alex Mahan for his input during Audience Participation. The proposed ordinance will clearly identify the boundaries of the non-skate area in commercial and industrial areas and includes reference to in-line skates.

**It was moved by Councilor Lancaster and seconded by Councilor King to read the ordinance amending section 10.44.070 of the Milwaukie Municipal Code 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 King and seconded by Councilor Kappa to read the ordinance amending section 10.44.070 of the Milwaukie Municipal Code 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 Kappa and seconded by Councilor Lancaster to adopt the ordinance amending section 10.44.070 of the Milwaukie Municipal Code.**

**Councilor Kappa** encouraged Alex Mahan to be part of the decision making process. He asked, from a police standpoint, if skates could be considered a mode of transportation.

**Collier** said officers are invested with the power and ability to make judgment calls on the street.

**Councilor Lancaster** added the youth center was so positive, and he was concerned about communicating this regulation in a positive manner.

**Collier** responded that signage will be critical and notice will need to be given.

**Councilor King** suggested a brief presentation at the high school and looking very hard for ways to keep up the positive momentum of this summer's youth center.

**Motion passed unanimously among the members present.**

**ORDINANCE NO. 1846:**

**AN ORDINANCE AMENDING SECTION 10.44.77 OF THE  
MILWAUKIE MUNICIPAL CODE.**

**Public Works Emergency Response Cooperative Assistance Agreement --  
Resolution**

**Brink** presented the staff report. The Council was requested to adopt a resolution authorizing the City Manager to sign the Oregon Public Works Emergency Response Cooperative Agreement. The agreement allows the City to either provide or seek assistance in emergency situations. It will also allow the City to request resources from other entities and seek reimbursement from FEMA at that jurisdiction's rates.

**Councilor King** felt it was important for the citizens to know the City would not be required to respond if there were no resources available.

**Councilor Lancaster** asked what other jurisdictions had committed to participating. **Brink** said he would provide the list of participants when it was available.

**Councilor Lancaster** discussed the reimbursement process. **Brink** said the City would be able, for example, to be reimbursed for Portland's help at that city's rate. FEMA inspects the damage and reviews the bills to determine if the requested reimbursement is reasonable.

**Councilor Lancaster** asked who files for reimbursement if a disaster impacted a number of jurisdictions.

**Bartlett** said each impacted jurisdiction files. The City found during the 1996 flood that it was best to use a contractor because his fees are not disputable. Milwaukie was reimbursed for everything it submitted to FEMA for the 1996 flood.

**It was moved by Councilor King and seconded by Councilor Lancaster to adopt the resolution approving the City's participation in the Oregon Public Works Emergency Response Cooperative Assistance Agreement. Motion passed unanimously among the members present.**

**RESOLUTION NO. 29-1998:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING CITY PARTICIPATION IN THE OREGON PUBLIC WORKS EMERGENCY RESPONSE COOPERATIVE ASSISTANCE AGREEMENT.**

**17<sup>th</sup> Avenue Curb and Sidewalk Project**

**Shelton** presented the staff report in which the City Council was requested to authorize the City Manager to proceed with the construction of curb and sidewalk adjacent to 9788 SE 17<sup>th</sup> Avenue and to share the cost of construction equally with the property owner. The scope of the project included 266 feet of curb and 5-foot sidewalk on 17<sup>th</sup> Avenue and 139 feet of curb on Milport. This project will provide improved drainage and pedestrian and bike safety. Staff recommended a 50/50 cost share with property owner Bruce Kindler in the amount of \$6,521 each. The project was not listed in the FY 98-99 Capital Improvement Plan (CIP) project list, but there are sufficient funds in the Street Fund.

**Councilor Lancaster** noted the cost share was determined on a case-by-case basis. He asked who would be responsible for maintaining the curb and sidewalk after the project was completed. He was concerned with the volume of truck traffic turning at that intersection and potential damage to the improvement. Would there be engineering considerations made to protect the infrastructure and those using it?

**Brink** explained the City installed a barrier, and, although there has been damage to the barrier itself, there has been no perceptible movement. The sidewalk will be built behind the barrier, and he did not foresee any damage problems.

**Councilor King** asked how far the improvements would extend.

**Bartlett** responded the improvements included the frontage of the business.

**Councilor King** asked where the Springwater Corridor would connect.

**Bruce Kindler**, Kinco International owner, understood the Corridor would parallel the railroad tracks. He spoke in support of the proposed improvements and indicated it was a pleasure working with the City's two summer interns. He would be pleased, because of this favorable experience, to act as a spokesperson for similar projects.

**Councilor Kappa** recapped the design: roadway, barrier, and sidewalk at the intersection. The sidewalk and pedestrians would be protected from trucks, and staff indicated that was correct.

**Council President Marshall** suggested extra rebar to protect the curb and sidewalk.

**It was moved by Councilor King and seconded by Councilor Kappa to authorize the City Manager to proceed with the construction of curb and sidewalk adjacent to 9788 SE 17<sup>th</sup> Avenue and to share the cost of construction equally with the property owner. Motion passed unanimously among the members present.**

### **League of Oregon Cities Voting Delegate Designation**

**Bartlett** explained the voting process at the League of Oregon Cities Annual Conference.

**It was moved by Councilor Kappa and seconded by Councilor King that Mayor Tomei be the voting member and Council President Marshall the alternate at the League of Oregon Cities annual business meeting. Motion passed unanimously among the members present.**

### **Other**

**Councilor Kappa** brought three items forward:

1. Oregon Liquor Control Commission Life Light Celebration – Council directed staff to prepare a proclamation of the next regular session;
2. Tobacco Education Program of Clackamas County – the Council agreed to review the material and discuss next steps at the October 19 work session; and
3. Ballot Measure 67.

### **INFORMATION**

**Bartlett** noted the following information:

1. Downtown parking survey in collaboration with the MDDA and Problem Solving Partnership; and
2. Response time impact of closing the City Hall fire station was about 1/10 minutes. Information is pending on the issue of trains blocking the railroad track.

**Councilor King** announced swing dancing at the Milwaukie Center.

**Councilor Kappa** announced work was progressing on the Jaycees/Ronald McDonald Haunted House at the Safeway building.

## **ADJOURNMENT**

**It was moved by Councilor Kappa and seconded by Councilor Lancaster to adjourn the meeting. Motion passed unanimously among the members present.**

**Council President Marshall** adjourned the regular session at 8:17 p.m.

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Pat DuVal, Recorder