

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
APRIL 5, 2011**

**CALL TO ORDER**

**Mayor Ferguson** called the 2099<sup>th</sup> meeting of the Milwaukie City Council to order at 7:05 p.m. in the City Hall Council Chambers.

Present: Mayor Ferguson, Council President Greg Chaimov and Councilors Dave Hedges, Joe Loomis, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, City Recorder Pat DuVal, Community Development and Public Works Director Kenny Asher, and Engineering Director Gary Parkin

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**

**A. Volunteer Week Proclamation**

**Mayor Ferguson** read a proclamation naming April 10 – 16, 2011 as *Volunteer Week* in the City of Milwaukie and urged his fellow citizens to volunteer in their community.

**B. National Poetry Month Proclamation**

**Councilor Chaimov** read a proclamation naming April 2011 as *National Poetry Month* in the City of Milwaukie and urged people to celebrate the City's cultural riches.

**C. Earthquake and Tsunami Awareness Month**

**Mayor Ferguson** read a proclamation naming April 2011 as *Earthquake and Tsunami Awareness Month* in the City of Milwaukie.

**CONSENT AGENDA**

**Mayor Ferguson** announced item H, the resolution appointing Terry Dolan to the Planning Commission was removed.

**It was moved by Councilor Chaimov and seconded by Councilor Hedges to approve the consent agenda with the removal of item H and the addition of a resolution appointing Melissa Perkins to the Ledding Library Board:**

- A. Resolution 36-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Jeff Davis to the Arts Committee;**
- B. Resolution 37-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Val Hubbard to the Arts Committee;**
- C. Resolution 38-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Nancy Matich to the Arts Committee;**
- D. Resolution 39-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Mark Docken to the Ledding Library Board;**
- E. Resolution 40-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Colleen Schacht to the Ledding Library Board;**

- F. **Resolution 41-2011**: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Bob Cooper to the Park and Recreation Board;
- G. **Resolution 42-2011**: A Resolution of the City Council of the City of Milwaukie, Oregon, appointing Ray Harris the Park and Recreation Board;
- H. Removed from the agenda
- I. **Resolution 43-2011**: A Resolution of the City Council of the City of Milwaukie, Oregon, appointing Betty Fulmore to the Public Safety Advisory Committee as the Ardenwald Neighborhood District Association Representative;
- J. City Council Minutes:
  1. February 1, 2011 Regular Session
  2. February 15, 2011 Regular Session; and
- K. **Resolution 44-2011**: A Resolution of the City Council of the City of Milwaukie, Oregon, appointing Melissa Perkins to the Ledding Library Board.

Motion passed with the following vote: Councilors Miller, Chaimov, Hedges, and Loomis and Mayor Ferguson voting “aye.” [5:0]

## **AUDIENCE PARTICIPATION**

**Les Poole**, Clackamas County, discussed community concerns and legal issues related to light rail. The extension across Kellogg Lake has the neighborhood outraged. A street level crossing would be simple, and although the Oregon Department of Transportation (ODOT) had some concerns, his hope was that TriMet and Milwaukie talk about the option in order to avoid legal actions. He urged people to look at the simulations. As Mr. Poole had anticipated long ago, the money to cross Kellogg Lake and put 600 cars at a Park Avenue structure was not there. He felt the flyover design would be legally challenged, and he did not really wish to do that. The design had not really been out in front of the public, and people will be outraged. It was time to ask Rep. Tomei where she was when this public relations nightmare was being foisted on the neighborhood. He was only concerned about the neighborhood and the environment.

## **PUBLIC HEARING**

None scheduled

## **OTHER BUSINESS**

### **A. Milwaukie Light Rail Bridge Presentation**

**Dave Unsworth**, Portland-Milwaukie Light Rail Deputy Director, provided a short project update and noted the in-water work for the light rail bridge would begin in July. The project length was 7.3-miles and included bike and pedestrian elements with two scaled back park-and-rides. It was anticipated this project would create approximately 14,000 jobs. Highlights included the July – September 2010 project recalibration period, Final Environmental Impact Statement (FEIS) publication on October 22, the TriMet Board decision on November 28, and the December 8 bridge action. The design-build bridge contract was signed on December 16, the UP purchase and sale agreement was signed on December 31, and the final design was approved on March 29. Bridge construction was anticipated to begin on or about July 1. He reviewed the \$1.4 billion project budget and design contracts and commented on the status of permits. Next steps were to seek community input on the design, finalize the 60% design in June, apply for the full-funding grant agreement in May and June, complete 90% design in November, and complete constructions drawings by February 2012. He showed slides of the future

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bridge and integration with the OHSU Schnitzer Campus and the South Waterfront Station. Service was anticipated to begin September 2015. Mr. Unsworth described the coffer dam process, scour protection, and environmental enhancements. He described the Kellogg Lake span, removal of derelict piles, and natural resource enhancement to the Milwaukie Presbyterian Church area.

**Councilor Hedges** moved to Milwaukie because of light rail and had always lived in an area with good public transportation. When he first saw the Kellogg Lake Bridge he was appalled. If there were an “ugliest bridge in America” contest this design would certainly win. At one point there was the inference that it would match the trestle bridge, and he urged that the project take another look at the Kellogg Lake Bridge design.

**Mr. Unsworth** hoped to continue the discussion to determine what elements the community wished to refine.

**Councilor Chaimov** observed Councilor Hedges was expressing the views of many people living in that area.

**Ed Zumwalt**, Milwaukie. He felt it was time for the City Council to dig out the laundry list of what it wanted from this project and mediate on the citizens’ behalf. With this alignment, the Historic Milwaukie Neighborhood would be toast with crime, safety, parking and traffic. He was concerned about parking in the neighborhood with the smaller park-and-ride facilities. Noise, light, and security impacts needed to be addressed immediately. School safety remains an issue because of light rail’s proximity to several schools.

**Dion Shepard**, Milwaukie. She discussed the bridge over Kellogg Lake and Kronberg Park and visibility. She and others were concerned about the impact of the design and difficulty in visualizing it. She had questions about the noise and lights and commented how liberal some of the federal rules were. She did value the efforts related to the quiet zones. She was voicing these concerns on behalf of the Historic Milwaukie and Island Station Neighborhoods to underscore the need to mitigate issues related to livability.

**Councilor Hedges** announced he would be interviewed on KPAM in the morning to discuss light rail.

**B. Consider Support of Legislative Ban on Single Use Plastic and Non-Recycled Content Paper Checkout Bags -- Resolution**

**Councilor Hedges** supported the ban on single-use plastic bags but did not support the Senate Bill as it was poorly written and not enforceable. He read some of the proposed language and discussed what he considered weaknesses. He had two other problems in that the bill imposed a charge for a paper bag, and he did not support a law that regulated lifestyles. He was concerned the storekeeper would be disadvantaged by being required to charge \$.05 and not more. Further, the bill allowed the use of plastic bags under certain circumstances, such as prescriptions, and potentially disadvantaging someone buying medications. His other major problem with the bill was that it put limitations on entities such as the City of Milwaukie to do more than allowed by State laws. He would support the City Council resolution supporting the ban provided it contained language that did not impose a charge for paper bags or tied local jurisdictions’ hands. He felt it was a bad precedent imposed by one group to keep another group from doing something. Overall it was a good bill, however, it was written by a committee. While he supported a ban on plastic bags, he did not support a bad law. He would vote neither for nor against the proposed resolution.

**Councilor Chaimov** would like to hear from the residents and had prepared a resolution that he thought would ameliorate Councilor Hedges’ concerns.

**Councilor Miller** had concerns similar to those of Councilor Hedges. There seemed to be too many loopholes, and he did not feel everyone was treated fairly. He noted he got 14 bags with his *Oregonian*. If the State came up with consistent legislation, then he would support it.

**Councilor Loomis** said one issue was how this item was put on the agenda. He looked forward to hearing from people in the audience and hoped there would be information on the grocery association's position. What were the difficulties in recycling? He was concerned about potential impacts on local businesses. Was it more environmentally safe to manufacture paper or plastic? He was a proponent of education and awareness and suggested stores give away free bags on Earth Day or hand out free recyclable bags.

**Mayor Ferguson** saw the plastic bag similar to the lead-based paint story or petroleum products that have been proven over time to be detrimental to the environment. He explained plastic bags were difficult to recycle because they were so light weight. He understood a majority of the Councilors supported some kind of ban that was even more stringent than the proposed legislation.

**Vincent Alvarez**, Milwaukie. He agreed with the City Council that the legislation had its problems and thought the best thing to do at this time was to adopt a resolution supporting the Statewide ban while letting it be known the legislation needed to be punched up a bit.

**David Burdick**, Clackamas County. He read a poem in support of the ban and discussed the polluter pays principle. Rather than looking at it as a tax it was a charge to the right people for the costs of processing the plastic bags. In response to a question from Councilor Loomis one would have to use his/her canvas bag 200 times to break even and have less impact on the environment because of the resources used to manufacture the canvas bag.

**Greg Bowman**, Milwaukie. He asked the Milwaukie City Council to support this Senate Bill. A similar resolution had been approved throughout the state including Metro, Beaverton, Lake Oswego, and many cities on the coast. He was curious if Milwaukie had found something no one else had considered.

**Matt Menely**, Milwaukie. He agreed with Councilor Hedges there were some holes in the legislation. From his perspective the Senate Bill was a starting point. It sent a message that the State should step up to the plate or Milwaukie would adopt its own legislation. Once that was sent, then people could begin to address the *Oregonian* bags and Styrofoam containers.

**Mark Gamba**, Milwaukie. In the Pacific Ocean there was an area about the size of Texas covered with plastic bags. He felt this Senate Bill was a good start although he recognized there were holes in it. He would welcome a stronger bill in Milwaukie if the City Council were willing to enforce it. He agreed with Councilor Miller that single-use bags at the checkout counter were not the only problem. He would like to see a lot more bags banned not only because of the problem in the oceans but also because they were a petroleum product.

**Councilor Chaimov** said his was an effort to address the three major concerns pointed out by Councilor Hedges: the concentration only on checkout bags and not all bags, to avoid requiring retailers to charge customers for alternative bags, and to prohibit cities from adopting their own local laws they felt appropriate to protect their own residents.

**Councilor Chaimov read the proposed changes to the resolution into the record and moved to adopt the resolution supporting legislation regulating the use**

single-use plastic bags. Council Hedges seconded the motion and changes. Motion passed with the following vote: Councilors Miller, Chaimov, and Hedges and Mayor Ferguson voting “aye” and Councilor Loomis abstaining. [4:0:1]

**RESOLUTION NO. 45-2011:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUPPORTING LEGISLATION REGULATING THE USE OF SINGLE-USE PLASTIC BAGS.**

**Mayor Ferguson** would like to see something in the future regarding the use of Styrofoam containers.

**Mayor Ferguson** recessed the meeting at 8:40 p.m. which he reconvened at 8:50 p.m.

**C. Consider Suspension of Public Area Requirements**

**Mr. Monahan** discussed the background on the proposed resolution that would suspend the application of public area requirements (PAR) from the date of enactment through October 31, 2012. During that period of time there would be a temporary suspension of the application of those requirements to those property owners who made improvements to their buildings with the requirement that the City put in those improvements at the end of that period of time. Further the City Council would review those public area requirements to determine future applicability.

**Councilor Chaimov** moved to postpone consideration of the resolution to the first meeting in July 2011. He thought all would agree that the PARs needed to be revisited and required more than what the City wanted to require of businesses in downtown Milwaukie. At the same time, the City did not have the money to put in the requirements currently required by the code. His intention was to work through the budget for the coming fiscal year to try to set aside funds to use on a case-by-case basis to assist businesses to achieve the requirements. Meanwhile the City Council would undertake an evaluation of the requirements and costs as part of the adopted fiscal policies. He hoped by doing this that the City Council would make decisions best for the City and come up with the money to do them.

**Councilor Loomis** would need more information before voting. Historically he felt the PARs were a hindrance to redevelopment but was concerned about approving an 18-month moratorium without knowing the financial impacts to City. He was open to a transparent discussion of the issue, and it seemed as if this matter at this point in time had to do with a particular property owner and his potential tenant. He would like a mechanism for each business to come to the City and be considered on a case-by-case basis.

**Councilor Chaimov** felt he and Councilor Loomis had the same goal.

**Councilor Hedges** supported what Councilor Miller was trying to achieve. He did not feel private money should be used to renovate public property. But that was the system we had although it needed to be changed. He was loathe to inflict a blank check upon the citizens of Milwaukie. He supported Councilor Miller’s resolution with reservations and supported looking at the merits and demerits of each individual application. He was concerned some of the PARs were cosmetic and not safety related. He could see both sides of the argument, and both sides were correct. He would like the City to have some control to know how much money was likely to be committed before the commitment was made.

**Ed Zumwalt**, Milwaukie. Sometimes he wondered who ran this institution for the last 8 – 10 years. He understood the City Council directed the City Manager, and he directed his underlings. It seemed like staff wanted to push urban renewal which he was sure would end up on the ballot. Without a spark or jump start, we will be sitting here in Appalachia. This town was not open for business, and people did not want to spend an extra \$20,000 - \$30,000 on top of their other expenses on public area requirements. Small businesses deserved a break.

**Councilor Chaimov** did not see this issue as having anything to do with staff. The people of the community adopted a code that most, including staff, did not think now worked well. The City Council was trying to do as Mr. Zumwalt said which was to jump start the downtown in a way that did not open a gaping hole such as TriMet's renovating a building without any public requirements. To the extent it did not seem all Council members were supportive of Councilor Miller's proposal, they only differed in the method of getting where all wanted to be.

**Mr. Zumwalt** responded that it seemed strange to the average citizens. After hearing Mayors and City Managers say for 17 years that they wanted to heal the City, we were sitting in Appalachia. He urged giving businesses a break.

**Kim Keehner**, Enchante, Main Street. She felt the City Council needed to take a look at the big picture. The main stumbling block was Main Street retail zoning which was a great idea; however, property owners had been sitting on empty buildings trying to meet the City's requirements. These same property owners were looking for decent, viable tenants that would benefit community. The properties were empty and the owners were still paying property taxes yet the City wanted those same people to pay for PARs. The City will get its money back through increased property values and taxes both in the business and residential areas. She suggested looking at the amount of money the City would have to put into the PARs and consider how much revenue it would get back.

**Ed Aaron**, Main/Monroe Street Building owner. After he renovated the Jefferson Street building his tax bill increased 100%. He put hundreds of thousands of dollars into that building, and it did not cost the City anything. During that time he was charged both PAR and system development charge (SDC) fees. He discussed how traffic impacts were calculated. He differed with Mr. Asher's belief that the PARs were not a principal retardant to downtown redevelopment and commented on the \$12,000 in costs related to converting an office space to retail on 21<sup>st</sup> Avenue. The Main/Monroe Building has been empty for 4 years while he tried to attract a tenant. He was concerned the Planning Department was discouraging potential tenants from doing business with him. The Planning Department wants \$30,000 in PARs, but no tenant wanted to put down \$30,000 for what was once office space. The City Council had decided that the first floor had to be retail according to the Downtown Plan. It was legislated that it had to be retail; now he had to find a tenant to pay \$30,000 to be there.

**Councilor Hedges** did not disagree with Mr. Aaron's comments. No one, including the City, had the \$32,000 as Councilor Miller's resolution stated. That amount would have to come out of the budget from some other department. He would support Mr. Aaron's point of view if the City could suspend the PAR with no one picking up the bill.

**Mr. Aaron** listed the public area requirements for the property that included rebuilding the bulb out, redoing the sidewalks, installing two period streetlights in an area where there were no underground utilities, installing garbage cans, and planting street trees. Those alone were significant. The landowner or tenant had to make those improvements.

**Councilor Hedges** understood these were cosmetic and not necessary for safety; however, these were the current laws.

**Mr. Aaron** added the law was changed several years ago because it was a taking and unconstitutional. Now he was on the hook for PARs again.

**Ed Parecki**, Milwaukie business owner. He referred to the Downtown Plan and read a short list of elements adopted in August 2000. Since the Plan was adopted, there was spot zoning for North Main Village, a new TriMet center on Jackson, a new South Downtown Plan, and now light rail none of which were in the plan. The PARs were in the Plan and seemed to be the only thing the City did not wish to ignore. He did not understand the logic. He recommended throwing the Plan away because it was useless. Ignore the PARs for the next 2 year and let people install the elements they wished.

**Pam Tatom**, Main Street business owner. She understood how those who had been here for many years felt frustrated. This made no sense. She supported Councilor Miller's efforts to think outside box to help small businesses. She urged trying out the 18-month suspension of PARs.

**David Aschenbrenner**, Milwaukie. He suggested using the recently adopted fiscal policies to help solve this problem. He agreed these improvements were a burden to small businesses, but they would also be a burden if the City were to take them on. Councilor Miller's resolution was an unfunded mandate as there was nothing in the budget tied to it. He was concerned about the upcoming TriMet public improvements. He agreed with Councilors Chaimov and Hedges that the City should look more closely to come up with a funding mechanism and should be applied on a case-by-case basis. He agreed the plan needed more work. He suggested the City might look at what, including urban renewal, other communities were doing to redevelop their downtowns.

**Lisa Batey**, Milwaukie resident. Ms. Batey had submitted her written comments earlier to City Council. She would love to see every storefront full, and she saw no evidence Milwaukie's Main Street had more vacancies than anywhere else. She noted the downtown improved from what it had been 9 years ago and felt it was generally looking up. Mr. Parecki had been complaining about PARs since he began working on his McLoughlin Boulevard property 5 years ago but has never brought any suggestions or solutions forward on how to balance this concern. There may be other models that might work better for Milwaukie. She urged the City Council to consider Councilor Chaimov's motion for a continuance while looking for a limited budgetary solution for case-by-case help and revising the public area requirements altogether.

**Mayor Ferguson** stated both Mr. Aaron and Mr. Parecki had talked with him about other funding mechanisms and may revisit the issue with Mr. Monahan.

**Arlene Stanley**, Main Street business owner. She supported the moratorium suggestion for landowner or tenant improvements and urged that it not be put off for another year. She noted she had a bike rack if anyone needed one as apparently she had not really needed it after all. She did not agree that personal private investment should be used to make public improvements while paying all the other fees and taxes. She believed most of the improvements were cosmetic and that safety issues were enforced by the municipal code. She recommended putting a hold on the program for 18-months then the City would not have to make the improvements. If that brought people in, then the public improvements would be made so buildings would look as good as possible and attract people.

**Mayor Ferguson** noted the resolution as written would require the City to complete the public area requirements.

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**Dion Shepard**, Milwaukie resident. She understood the frustration because residents were frustrated as well. This had been going on for 5-6 years so perhaps a compromise was in order and not drag this out any longer. The PARs needed to be sorted out sooner than later.

**Councilor Hedges** had the impression that if the PARs were suspended for the next two years that the City had to fund any work to be done. He asked Mr. Ramis if that was correct or could the program be suspended with no party responsible for funding the improvements.

**Mr. Ramis** responded it would depend on the City Council's action. If the City Council adopted a resolution saying the property owners were not responsible, there was still the zoning code that said the improvements had to be made before an occupancy permit was issued. That would lead to the conclusion that if the property owner did not make the improvements, then the City had to. The alternative would be to eliminate the requirements from the zoning code, and Mr. Ramis outlined the required notification process and Planning Commission and City Council hearings. That would mean neither the City nor the property owner would have to make the improvements. The City Council may initiate that process.

**Councilor Hedges** understood the City Council would have to go through a legal process.

**Councilor Miller** proposed the resolution because he believed the City needed to change the way it did business in downtown Milwaukie. The PARs were impediments to business upgrades, and this was a small step to get the ball rolling toward a more vibrant City. He believed the regulations defeated the very things the City Council wished to accomplish. Other cities had reduced fees by 90% or eliminated them altogether. There have only been six projects since 2008, and the City has collected only a little more than \$1,500. The largest was Milwaukie High School at \$83,000 but those were fees in lieu of. The City always seemed to run into roadblocks in both commercial and residential areas. It was time to change that dynamic. The suspension was only for 18-months, and it was a good time to reassess all of the PARs. This was not the way Milwaukie should be doing business.

**Mayor Ferguson** felt the system was broken. He wished the City could address Mr. Aaron's specific issue right now and then consider Councilor Hedges' suggestion.

**Councilor Chaimov** explained that was what he was hoping to achieve by working through the budget process and finding the \$30,000. If it were found, it could be set aside, and the City Council could take up the resolution.

**Councilor Miller** said in 30-days potential tenants would be gone. Something needed to be done right now to change the dynamics of the downtown. He would be happy to work with Councilor Chaimov on a resolution but was concerned Council would still be debating the issue in the middle of July. The tenants would be gone by then. Something needed to be done now; then City Council could fix the total problem. The resolution was written so that the City did not have to put up a dime until 2013. The PARs could be waived when people came in for their building permits. After the review most of the requirements may no longer be valid. Five of the six PARs since 2008 have been waived.

**Mr. Monahan** said the resolution was structured such that there was a suspension rather than a waiver of the requirements and stated the City would undertake an evaluation over the next year about PAR applicability in the future in its present form. It intended that the provisions were meant between now and November 2012 then

applicable requirements would be the improvements the City would have to make before June 2013.

**Councilor Chaimov** understood but did not feel it was appropriate to go in that direction. He was simply not willing to enter into what seemed like a blank check for our taxpayers when there was no guarantee the PARs would be reduced. He was happy if the money were found to pay for improvements on a case-by-case basis.

**Councilor Hedges** feared TriMet might put in all their applications and Milwaukie would have to put out a lot of money because they caught us.

**Mr. Monahan** thought there was protection in Section 1 that read, “the obligation of property owners to develop public right-of-way under the public area requirements of Section 19.312.5 of the Milwaukie Municipal Code are suspended for all occupancy permits issued for property within the Milwaukie Downtown between April 6, 2011 and October 31, 2012.” He did not think TriMet planned to do that.

**Mayor Ferguson** understood TriMet would probably not be here before October 2012.

**Councilor Hedges** asked if the resolution could be repealed quickly.

**Mr. Ramis** replied a resolution could be repealed by a simple majority vote but could not be accomplished retroactively.

**Councilor Loomis** did not feel he was in Appalachia as Mr. Zumwalt said. Mr. Aaron’s building needed to get filled, and he felt \$32,000 was doable. He was not comfortable suspending everything but supported helping Mr. Aaron get a tenant through an open dialogue.

**Mr. Monahan** said staff would look at the budget and prepare a resolution for the May City Council meeting that might provide for a grant program of some kind.

**Councilor Loomis** supported that.

**Mr. Aaron** asked what made the City Council think businesses could find that amount if the City of Milwaukie could not given its annual budget. He suggested the City Council put a cap on the program. He was asking the City Council to get rid of requirements that were not really requirements.

**Councilor Hedges** represented more than just downtown Milwaukie and was concerned about the citizens ability to pay.

**Councilor Loomis** was comfortable with committing to find \$25,000 if there were a conversation and he had all the information. He wanted to see that building filled.

**Mr. Monahan** asked if City Council were looking for a program that addressed the needs of one property owner or the needs of the projected development in the downtown. Did City Council wish to continue the current level of development or try to stimulate the downtown during the next 18-months? If the City Council were looking for a fixed amount then staff would look for a way to fund it in the coming budget and outline a process based on Council direction.

**Councilor Loomis** would like to study this one situation and resolve it while looking at the whole picture and work to fix it. Do PARs mean that much to the City Council and all the residents? Who pays for it? He wanted the process to be transparent.

**Councilor Hedges** agreed with Councilor Loomis that the City would get the money back in property taxes while the PAR program was sorted out. He understood there were no other pending applications.

**Councilor Chaimov** withdrew his motion.

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**Mr. Monahan** understood he was directed to look at where he might find \$25,000 and getting Mr. Aaron through the gate of getting an occupancy permit.

**Mr. Ramis** advised the PARs were adopted by ordinance which could not be amended by resolution. The City Council could adopt a resolution suspending the fees for a period of time. The cost would not go away without a code amendment.

**It was moved by Councilor Chaimov and seconded Mayor Ferguson by to extend the meeting beyond 10 p.m. Motion passed with the following vote: Councilors Miller, Chaimov, Hedges, and Loomis and Mayor Ferguson voting 'aye.'** [5:0]

**Councilor Loomis** was designated by the City Council as its representative to meet with staff and Mr. Aaron and to report back at the April 19 City Council meeting.

**Councilor Miller** urged resolving this issue as soon as possible so other business owners did not find themselves in a similar situation.

#### **D. Council Goals**

**Mr. Monahan** provided background on the twenty proposed goals and the process.

**It was moved by Councilor Chaimov and seconded by Mayor Ferguson to adopt the City Council goals. Motion passed with the following vote: Councilors Miller, Chaimov, Hedges, and Loomis and Mayor Ferguson voting 'aye.'** [5:0]

**Mayor Ferguson** discussed Planning Commission appointments and asked that there be a discussion of appointments in general.

#### **E. Council reports**

The Mayor and Councilors reported on meetings they had attended on behalf of the City. Mayor Ferguson announced upcoming community events.

#### **ADJOURNMENT**

**Mayor Ferguson** announced the City Council would meet in executive session pursuant to ORS 192.660(2) ORS 192.660(2)(h) to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed immediately following adjournment of the regular session.

**Mayor Ferguson** adjourned the meeting at 10:23 p.m. without a motion.

Respectfully submitted,

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Pat DuVal  
Recorder

# REGULAR SESSION



**Lisa M. Batey**  
11912 SE 19<sup>th</sup> Avenue  
Milwaukie, Oregon 97222

April 4, 2011

Mayor Jeremy Ferguson and Milwaukie City Council  
Milwaukie City Hall  
10722 S.E. Main Street  
Milwaukie, Oregon 97222

RE: April 5th Agenda Item #6(c) on Suspending Public Area Requirements

Dear Mayor Ferguson and Council members:

I am writing to express my concern about item 6(c) on Tuesday's agenda, Councillor Miller's proposal to suspend the Public Area Requirements (PAR) for downtown businesses. There is a big question about how the City might pay for the improvements that private developers would be excused from paying – in the current budget environment, in the absence of an urban renewal undertaking, it is difficult to see how the City can take on such an unfunded mandate. But how to pay for this idea falls to you and the Budget Committee -- my concerns primarily lie elsewhere.

First, I am concerned about process. The PAR are a code requirement that have been in place for a decade or more. A church and a bank in downtown, perhaps other private entities, have built the required improvements, as has the City, ODOT, and soon the light rail project would be expected to comply with them. To allow a few business owners to convince you to suspend the requirement without consultation with the citizens who were involved in crafting the Downtown Plan, or the Design and Landmarks Committee, or the Planning Commission strikes me as poor public policymaking.

Moreover, I am concerned that the Council would be acting on the word of a few people rather than any sort of statistical or market analysis. It is, of course, disappointing to see vacant storefronts in downtown Milwaukie, but drives I took through Sellwood, Westmoreland, downtown Lake Oswego and downtown Tigard in recent days convinces me that the vacancy rate in Milwaukie is no higher than in these other areas. That finds some support in the attached market analysis documents regarding commercial vacancy rates across the region, although they don't separate out the City of Milwaukie as a separate study area. As these reports indicate, the market outside of downtown Portland for small size retail and office spaces generally is soft.

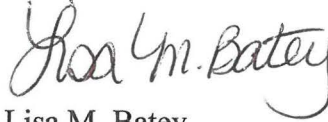
Before making the assumption that the PAR are a significant hurdle to filling Main Street's empty storefronts, it seems important to assess them in contrast to the requirements in

other jurisdictions. As I recall, we looked at some of that information when amendments were made to the PAR provisions a few years ago, and the requirements were not out of line with what other jurisdictions require.

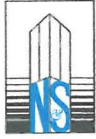
Furthermore, why should downtown businesses which trigger the PAR (it is important to note many changes of tenants and mere façade improvements do *not* do so) be exempt when residential construction is not? All new residential construction and significant expansions of residences trigger the requirement for street improvements, and the PAR are the equivalent for downtown.

It may well be that the nature of the specific requirements should get another look to ascertain whether some reduction should be made in light of the current economic downturn, but simply suspending them would be the quintessential case of throwing out the baby with the bathwater. I urge you to reject this proposal.

Sincerely,

A handwritten signature in cursive script that reads "Lisa M. Batey". The signature is written in dark ink and is positioned above the printed name.

Lisa M. Batey



### Overview

The Portland Retail market did not change much this quarter. Vacancy rates decreased slightly, absorption was positive, rental rates decreased from 3rd quarter, and 10 new centers came to market.

### TOTAL RETAIL MARKET STATISTICS

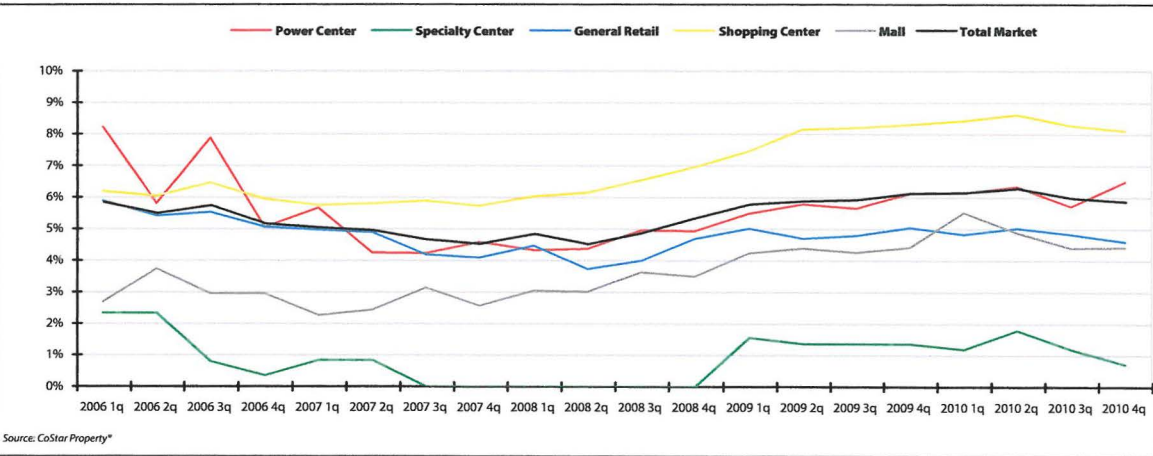
Market	Existing Inventory		Vacancy			YTD Net Absorption	YTD Deliveries	Under Const SF	Quoted Rates
	# Blds	Total GLA	Direct SF	Total SF	Vac %				
CBD	374	8,814,961	358,824	362,224	4.1%	14,642	0	0	\$22.37
Clark County	1,278	17,074,281	1,484,288	1,524,300	8.9%	426,340	364,708	36,286	\$17.84
I-5 Corridor	454	8,406,935	380,234	406,524	4.8%	58,831	0	200,000	\$19.25
Lloyd District	413	4,680,816	187,063	187,063	4.0%	(45,624)	0	0	\$13.47
Northeast	2,284	20,644,460	1,077,818	1,160,122	5.6%	41,656	41,056	3,500	\$14.25
Northwest	258	2,203,629	73,094	73,094	3.3%	7,504	0	0	\$16.25
Skamania County	9	70,643	8,180	8,180	11.6%	500	0	0	\$0.00
Southeast	2,066	20,113,781	1,014,852	1,079,293	5.4%	70,577	39,226	15,050	\$16.12
Southwest	777	12,324,246	650,119	688,105	5.6%	92,904	3,198	0	\$17.37
Westside	455	8,119,156	517,396	523,004	6.4%	(7,719)	45,172	0	\$19.05
<b>Totals</b>	<b>8,368</b>	<b>102,452,908</b>	<b>5,751,868</b>	<b>6,011,909</b>	<b>5.9%</b>	<b>659,611</b>	<b>493,360</b>	<b>254,836</b>	<b>\$17.05</b>

Source: CoStar Property\*

### Vacancy Rates

Portland's total retail market vacancy rate decreased to 5.9% at the end of the 4th quarter. Over the past 4 quarters, the market has seen an overall decrease in vacancies, with the rate going from 6.2% in the 1st quarter of 2010, to 6.3% at the end of the 2nd quarter of 2010, and 6.0% at the end of the 3rd quarter of 2010. Additionally, there is 260,041 SF of sublease space vacant.

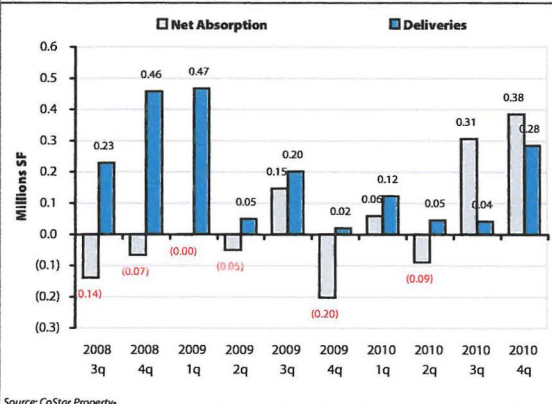
### VACANCY RATES BY BUILDING TYPE 2006-2010



Source: CoStar Property\*

### ABSORPTION & DELIVERIES

Past 10 Quarters

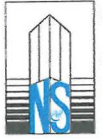


Source: CoStar Property\*

### Net Absorption

Net Absorption was strong in the 4th quarter with positive 384,493 SF. The previous quarter was positive 305,247 SF, while the 2nd quarter was negative (89,418) SF, and the 1st quarter of 2010 was at positive 59,289 SF absorbed. Significant lease transactions include: Mor Furniture (51,350 SF), Dick's Sporting Goods (48,815 SF), and John's Incredible Pizza (46,212 SF).

\* Net Absorption: The net change in occupied spaced over a given period of time. Unless otherwise noted, Net Absorption includes direct and sublease space.

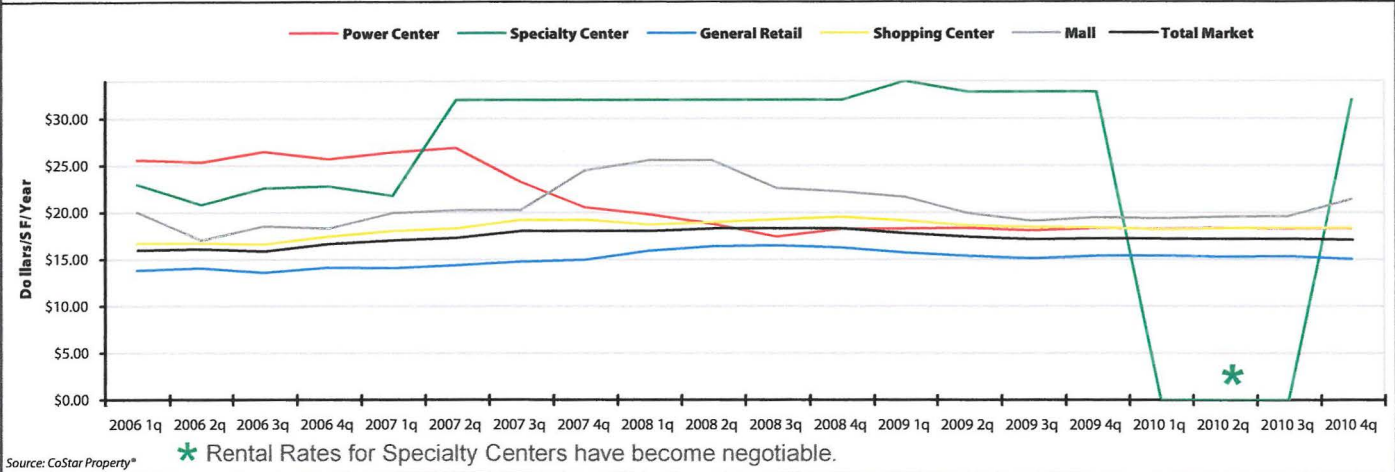


### Rental Rates

The average quoted asking rental rates in the Portland retail market are down over previous quarter levels, and down from their levels four quarters ago. Quoted rates ended the quarter at \$17.05 per square foot/per year. This represents an approximate 0.8% decrease from the 3rd quarter of 2010, and an approximate 0.76% decrease from 4 quarters ago.

#### HISTORICAL RENTAL RATES

Based on NNN Rental Rates



### Construction

Ten centers totaling 284,450 SF were completed in the entire Portland Metropolitan retail market in the 4th quarter of 2010. Over the past 4 quarters, 493,360 SF of retail space has been built, with an additional 254,836 SF under construction at the end of the 4th quarter.

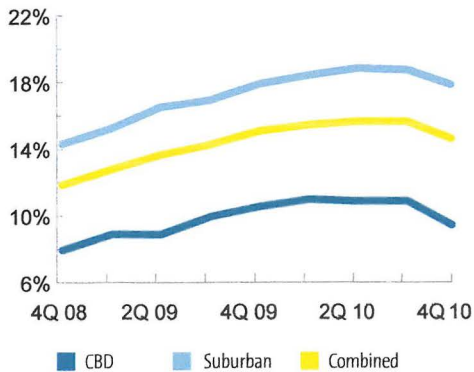
#### CONSTRUCTION ACTIVITY

Markets Ranked by Under Construction Square Footage

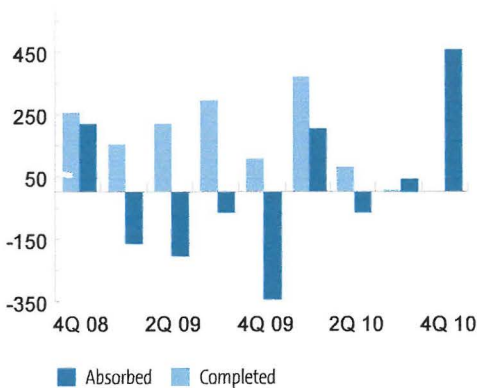
Market	Under Construction Inventory				Average Bldg Size	
	# Bldgs	Total GLA	Preleased SF	Preleased %	All Existing	U/C
I-5 Corridor	1	200,000	200,000	100.0%	18,517	200,000
Clark County	3	36,286	10,000	27.6%	13,360	12,095
Southeast	2	15,050	15,050	100.0%	9,736	7,525
Northeast	1	3,500	0	0.0%	9,039	3,500
Skamania County	0	0	0	0.0%	7,849	0
Lloyd District	0	0	0	0.0%	11,334	0
Northwest	0	0	0	0.0%	8,541	0
Southwest	0	0	0	0.0%	15,861	0
Westside	0	0	0	0.0%	17,844	0
CBD	0	0	0	0.0%	23,569	0
<b>Totals</b>	<b>7</b>	<b>254,836</b>	<b>225,050</b>	<b>88.3%</b>	<b>12,243</b>	<b>36,405</b>

Source: CoStar Property\*

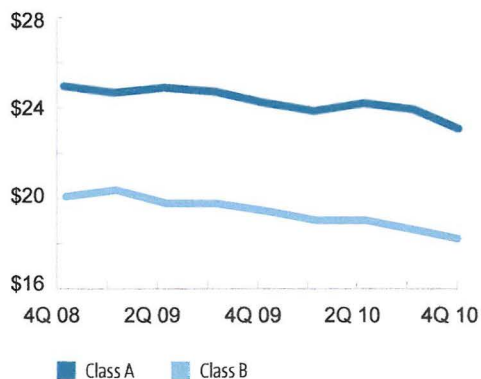
### Vacancy Rate



### Completions vs. Absorption (in Thousands of SF)



### Asking Rental Rates (\$/SF/yr. Full Service)



## Market Puts Up Strong Numbers

Although the economy remains a mixed bag for the Portland region, with some positive signs and other indices remaining stubbornly low, the office market ended the year with a strong performance. The just-released November University of Oregon Index of Economic Indicators marks the third consecutive month of modest improvement. Despite persistent high unemployment numbers and housing market gyrations, the overall sentiment is that the market has turned the corner and improving economic conditions should follow.

The worst should be behind the office market, however, depending on location, progress may come quickly, or very slowly. Overall vacancy dropped a respectable 90 basis points, to end the year at 14.6 percent. This improvement was primarily due to the strong performance of the CBD market with a surprising contribution from both the Sunset Corridor and the Washington Square/Kruse Way Market. Net absorption for the quarter was robust, totaling over 450,000 square feet, bringing the total for the year to almost 650,000 square feet. The CBD market continues to be a national standout with overall vacancy down to 9.4 percent, one of the lowest CBD market vacancies in the nation. The CBD Class A market, as expected, turned in a strong performance to close the year with vacancy at 7.1 percent. The suburban markets are in for an extended period of high vacancy and slow improvement. While halting demand has returned to the suburbs, the amount of vacant space that has accumulated over the past several years means that tenants will continue to have their pick of spaces with rates at five-year lows and generous concession packages.

Investment activity in the office market was subdued throughout the year. There remains strong demand for assets at either end of the spectrum and weak demand for middle-of-the-road properties, but this dynamic will shift in 2011 as investors broaden their search parameters to place money. The Portland area did not see a flood of distressed office properties hit the market in 2010; however, 2011 may see a slight uptick in this type of sale activity.

### FORECAST

- The CBD will continue to be a national standout and Class A tenants will continue to see their options dwindle, spurring pre-development activity
- Tightness in the CBD Class A market will buoy the Class B market, pushing vacancy down and rents up
- Leverage will shift toward landlords in the CBD market, and they will be quick to react to improving market conditions
- Most suburban submarkets will continue to experience elevated vacancy and soft rents for the foreseeable future
- Expect an increase of core and core plus buildings to hit the market as sellers aim to capitalize on growing institutional demand for this asset class

# Office Trends Report—Fourth Quarter 2010

## Portland, OR



By Submarket	Total SF	Vacant SF	Vacant %	NET ABSORPTION		Under Construction SF	ASKING RENT	
				Current	Year-To-Date		Class A	Class B
CBD	19,508,628	1,827,919	9.4%	258,101	551,358	195,458	\$26.11	\$20.56
<b>CBD Total</b>	<b>19,508,628</b>	<b>1,827,919</b>	<b>9.4%</b>	<b>258,101</b>	<b>551,358</b>	<b>195,458</b>	<b>\$26.11</b>	<b>\$20.56</b>
Clackamas/Sunnyside	1,457,463	262,732	18.0%	(46,900)	(101,536)	-	\$23.38	\$18.46
Columbia Corridor	779,953	188,357	24.1%	987	(8,582)	135,000	\$24.37	\$15.29
Eastside	2,735,967	235,359	8.6%	(11,135)	10,994	-	\$19.97	\$16.29
Johns Landing/Barbur Blvd	1,758,613	310,591	17.7%	(15,365)	(45,132)	-	\$22.30	\$18.27
Lloyd District	2,483,901	237,871	9.6%	(80,179)	(58,238)	-	\$23.81	\$16.82
Northwest	1,498,931	160,441	10.7%	20,004	(7,367)	-	-	\$18.00
Sunset Corridor	4,213,984	1,076,070	25.5%	158,706	100,402	14,431	\$20.44	\$16.74
SW/Beaverton/Sylvan	3,530,939	600,950	17.0%	(1,192)	(22,234)	-	\$20.47	\$16.40
Tualatin/Wilsonville	1,665,195	532,306	32.0%	33,484	(8,592)	36,000	\$21.62	\$19.34
Washington Sq/Kruse Way	6,147,968	1,210,399	19.7%	92,632	103,239	-	\$23.44	\$20.02
<b>Portland Suburban Total</b>	<b>26,272,914</b>	<b>4,815,076</b>	<b>18.3%</b>	<b>151,042</b>	<b>(37,046)</b>	<b>185,431</b>	<b>\$22.41</b>	<b>\$17.68</b>
Camas/Washougal	161,062	65,401	40.6%	-	5,726	-	\$20.00	\$18.00
Cascade Park	1,713,182	415,790	24.3%	39,392	16,703	-	\$21.42	\$16.86
CBD/West Vancouver	2,021,760	226,261	11.2%	(1,884)	83,702	-	\$23.79	\$19.39
Clark County Outlying	17,475	-	-	-	2,461	-	-	-
Hazel Dell/Salmon Creek	536,016	41,140	7.7%	(3,222)	(2,168)	-	\$23.99	\$20.85
Orchards	186,504	33,956	18.2%	3,636	3,826	-	-	\$13.57
St. Johns/Central Vancouver	586,010	70,830	12.1%	(250)	(7,907)	-	\$20.20	\$24.05
Vancouver Mall	759,284	63,218	8.3%	6,006	18,963	-	\$22.23	\$17.22
<b>Vancouver Suburban Total</b>	<b>5,981,293</b>	<b>916,596</b>	<b>15.3%</b>	<b>43,678</b>	<b>121,306</b>	<b>-</b>	<b>\$22.32</b>	<b>\$17.76</b>
<b>Suburban Total</b>	<b>32,254,207</b>	<b>5,731,672</b>	<b>17.8%</b>	<b>194,720</b>	<b>84,260</b>	<b>185,431</b>	<b>\$22.40</b>	<b>\$17.70</b>
<b>Totals</b>	<b>51,762,835</b>	<b>7,559,591</b>	<b>14.6%</b>	<b>452,821</b>	<b>635,618</b>	<b>380,889</b>	<b>\$23.16</b>	<b>\$18.25</b>

By Class	Total SF	Vacant SF	Vacant %	Current	Year-To-Date	Under Construction SF	AVAILABLE FOR SUBLEASE	
							CBD	Suburban
Class A	25,507,802	3,600,465	14.1%	260,388	489,389	380,889	217,799	281,850
Class B	19,336,783	3,063,982	15.8%	287,312	161,316	-	129,063	176,547
Class C	6,918,250	895,144	12.9%	(94,879)	(15,087)	-	23,070	33,774
<b>Totals</b>	<b>51,762,835</b>	<b>7,559,591</b>	<b>14.6%</b>	<b>452,821</b>	<b>635,618</b>	<b>380,889</b>	<b>369,932</b>	<b>492,171</b>

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### OFFICE TERMS AND DEFINITIONS

**Total SF:** Office inventory includes all multi-tenant and single tenant buildings at least 10,000 square feet. Owner-occupied, government and medical buildings are not included.

**Office Building Classifications:** Grubb & Ellis adheres to the BOMA guidelines. Class A properties are the most prestigious buildings competing for premier office users with rents above average for the area. Class B properties compete for a wide range of users with rents in the average range for the area. Class C buildings compete for tenants requiring functional space at rents below the area average.

**Vacancy and Availability:** The vacancy rate is the amount of physically vacant space divided by the inventory and includes direct and sublease vacant. The availability rate is the amount of space available for lease divided by the inventory.

**Net Absorption:** The net change in physically occupied space over a period of time.

**Asking Rent:** The dollar amount asked by landlords for available space expressed in dollars per square foot per year in most parts of the country and dollars per square foot per month in areas of California and selected other markets. Office rents are reported full service

where all costs of operation are paid for by the landlord up to a base year or expense stop. The asking rent for each building in the market is weighted by the amount of available space in the building.

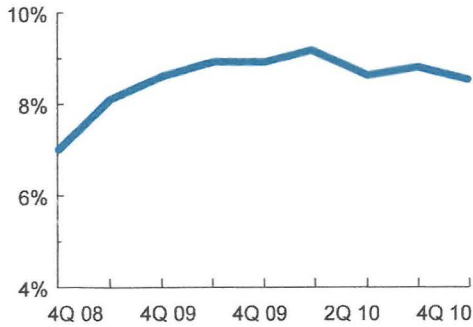
\* Grubb & Ellis statistics are audited annually and may result in revisions to previously reported quarterly and final year-end figures.

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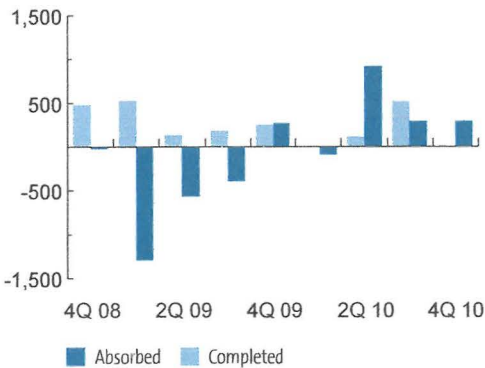
# Industrial Trends Report — Fourth Quarter 2010 Portland, OR



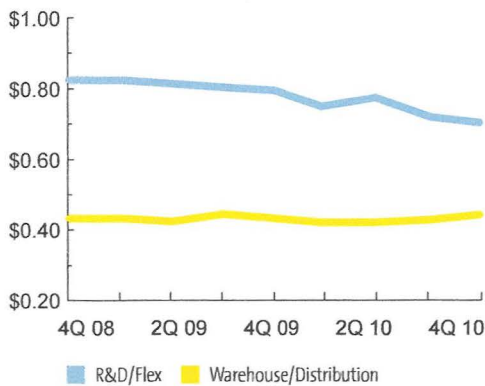
## Vacancy Rate



## Completions vs. Absorption (in Thousands of SF)



## Asking Rental Rates (\$/SF/Mo./Triple Net)



# Market Continues to Slowly Improve

Portland's industrial market closes 2010 with the third consecutive quarter of positive net absorption and a slight drop in vacancy, all in all, not a bad year. Portland's economy remains a mixed bag, with some positive signs and other indices demonstrating persistent weakness. The University of Oregon Index of Economic Indicators marks the third consecutive month of modest improvement. Despite persistent high unemployment numbers and housing market fluctuations, the overall sentiment is that the market has turned the corner and improving economic conditions should follow. Real manufacturing new orders for non defense capital goods gained slightly, marking the sixth consecutive month of improvement. The construction industry, however, continues to be hard hit, registering a year-over-year job loss of over 6 percent.

Although net absorption was modest in the fourth quarter, this marks three consecutive quarters of positive user demand, reversing a trend of almost six quarters of market losses. Overall vacancy dropped by 20 basis points to end the year at 8.5 percent, down 30 basis points from this time last year. Market wide net absorption totaled slightly more than 1.3 million square feet for the year, just over half the market's 10-year annual net absorption average. No new product was delivered to the market this quarter and just 60,000 square feet is currently under construction. The market saw just over 600,000 square feet completed in 2010 when the market has averaged 2.3 million square feet annually over the past ten years. Warehouse/distribution asking rates have stabilized, actually bumping up one penny this quarter to \$0.43, but flex rates continued their decline, ending the quarter at \$0.70 per square foot, triple net. This is down 15 percent from the market peak of \$0.82 reached in 2008.

The largest transaction in Portland in the past decade, a 413,700-square-foot build-to-suit distribution center, training and office space for Subaru at Rivergate Corporate Center, was completed in the fourth quarter. Additional large tenants are reportedly circling the market, in particular, there has been an increase in activity from solar and other clean energy companies, positioning to take advantage of Oregon's tax benefits. With an empty speculative construction pipeline and this growing demand from users, Portland's industrial market is poised to recover substantially in the next two years.

Investment activity in the industrial market was minimal throughout the year, with total volume remaining constant from 2009. Almost no institutional properties traded hands and activity was dominated by owner/user sales. While there remains strong demand for quality assets in Portland, the supply of properties for sale remains severely limited and there have were essentially no distressed sales of industrial product.

## FORECAST

- The industrial market recovery will continue in 2011, with demand up slightly, pushing vacancy down
- As expected, construction activity will pick up slightly and will be limited to build-to-suit projects as large users will not have any other options for state-of-the-art and/or specialized facilities
- Rental rates will be a mixed bag...
  - Up in tight submarkets for large users with few options
  - Soft in weakest submarkets for small to mid-sized users
- Owner/user activity has picked up for opportunistic properties, expect this trend to continue throughout 2011

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# Industrial Trends Report—Fourth Quarter 2010

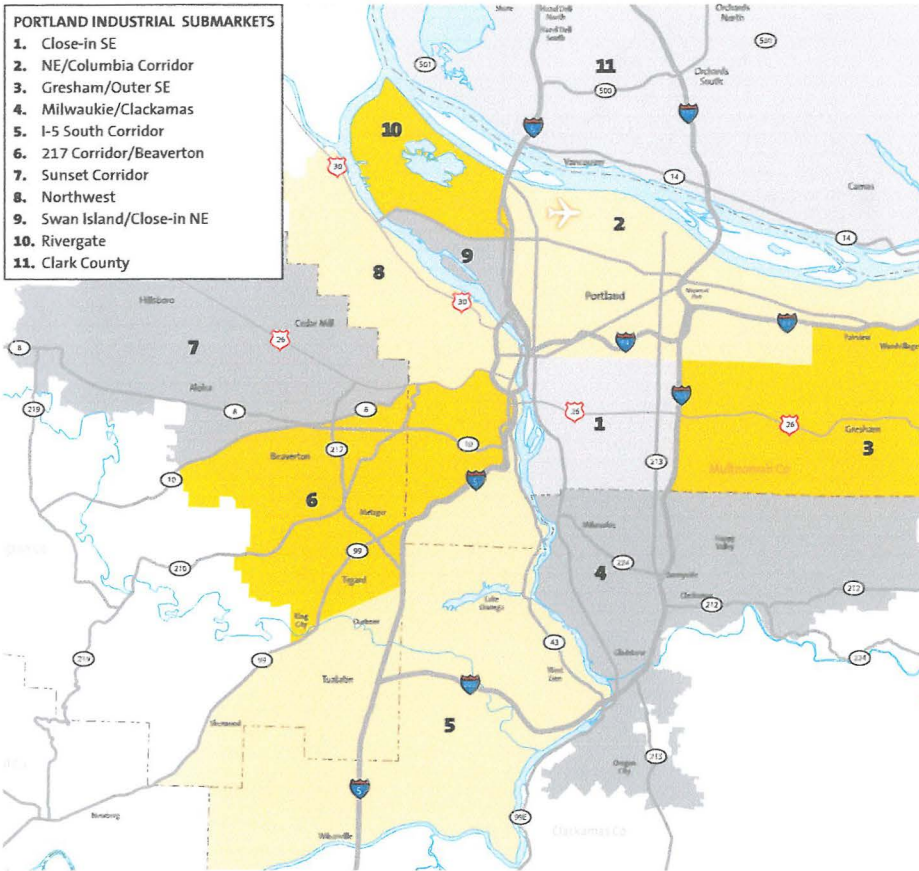
## Portland, OR



By Submarket	Total SF	Vacant SF	Vacant %	NET ABSORPTION		Under Construction SF	ASKING RENT	
				Current	Year-To-Date		WH/Dist	R&D/Flex
217 Corridor/Beaverton	8,370,284	1,024,397	12.2%	(156)	(98,906)	-	\$0.50	\$0.78
Clark County	17,008,907	1,437,170	8.4%	16,794	51,402	-	\$0.46	\$0.89
Close-in SE	5,119,931	335,369	6.6%	(21,300)	(13,477)	-	\$0.38	-
Gresham/Outer SE	2,913,905	297,829	10.2%	12,505	84,155	-	\$0.43	\$0.62
I-5 South Corridor	21,078,401	2,358,571	11.2%	32,884	89,645	-	\$0.48	\$0.58
Milwaukie/Clackamas	14,397,232	875,723	6.1%	16,921	169,002	-	\$0.33	\$0.51
NE/Columbia Corridor	29,324,323	2,398,769	8.2%	111,899	826,365	60,000	\$0.47	\$0.53
Northwest	11,467,873	1,111,808	9.7%	26,741	122,734	-	\$0.39	\$0.83
Rivergate	14,556,072	1,452,423	10.0%	(14,590)	326,345	-	\$0.37	\$0.61
Sunset Corridor	25,725,081	1,967,959	7.6%	48,527	(288,773)	-	\$0.41	\$0.75
Swan Island/Close-in NE	7,531,054	173,033	2.3%	(5,842)	89,308	-	\$0.43	-
<b>Totals</b>	<b>157,493,063</b>	<b>13,433,051</b>	<b>8.5%</b>	<b>224,383</b>	<b>1,357,800</b>	<b>60,000</b>	<b>\$0.43</b>	<b>\$0.70</b>

By Property Type	Total SF	Vacant SF	Vacant %	Current	Year-To-Date	Under Construction SF	Asking Rent	
							WH/Dist	R&D/Flex
R&D/Flex	32,271,171	3,149,403	9.8%	5,497	(440,033)	-	\$0.70	
Warehouse/Distribution	125,221,892	10,283,648	8.2%	218,886	1,797,833	60,000	\$0.43	
<b>Totals</b>	<b>157,493,063</b>	<b>13,433,051</b>	<b>8.5%</b>	<b>224,383</b>	<b>1,357,800</b>	<b>60,000</b>	<b>\$0.48</b>	

- PORTLAND INDUSTRIAL SUBMARKETS**
1. Close-in SE
  2. NE/Columbia Corridor
  3. Gresham/Outer SE
  4. Milwaukie/Clackamas
  5. I-5 South Corridor
  6. 217 Corridor/Beaverton
  7. Sunset Corridor
  8. Northwest
  9. Swan Island/Close-in NE
  10. Rivergate
  11. Clark County



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**Jeff Snyder**  
Associate  
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### INDUSTRIAL TERMS AND DEFINITIONS

**Total SF:** Industrial inventory includes all multi-tenant, single tenant and owner occupied buildings at least 10,000 square feet.

**Industrial Buildings Classifications:** Industrial buildings are categorized as warehouse/distribution, R&D/flex based on their physical characteristics including percent office build-out, clear height, typical bay depth, typical suite size, type of loading and typical uses.

**Vacancy and Availability:** The vacancy rate is the amount of physically vacant space divided by the inventory and includes direct and sublease vacant. The availability rate is the amount of space available for lease divided by the inventory.

**Net Absorption:** The net change in physically occupied space over a period of time.

**Asking Rent:** The dollar amount asked by landlords for available space expressed in dollars per square foot per year in most parts of the country, and dollars per square foot per month in areas of California and selected other markets. Industrial rents are expressed as triple net where all costs including, but not limited to, real estate taxes, insurance and common area maintenance are borne by the tenant on a pro rata basis. The asking rent for each building in the market is weighed by the amount of available space in the building.

\* Grubb & Ellis statistics are audited annually and may result in revisions to previously reported quarterly and final year-end figures.

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# AGENDA

## MILWAUKIE CITY COUNCIL APRIL 5, 2011

MILWAUKIE CITY HALL  
10722 SE Main Street

2099<sup>th</sup> MEETING

### REGULAR SESSION – 7:00 p.m.

- |   | Page<br>No. |
|---|-------------|
| 1. <b>CALL TO ORDER</b><br>Pledge of Allegiance   |             |
| 2. <b>PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS</b>   | 1           |
| <b>A. Volunteer Week Proclamation</b>   | 2           |
| <b>B. National Poetry Month Proclamation</b>  | 3           |
| <b>C. Earthquake and Tsunami Awareness Month</b>  | 4           |
| 3. <b>CONSENT AGENDA</b> <i>(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.)</i>   | 5           |
| <b>A. Reappoint Jeff Davis to the Arts Committee – Resolution</b>   | 6           |
| <b>B. Reappoint Val Hubbard to the Arts Committee – Resolution</b>  | 7           |
| <b>C. Reappoint Nancy Matich to the Arts Committee – Resolution</b>   | 8           |
| <b>D. Reappoint Mark Docken to the Ledding Library Board – Resolution</b>   | 9           |
| <b>E. Reappoint Colleen Schacht to the Ledding Library Board – Resolution</b>   | 10          |
| <b>F. Reappoint Bob Cooper to the Park and Recreation Board – Resolution</b>  | 11          |
| <b>G. Appoint Ray Harris to the Park and Recreation Board – Resolution</b>  | 12          |
| <b>H. Appoint Terry Dolan to the Planning Commission – Resolution</b>   | 13          |
| <b>I. Appoint Betty Fulmore to the Public Safety Advisory Committee as the Ardenwald Neighborhood District Association Representative – Resolution</b>  | 14          |
| <b>J. City Council Meeting Minutes:</b>   | 15          |
| 1. February 1, 2011 Regular Session   |             |
| 2. February 15, 2011 Regular Session  |             |
| 4. <b>AUDIENCE PARTICIPATION</b> <i>(The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie Municipal Code, only issues that are “not on the agenda” may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal Code, “all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous.” The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)</i> |             |

5. **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**

6. **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.)* **24**

- A. **Milwaukie Light Rail Bridge Presentation**  
Staff: Dave Unsworth, TriMet, and Kenny Asher, Community Development and Public Works Director
- B. **Consider Support of Legislative Ban on Single Use Plastic and Non-Recycled Content Paper Checkout Bags – Resolution** **25**
- C. **Consider Suspension of Public Area Requirements – Resolution** **31**  
Staff: Bill Monahan, City Manager
- D. **Council Goal Adoption** **33**  
Staff: Bill Monahan, City Manager
- E. **Council Reports**

7. **INFORMATION**

8. **ADJOURNMENT**

**Public Information**

- **Executive Session:** The Milwaukie City Council will meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2)(h) to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

2.

PROCLAMATIONS,  
COMMENDATIONS,  
SPECIAL REPORTS,  
AND AWARDS

**PROCLAMATION**

**WHEREAS** the entire community can inspire, equip and mobilize people to take action that changes the world; and

**WHEREAS** individuals and communities are at the center of social change discovering their power to make a difference; and

**WHEREAS** during this week, all over the nation, service projects will be performed and volunteers will be recognized for their commitment to service; and

**WHEREAS** our country's volunteer force of over 64 million people is a great treasure; and

**WHEREAS** volunteers are vital to our future as a caring and productive nation.

**NOW, THEREFORE, BE IT RESOLVED**, I, Jeremy Ferguson, Mayor of the City of Milwaukie, Oregon, hereby proclaim April 10 – 16, 2011 as Volunteer Week in the City of Milwaukie and urge our fellow citizens to volunteer in their community. By volunteering and recognizing those who serve, we can replace disconnection with understanding and compassion.

**THE FOREGOING PROCLAMATION**, was read and adopted by the City Council of the City of Milwaukie this the 5<sup>th</sup> day of April, 2011.

---

Jeremy Ferguson, Mayor  
City of Milwaukie

ATTEST:

---

Pat DuVal, City Recorder

**PROCLAMATION**

**WHEREAS** the Academy of American Poets established the month of April as National Poetry Month in 1996; and

**WHEREAS** National Poetry Month seeks to highlight the extraordinary legacy and ongoing achievement of American poets; introduce Americans to the pleasures and benefits of reading poetry; bring poets and poetry to the public in immediate and innovative ways; make poetry an important part of our children's education; and

**WHEREAS** as National Poetry Month, under the leadership and direction of the Academy of American Poets, is now the largest literary celebration in the world; and

**WHEREAS** poetry, as an essential part of the arts and humanities, affects every aspect of life in America today, including education, the economy, and community pride and development; and

**NOW, THEREFORE, BE IT RESOLVED**, I, Jeremy Ferguson, Mayor of the City of Milwaukie, Oregon, hereby proclaim April 1 through April 30, 2011, as National Poetry Month. I call upon public officials, educators, librarians, and all the people of Milwaukie to observe this month, to celebrate the cultural riches our community has to offer, and to recognize the important role poetry has in creating and sustaining this great nation with appropriate ceremonies, activities, and programs.

**THE FOREGOING RESOLUTION**, was passed and adopted by the City Council of the City of Milwaukie this the 5<sup>th</sup> day of April, 2011.

---

Jeremy Ferguson, Mayor  
City of Milwaukie

ATTEST:

---

Pat DuVal, City Recorder

**PROCLAMATION**

**WHEREAS** Scientific evidence indicates that the State of Oregon is at risk for much larger and potentially more damaging earthquakes and tsunamis; and

**WHEREAS** Oregon enacted laws in 1995 and 2001 that require schools, state and local agencies, and large private employers to instruct and drill students and employees on emergency procedures such as those related to earthquakes and tsunamis; and

**WHEREAS** Seismic strengthening of existing buildings and public education on local tsunami evacuation is strongly encouraged to further reduce loss of life and property damage; and

**WHEREAS** Oregon enacted laws in 2001 that require schools and emergency facilities to meet seismic life safety standards, and in 2002 enacted laws that will provide state bond funds to help mitigate high risk schools and emergency facilities; and

**WHEREAS** Emergency management agencies will highlight these preparedness and mitigation procedures and provide increased earthquake and tsunami information to Oregon residents and visitors in April.

**NOW, THEREFORE, BE IT RESOLVED**, I, Jeremy Ferguson, Mayor of the City of Milwaukie, Oregon, hereby proclaim April 2011, to be

**EARTHQUAKE AND TSUNAMI AWARENESS MONTH**

in Milwaukie and encourage all citizens to join in this observance.

**THE FOREGOING RESOLUTION**, was passed and adopted by the City Council of the City of Milwaukie this the 5<sup>th</sup> day of April, 2011.

---

Jeremy Ferguson, Mayor  
City of Milwaukie

ATTEST:

---

Pat DuVal, City Recorder

3.

# CONSENT AGENDA

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING JEFF DAVIS TO THE MILWAUKIE ARTS COMMITTEE.**

**WHEREAS**, a vacancy exists on the Arts Committee; and

**WHEREAS**, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

**WHEREAS**, Jeff Davis possesses the necessary qualifications to serve on the Arts Committee.

**Now, therefore, the City Council of the City of Milwaukie, Oregon resolves as follows:**

SECTION 1: That Jeff Davis is reappointed to the Arts Committee.

SECTION 2: That his term of appointment shall commence immediately upon adoption of this resolution and shall expire on March 31, 2013.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING VAL HUBBARD TO THE MILWAUKIE ARTS COMMITTEE.**

**WHEREAS**, a vacancy exists on the Arts Committee; and

**WHEREAS**, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

**WHEREAS**, Val Hubbard possesses the necessary qualifications to serve on the Arts Committee.

**Now, therefore, the City Council of the City of Milwaukie, Oregon resolves as follows:**

SECTION 1: That Val Hubbard is reappointed to the Arts Committee.

SECTION 2: That her term of appointment shall commence immediately upon adoption of this resolution and shall expire on March 31, 2013.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING NANCY MATICH TO THE MILWAUKIE ARTS COMMITTEE.**

**WHEREAS**, a vacancy exists on the Arts Committee; and

**WHEREAS**, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

**WHEREAS**, Nancy Matich possesses the necessary qualifications to serve on the Arts Committee.

**Now, therefore, the City Council of the City of Milwaukie, Oregon resolves as follows:**

SECTION 1: That Nancy Matich is reappointed to the Arts Committee.

SECTION 2: That her term of appointment shall commence immediately upon adoption of this resolution and shall expire on March 31, 2013.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING MARK DOCKEN TO THE LEDDING LIBRARY BOARD.**

**WHEREAS**, a vacancy exists on the Ledding Library Board; and

**WHEREAS**, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

**WHEREAS**, Mark Docken possesses the necessary qualifications to serve on the Ledding Library Board.

**Now, therefore, the City Council of the City of Milwaukie, Oregon resolves as follows:**

SECTION 1: That Mark Docken is reappointed to the Ledding Library Board.

SECTION 2: That his term of appointment shall commence immediately upon adoption of this resolution and shall expire on March 31, 2015.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING COLLEEN SCHACHT TO THE LEDDING LIBRARY BOARD.**

**WHEREAS**, a vacancy exists on the Ledding Library Board; and

**WHEREAS**, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

**WHEREAS**, Colleen Schacht possesses the necessary qualifications to serve on the Ledding Library Board.

**Now, therefore, the City Council of the City of Milwaukie, Oregon resolves as follows:**

SECTION 1: That Colleen Schacht is reappointed to the Ledding Library Board.

SECTION 2: That her term of appointment shall commence immediately upon adoption of this resolution and shall expire on March 31, 2015.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING BOB COOPER TO THE MILWAUKIE PARK AND RECREATION BOARD.**

**WHEREAS**, a vacancy exists on the Milwaukie Park and Recreation Board; and

**WHEREAS**, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

**WHEREAS**, Bob Cooper possesses the necessary qualifications to serve on the Milwaukie Park and Recreation Board.

**Now, therefore, the City Council of the City of Milwaukie, Oregon resolves as follows:**

SECTION 1: That Bob Cooper is reappointed to the Milwaukie Park and Recreation Board.

SECTION 2: That his term of appointment shall commence immediately upon adoption of this resolution and shall expire on March 31, 2015.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING RAY HARRIS TO THE MILWAUKIE PARK AND RECREATION BOARD.**

**WHEREAS**, a vacancy exists on the Milwaukie Park and Recreation Board; and

**WHEREAS**, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

**WHEREAS**, Ray Harris possesses the necessary qualifications to serve on the Milwaukie Park and Recreation Board.

**Now, therefore, the City Council of the City of Milwaukie, Oregon resolves as follows:**

SECTION 1: That Ray Harris is appointed to the Milwaukie Park and Recreation Board.

SECTION 2: That his term of appointment shall commence immediately upon adoption of this resolution and shall expire on March 31, 2015.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING TERRY DOLAN TO THE MILWAUKIE PLANNING COMMISSION.**

**WHEREAS**, a vacancy exists on the Milwaukie Planning Commission; and

**WHEREAS**, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

**WHEREAS**, Terry Dolan possesses the necessary qualifications to serve on the Milwaukie Planning Commission and has indicated his desire to serve.

**Now, therefore, the City of Milwaukie, Oregon resolves as follows:**

SECTION 1: That Terry Dolan is appointed to the Milwaukie Planning Commission.

SECTION 2: That his term of appointment shall commence immediately upon passage of this resolution and shall expire on March 31, 2015.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on April 5, 2011.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING BETTY FULMORE TO THE PUBLIC SAFETY ADVISORY COMMITTEE AS THE ARDENWALD NEIGHBORHOOD DISTRICT ASSOCIATION REPRESENTATIVE.**

**WHEREAS**, a vacancy exists on the Public Safety Advisory Committee for an Ardenwald Neighborhood Association member; and

**WHEREAS**, Milwaukie Municipal Code Section 2.24.020(B) provides for appointment of members of the Milwaukie Public Safety Advisory Committee “by the council;” and

**WHEREAS**, Betty Fulmore possesses the necessary qualifications to serve on the Committee and has indicated her desire to serve.

**Now, therefore, the City of Milwaukie, Oregon resolves as follows:**

**SECTION 1:** That Betty Fulmore is appointed to the Milwaukie Public Safety Advisory Committee as the Ardenwald Neighborhood District Association representative.

**SECTION 2:** That her term of appointment shall commence immediately and shall expire through June 30, 2013.

**SECTION 3:** This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on April 5, 2011.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
FEBRUARY 1, 2011**

**CALL TO ORDER**

**Mayor Ferguson** called the 2095<sup>th</sup> meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Mayor Ferguson, Council President Greg Chaimov and Councilors Dave Hedges, Joe Loomis, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis (arrived 8 p.m.), City Recorder Pat DuVal, Planning Director Katie Mangle, Associate Planner Ryan Marquardt, Assistant Planner Li Alligood, Information Systems and Technology Director Esther Gartner, Engineering Director Gary Parkin, Civil Engineer Jason Rice, Civil Engineer Zach Weigel, and Civil Engineer Brad Albert

**PLEDGE OF ALLEGIANCE****PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS****A. Milwaukie High School Student of the Month Travis Walker**

Mayor Ferguson and Councilors and Milwaukie High School Principal Mark Pinder recognized Milwaukie High School Student of the Month Travis Walker.

**CONSENT AGENDA**

It was moved by Councilor Chaimov and seconded by Councilor Hedges to approve the consent agenda consisting of:

- A. Resolution 8-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving an Intergovernmental Agreement with the City of West Linn to Outsource Finance Director Services and Authorizing the City Manager to Sign the Agreement;**
- B. Resolution 9-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Extending the Appointments of David Aschenbrenner and Leslie Schockner on the Milwaukie Budget Committee;**
- C. Resolution 10-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the Mayor to Sign an Intergovernmental Agreement with Clackamas County and Happy Valley to Expand and Rename the Milwaukie/North Clackamas County Enterprise Zone;**
- D. Resolution 11-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Designating the Summary Plan Description for the Flexible Spending Accounts as a Benefit Provided; and**
- E. City Council Minutes:**
  - 1. July 6, 2010 Work Session
  - 2. July 20, 2010 Work Session
  - 3. November 16, 1020 Regular Meeting

Motion passed with the following vote: Councilors Loomis, Miller, Chaimov, and Hedges and Mayor Ferguson voting "aye." [5:0]

## AUDIENCE PARTICIPATION

None.

## PUBLIC HEARING

None scheduled.

## OTHER BUSINESS

### **A. File #A-10-05 – Expedited Annexation of 9526 SE Wichita Avenue – Ordinance**

**Ms. Alligood** provided the staff report in which the City Council was requested to adopt the ordinance and associated findings in support of the annexation. She provided a brief overview of the process. The City Council has approved 36 expedited annexations since 2008, and most were part of the assisted annexation program. Staff was finding as the Northeast Sewer Extension Project was completed more people with failing septic systems were seeking annexation in order to connect to the City sewer system. This process was unique in that any property within the Urban Growth Management Area (UGMA) and contiguous to the City may apply for an expedited annexation. The property owner initiated the process and at least 50% of the registered voters on the property had to agree to the annexation. The application came directly to the City Council in a public meeting rather than a public hearing. The adoption of annexation was by ordinance and equivalent City land use and zoning remained on the property.

**Ms. Alligood** pointed out the subject property which had already connected to the City sewer system. The property owner had not participated in the assisted annexation program because of the emergency connection requirement. The property was zoned Low Density Residential in Clackamas County and Residential R-10, and the City land use and zoning designations would be Low Density Residential and Residential Zone R-10. The annexation met all relevant criteria, and the City did not receive any objections when interested parties were notified. She noted the site would be withdrawn from the territory of the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.

There were no questions from City Council on the proposed expedited annexation and no comments from the audience.

**It was moved by Councilor Miller and seconded by Councilor Chaimov for the first and second readings by title only and adoption of the ordinance annexing a tract of land identified as 9526 SE Wichita Avenue into the City limits of the City of Milwaukie and withdrawing the tract from the territory of the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights (File #A-10-05). Motion passed with the following vote: Councilors Loomis, Miller, Chaimov, and Hedges and Mayor Ferguson voting “aye.” [5:0]**

**Mr. Monahan** read the ordinance 2 times by title only.

**Ms. DuVal** polled the City Council: Councilors Loomis, Miller, Chaimov, and Hedges and Mayor Ferguson voting “aye.” [5:0]

### **ORDINANCE 2023:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS 9526 SE WICHITA AVENUE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF THE CLACKAMAS COUNTY SERVICE DISTRICT FOR**

CITY COUNCIL REGULAR SESSION – FEBRUARY 1, 2011

DRAFT MINUTES

Page 2 of 6

**ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY  
SERVICE DISTRICT NO. 5 FOR STREET LIGHTS (FILE #A-10-05)**

**B. File #A-10-06 – Expedited Annexation of 10026 SE Hollywood Avenue – Ordinance**

**Mr. Marquardt** provided the staff report in which the City Council was requested to adopt the ordinance and associated findings in support of the annexation File #A-10-06. He pointed out the subject property on the map and noted it was within the Northeast Sewer Extension Project area. The property was currently zone County R-10 and would become City R-10 upon annexation. The purpose of the annexation was to connect to the City's recently provided sanitary sewer service. The septic system on the property was beginning to fail, and the owner desired an emergency connection so made this application. There was a single-family residence on the site, and there was no indication the owner wished to further develop the property. Staff found the application met all City, County, Metro, and State requirements for expedited annexations. All necessary parties, interested persons, and residents and property owners within 400-feet of the site were notified and the annexation proceedings as were the Lewelling Neighborhood District Association and Southgate Planning Association. There were no objections received concerning this annexation. Staff recommended the City Council approve the annexation of the property into the City of Milwaukie and result in its withdrawal from two service districts.

There were no questions from City Council on the proposed expedited annexation and no comments from the audience.

**It was moved by Councilor Hedges and seconded by Councilor Loomis for the first and second readings by title only and adoption of the ordinance annexing a tract of land identified as 10026 SE Hollywood Avenue into the City limits of the City of Milwaukie and withdrawing the tract from the territory of the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights (File #A-10-06). Motion passed with the following vote: Councilors Loomis, Miller, Chaimov, and Hedges and Mayor Ferguson voting "aye." [5:0]**

**Mr. Monahan** read the ordinance two times by title only.

**Ms. DuVal** polled the City Council: Councilors Loomis, Miller, Chaimov, and Hedges and Mayor Ferguson voting "aye." [5:0]

**ORDINANCE 2024:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS 10026 SE HOLLYWOOD AVENUE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF THE CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS (FILE #A-10-06)**

**C. Voice Over Internet Protocol Telephone Replacement Authorization and Project Management Contract Award – Resolution**

**Ms. Gartner** provided the staff report in which the City Council was requested to authorize the City Manager to sign an agreement with Northwest Information Services, Inc. (NIS) to assist the City with the design, selection, and installation of a new voice over internet protocol (VoIP) telephone system. This would replace the City's aging PBX system installed in the mid-1990's for which the City can no longer procure new replacement parts and phones for failed units. The manufacturer has announced a May

**CITY COUNCIL REGULAR SESSION – FEBRUARY 1, 2011**

**DRAFT MINUTES**

**Page 3 of 6**

2, 2011 end of all support life date for the system routers and switches. She discussed the 2008 assessment which NIS would update to identify further efficiencies. Milwaukie would piggyback on a Washington County contract for these services. Ms. Gartner discussed the benefits of an integrated voice and data system. This project was funded at \$300,000 in the IST Department FY 2011 budget.

**Mayor Ferguson** noted the IT Assessment clearly identified the phone system as one of the greatest needs in the City.

**Councilor Loomis** supported the proposal as the phone system had been identified as one of the City' true needs.

**Councilor Hedges** asked Ms. Gartner to elaborate on anticipated savings.

**Ms. Gartner** replied parts for the current system were very expensive and difficult to get and were only refurbished. Maintenance costs for the new system would be far less than what Milwaukie was paying now. Other saving would come from combining the voice and data networks. The department would no longer have to trace and punch lines which was a very arduous and time-consuming process.

**Mike Smith**, NIS, performed the initial assessment three years ago and confirmed the costs of the VoIP system would be far less than the current technology. It would be a software-based system, so the City would be getting away from hardware costs. He discussed flexibility and enhancements that would benefit 9-1-1 services.

**It was moved by Councilor Loomis and seconded by Councilor Hedges to adopt the resolution authorizing the City Manager to execute a contract with Northwest Information Services, Inc. to provide project management services in the selection and implementation of a new telephone system to include the acquisition of all necessary software and hardware equipment. Motion passed with the following vote: Councilors Loomis, Miller, Chaimov, and Hedges and Mayor Ferguson voting "aye." [5:0]**

#### **RESOLUTION 12-2011:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH NORTHWEST INFORMATION SERVICES, INC. TO PROVIDE PROJECT MANAGEMENT SERVICES IN THE SELECTION AND IMPLEMENTATION OF A NEW TELEPHONE SYSTEM TO INCLUDE THE ACQUISITION OF ALL NECESSARY SOFTWARE AND HARDWARE EQUIPMENT**

#### **D. Fourth Annual Report on the Street Surface Maintenance Program**

**Mr. Asher** and **Mr. Parkin** provided the City Council with the annual update on the Street Surface Maintenance Program (SSMP). This was an informational presentation as required by the ordinance enacted by the City Council in 2006, and no actions were requested. The City's 140-mile street network was valued at \$65 million. The presentation covered completed and upcoming projects, overall condition of the network, revenue summary, and program goal update. The major project in 2011 was Lake Road, and Mr. Asher summarized the 10-year maintenance schedule that focused on arterials and collectors. He discussed this year's slurry and crack sealing programs in the neighborhoods. In Year 5, FY 2012, reconstruction is planned for the first phase of Harrison Street from 32<sup>nd</sup> Avenue to 42<sup>nd</sup> Avenue and International Way from 37<sup>th</sup> Avenue to Harmony Road. Year 6, FY 2013, was dedicated to the Monroe Street reconstruction from 99E to Linwood Avenue. The second phase of Harrison Street from 32<sup>nd</sup> Avenue to 99E was schedule for Year 7, FY 2014. Rehabilitation and overlay of Main Street from Scott Street to Lake Road was scheduled for spring 2014.

**CITY COUNCIL REGULAR SESSION – FEBRUARY 1, 2011**

**DRAFT MINUTES**

**Page 4 of 6**

He discussed the overall network condition which has changed from a pavement condition index (PCI) of 61 when the SSP started in 2007 and was estimated to have increased to 62. If the SSMP had not been implemented the PCI would likely to have fallen to 54. The goal was to improve the pavement condition for arterial, collector, and neighborhood routes to an average PCI of 75 over the program's 10-year life.

The three revenue sources from this program were a street surface maintenance fee, a local gas tax, and the PGE privilege tax. Revenue from the street maintenance fee for FY 2010 was slightly higher than budgeted but looked to be coming in a bit lower this year. The two-cent per gallon local gas tax was implement July 1, 2007, and was being closely monitored as revenue was lower than anticipated. The electric utility privilege tax was collected each spring and had to date come in higher than budgeted. He reviewed ending fund balances.

**Mr. Asher** discussed program goals that included an average minimum network PCI value of 75 for major streets, a reduction of the deferred maintenance backlog for major streets, preventative maintenance of major streets to avoid costly reconstruction, continuance of City-wide emergency stopgap maintenance, and program revenue and expenditure goals. Additional benefits of this program included removal of obstacles on bike routes, improved drainage, and improved striping for bike facilities, pedestrian crossings and adjustments in roadway alignment.

**Councilor Hedges** asked for elaboration on earlier comments made about the effectiveness of slurry seals.

**Mr. Parkin** responded the new process uses recycled rubber so the durability was still being monitored.

**Councilor Miller** asked why International Way was selected since he was sure its PCI was much higher than Monroe Street.

**Mr. Parkin** replied this was a preventative measure. Some areas showed wear and if not dealt with soon would require reconstruction. Monroe Street was bad and will have to be reconstructed whether done now or two years from now. He added staff was looking for grants to do some sewer work on Monroe so doing any paving before that would not be effective use of funds.

**Councilor Miller** did not see in any of these projects where sidewalks were included. How could it be safer for pedestrians if there were no sidewalks?

**Mr. Parkin** responded sidewalks were not included. The intent of the SSMP was to address the streets curb-to-curb.

**Mr. Asher** added sidewalks were not within the charge of the Program. Adding sidewalks would result in a much more expensive program that included right-of-way acquisition, easements, additional design, and things of that nature. His earlier comments about pedestrian benefits had to do with striping crosswalks and safer routes to schools in some of these projects. When the City Council adopted the program people wanted to make sure this money only addressed the street.

## **E. Capital Improvement Program Project Update for Fiscal Year 2010 – 2011**

**Mr. Parkin** was joined by Civil Engineers Albert, Rice, and Weigel to provide information on the City's Capital Improvement Program (CIP). The CIP was a 5-year plan for capital projects which have been identified as those that extended the useful life of an asset. The utilities included the Street Surface Maintenance Program (SSMP) on which he and Mr. Asher just reported.

**Mr. Albert** reported on the stormwater utility projects that included the decant facility at the Johnson Creek Facility, removal of the Kellogg Creek Dam, underground injection control (UIC) facilities, and National Pollutant Discharge Elimination System Permit (NPDES)/UIC Permit renewals required by DEQ. He described the decant facility and its function which was funded by the three utilities.

**Mr. Parkin** reviewed the street projects that included bike route improvements, Lake Road Multimodal Improvements Phase 1, the Walk Safely Milwaukie Program (WSMP), the 2010 Transportation System Development Charge (SDC) Study, the Union Pacific Mainline Railroad Quiet Zone, Jackson Street Improvement Project, School Zone flashing beacons, and the Logus Road Improvements Phase 1.

**Mr. Rice** discussed the Northeast Sewer Extension (NESE) Project, Capital Maintenance Program, and the Main Street Main Grant Program. He highlighted the NESE Project and the service it would provide 261 properties in that area. It was planned for completion in March.

**Mr. Weigel** discussed the 2010 Water System Master Plan, 43<sup>rd</sup> Avenue Improvements, 42<sup>nd</sup> Avenue improvements between King Road and Franklin Street, and the Harrison Street Improvement Project. He highlighted the 42<sup>nd</sup> Avenue project that would abandon an old, redundant 4-inch main on 42<sup>nd</sup> Avenue and transfer 10 water services to a newer, larger main. This work was being done in anticipation of the Harrison and Monroe Street SSMP projects.

**Mr. Parkin** reported staff was working on a new 5-year CIP for the budget process and discussed the importance of completing and updating master plans to help forecast revenues and expenditures.

#### **F. Council Reports**

**Mayor Ferguson** and Councilors reported on meetings they had attended and announced upcoming community events.

**Mayor Ferguson** announced the Milwaukie City Council would meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2)(e) to deliberate with persons designated by the governing body to negotiate real property transactions and 192.660(2)(h) to consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

#### **ADJOURNMENT**

**It was moved by Councilor Chaimov and seconded by Councilor Miller to adjourn the meeting. Motion passed with the following vote: Councilors Loomis, Miller, Chaimov, and Hedges and Mayor Ferguson voting “aye.” [5:0]**

**Mayor Ferguson** adjourned the regular session at 8:32 p.m.

Respectfully submitted,

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
FEBRUARY 15, 2011**

**3.J.2.**

**CALL TO ORDER**

**Mayor Ferguson** called the 2096<sup>th</sup> meeting of the Milwaukie City Council to order at 7:09 p.m. in the City Hall Council Chambers.

Present: Mayor Ferguson, Council President Greg Chaimov and Councilors Dave Hedges, Joe Loomis, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis (arrived 8 p.m.), City Recorder Pat DuVal, Resource and Economic Development Specialist Alex Campbell

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**

**A. Community Safety Appreciation Week**

**Mayor Ferguson** read a proclamation naming February 28 through March 4, 2011 as *Community Safety Appreciation Week* in the City of Milwaukie.

**CONSENT AGENDA**

It was moved by Councilor Miller and seconded by Councilor Hedges to approve the consent agenda consisting of:

- A. Resolution 13-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Support of the City of Milwaukie in the Legislative Effort to Correct a Technical Change to the HRA VEBA Program;**
- B. Resolution 14-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Jon Stoll to the Milwaukie Budget Committee;**
- C. Resolution 15-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Elizabeth Arne to the Milwaukie Arts Committee;**
- D. Resolution 16-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Lars Campbell to the Milwaukie Arts Committee;**
- E. Resolution 17-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving an Intergovernmental Agreement with the City of West Linn to Outsource Finance Director Services and Authorizing the City Manager to Sign the Agreement;**
- F. Resolution 18-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Adopting Fiscal Policies; and**
- G. City Council Minutes:**
  - 1. September 21, 2010 Work Session
  - 2. October 5, 2010 Work Session

Motion passed with the following vote: Councilors Miller, Chaimov, Hedges, and Loomis and Mayor Ferguson voting "aye." [5:0]

**AUDIENCE PARTICIPATION**

None.

## **PUBLIC HEARING**

### **A. Continue Milwaukie Municipal Code Amendments 19.321.7 and 19.321.3 – Ordinance**

**Mr. Monahan** provided a brief background on the proposed amendments.

**It was moved by Councilor Chaimov and seconded by Councilor Loomis to continue the proposed Milwaukie Municipal Code amendments 19.321.7 and 19.321.3 to the regular City Council meeting of March 15, 2011. Motion passed with the following vote: Councilors Miller, Chaimov, Hedges, and Loomis and Mayor Ferguson voting “aye.” [5:0]**

## **OTHER BUSINESS**

### **A. Possible Transportation Growth Management (TGM) Grant Application**

**Mr. Campbell** provided the report in which staff requested Council to provide direction on the City’s request for Transportation Growth Management (TGM) funding. This was a State program sponsored jointly by the Department of Land Conservation and Development (DLCDD) and the Oregon Department of Transportation (ODOT). The program is administered by ODOT and is intended to support integrated local land use and transportation planning. He noted grants were awarded for planning and not project development or design. In the pre-application process, City staff submitted two possible projects: station area planning for the Tacoma Station and the Hwy 224/99E refinement plan. He discussed the merits of each and how staff felt each would rank. The grant request would be \$100,000 to \$125,000 for one project, and the minimum local match could be covered by the City’s in-kind contribution of staff time.

**Councilor Hedges** could see the merits of both projects but preferred the Tacoma Station area planning option.

**Councilor Chaimov’s** impression was that this program was not suitable for some sort of planning that would make the Oak Street/Hwy 224 intersection less like a scrum.

**Mr. Campbell** thought it might be in the City’s best interest to make it more like a scrum. ODOT would probably like it to not be there at all. One of the real challenges was that there might be outcomes from this process Milwaukie may not like because it would be shining light on an ODOT facility. It may result in a better traffic flow through restricted movements, but it might not benefit Milwaukie residents.

**Councilor Chaimov** would be inclined to add that to the list making Oak Street/Hwy 224 a better intersection for residents yet not making it significantly less useful. Putting that aside he would prefer working on the station area planning for the Tacoma Station for better use and access to facilitate the potential for a baseball facility in that area.

**Councilor Miller** saw both of these as worthwhile projects but felt something needed to be done with 37<sup>th</sup> Avenue/Hwy 224 intersection. He felt something would happen in terms of Tacoma as light rail was being built. Improvements to these Hwy 224 intersections would be of the greatest benefit to Milwaukie residents.

**Mr. Campbell** said there was also a question of scale. This money was not available to design specific projects. There was a project identified in the Transportation System Plan (TSP) to correct those intersections, so staff felt it had an idea of what needed to be done. These grant funds were for planning and could not be used for actual design of the improvement.

**Councilor Loomis** agreed with Councilor Hedges. His priority would be the Tacoma Station. Would this project be feasible for connecting the Springwater Corridor and Riverfront Park?

**Mr. Campbell** replied next spring the region would be talking about spending flexible funds for use on design and construction, and he felt the project outlined by Councilor Loomis might be eligible. The challenge would be determining who was responsible for picking up the match.

**Russ Stoll**, Milwaukie. He understood ODOT would be responsible for reconfiguring the Tacoma/99E area and asked if that design work had been completed. It seemed a number of things had not been decided yet. The station was entirely in Portland, and the Citizens Advisory Committee was working on the issues. The most immediately impacted property was Pendleton. He suggested the City Council consider citizen concerns related to Railroad Avenue and Harmony Road including the preservation of the oak savannah.

**Mr. Campbell** replied this project will be cognizant of the needed ODOT planning. The station was largely in Portland, and the vast majority of the questions had to do with the area north of Tacoma. Portland and ODOT staffs were on board with this being advanced as a Milwaukie project. He discussed the Harmony Road project, and he did not get the overall sense of that project was to support development.

**Councilor Hedges** felt it was fair to say the position of the Linwood, Lewelling, and Hector Campbell Neighborhoods was to stop the project because of the potential for traffic going into the neighborhoods. He did not think there was much point in doing anything with Railroad Avenue as it was scheduled for work in the future.

**Mayor Ferguson** thought both were good projects, and the Tacoma Station planning would probably get the nod from most people.

## **B. Council Reports**

**Mayor Ferguson** interviewed individuals for Planning Commission and recommended that Russ Stoll be appointed to fill Teresa Bresaw's unexpired term. He further recommended that Linda Hedges and Art Ball be appointed as members-at-large to the Public Safety Advisory Committee (PSAC). By consensus of Council, staff was directed to prepare resolutions for adoption at the next meeting.

**Mayor Ferguson** and Councilors reported on meetings they had attended and announced upcoming community events.

**Mayor Ferguson** announced the Milwaukie City Council would meet in executive session immediately following adjournment of the regular session pursuant to ORS 192.660(2)(h) to consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

## **ADJOURNMENT**

**It was moved by Councilor Chaimov and seconded by Councilor Miller to adjourn the meeting. Motion passed with the following vote: Councilors Miller, Chaimov, Hedges, and Loomis and Mayor Ferguson voting "aye." [5:0]**

**Mayor Ferguson** adjourned the regular session at 7:58 p.m.

Respectfully submitted,

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Pat DuVal, Recorder

6.  
OTHER BUSINESS



6.B.

**To: Mayor and City Council**

**Through: Bill Monahan, City Manager**

**From: JoAnn Herrigel, Community Services Director**

**Subject: Resolution to Support State Bag Ban Legislation**

**Date: March 8, 2011**

**Action Requested**

Approve a resolution supporting legislation regulating the use of single-use plastic bags and non-recycled paper check out bags at retail stores.

**History of Prior Actions and Discussions**

None

**Background**

Senators Mark Hass and Jason Atkinson, introduced a bill in the 2010 Legislative Session (SB 1009) to ban plastic checkout bags in Oregon. Although the proposed legislation was not adopted, it led to significant discussion by stakeholder groups across the state, including the Northwest Grocery Association, Environment Oregon, and representatives of local and state government. That discussion has led to draft legislation that will be considered by the 2011 Legislative Assembly to ban the use of plastic and non-recycled content checkout bags throughout the state.

The Northwest Grocery Association and Environment Oregon strongly support local adoption of a resolution calling on the Oregon Legislative Assembly to enact a statewide solution to the proliferation of single-use plastic checkout bags in 2011. Both organizations encourage Milwaukie to join other jurisdictions across Oregon calling for a uniform approach to most effectively address plastic bag pollution and the associated environmental and economic impacts, and providing ease of implementation by retailers across the state, rather than on a jurisdiction by jurisdiction basis.

The proposed resolution is based on a model resolution provided by the Northwest Grocery Association and is similar to resolutions adopted by the Cities of Lake Oswego, Portland, Newport, and Beaverton as well as Metro. Council approval would express Milwaukie's support for statewide action to address single-use checkout bags, with consideration of a local plastic bag ban and associated elements if the Legislative Assembly does not act by the end of 2011.

**Concurrence**

Mayor Ferguson requested that staff bring forward the attached resolution. The Community Services Director and the City Manager support the approval of this resolution.

**Fiscal Impact**

No fiscal impact is expected for the City.

**Work Load Impacts**

None.

**Alternatives**

Deny approval of the resolution pending action on proposed state legislation.

**Attachments**

1. Resolution
2. Text of SB 1009

# Attachment 1

RESOLUTION NO. \_\_\_\_\_

## **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUPPORTING LEGISLATION REGULATING THE USE OF SINGLE-USE PLASTIC BAGS AND NON-RECYCLED PAPER CHECK OUT BAGS AT RETAIL STORES.**

**WHEREAS**, single-use plastic bags are difficult to recycle and frequently contaminate material that is collected in the City's curbside recycling program; and

**WHEREAS**, recycled content paper checkout bags are a high value recyclable material collected in the City's curbside recycling program and are made in paper mills located in the region and while papermaking has notable environmental impacts, paper bags that are made with forty percent or more recycled fiber provide a positive alternative to plastic bags; and

**WHEREAS**, reusable bags are the best option to reduce waste and litter, protect wildlife, and conserve resources; and

**WHEREAS**, the use of single-use checkout bags has environmental impacts resulting from their production and disposal, including greenhouse gas emissions, litter and ocean pollution, harm to wildlife and marine resources, ground-level ozone formation, atmospheric acidification, water consumption and solid waste generation; and

**WHEREAS**, it is in the public interest for the 76<sup>th</sup> Oregon Legislative Assembly to provide statewide regulation of single-use checkout bags; and

**WHEREAS**, it is anticipated that a bill will be introduced in the 2011 Legislative Assembly banning the use of single-use plastic and non-recycled paper checkout bags, and allowing use of paper bags containing at least forty percent recycled fiber for a five-cent minimum charge; and

**WHEREAS**, enactment of this proposed legislation will reduce waste and promote sustainability in Oregon; and

**WHEREAS**, if the Oregon Legislative Assembly does not act to regulate single-use checkout bags, the Milwaukie City Council may find it necessary to enact such regulations within the City of Milwaukie.

### **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON:**

**Section 1:** The City Council supports passage of a bill by the 2011 Oregon Legislative Assembly to prohibit the use of single-use plastic and non-recycled content paper checkout bags at all retail stores, allowing retail stores to use

paper checkout bags containing at least forty percent recycled fiber for a minimum charge to the customer of five cents per bag and allowing retail stores to provide reusable bags to the customer either at no cost or for sale.

**Section 2:** In the event that the 2011 Oregon Legislative Assembly does not adopt legislation with provisions substantially similar to those listed in Section 1 of this resolution, the City Council may consider enacting a local ordinance regulating single-use plastic and non-recycled content paper checkout bags.

**Section 3:** The City will provide a copy of this resolution to Senator Mark Hass, Senator Jason Atkinson, Senator Diane Rosenbaum and Representative Carolyn Tomei.

**Section 4:** This resolution shall take effect immediately upon passage.

Introduced and adopted by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:

Jordan Schrader Ramis PC

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

# ATTACHMENT 2

75th OREGON LEGISLATIVE ASSEMBLY--2010 Special Session

## Senate Bill 1009

Sponsored by Senator HASS; Senator ATKINSON (Presession filed.)

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Prohibits use of plastic bags as checkout bags. Allows Department of Environmental Quality to impose civil penalty. Repeals statute requiring retail establishments that offer plastic bags to customers to also offer paper bags.

Declares emergency, effective on passage.

### A BILL FOR AN ACT

1  
2 Relating to plastic bags; creating new provisions; amending ORS 459.235 and 459A.115; repealing  
3 ORS 459A.695; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) As used in this section:**

6 (a) **"Checkout bag" means a bag that is provided by a retail establishment to a customer**  
7 **at the cash register.**

8 (b) **"Retail establishment" means any store in Oregon that sells or offers for sale goods**  
9 **at retail.**

10 (c) **"Reusable bag" means a bag with handles that is specifically designed and manufac-**  
11 **tured for multiple reuse and is made of:**

12 (A) **Cloth or other machine washable fabric; or**

13 (B) **Durable plastic that is at least 2.25 mils thick.**

14 (2)(a) **The use of plastic bags as checkout bags in Oregon is prohibited.**

15 (b) **Paragraph (a) of this subsection does not preclude a retail establishment from:**

16 (A) **Making reusable bags available for sale to customers.**

17 (B) **Offering paper bags, or any other bag as specified by rule by the Environmental**  
18 **Quality Commission, as checkout bags to customers for purchases made at the retail estab-**  
19 **lishment.**

20 (3) **The Environmental Quality Commission may adopt rules necessary to implement this**  
21 **section.**

22 **SECTION 2. (1) The Department of Environmental Quality may impose a civil penalty on**  
23 **a person for a violation of section 1 of this 2010 Act.**

24 (2) **A civil penalty imposed under this section may not exceed \$\_\_\_\_\_.**

25 (3) **Civil penalties described in this section shall be imposed in the manner provided in**  
26 **ORS 183.745.**

27 **SECTION 3. ORS 459A.695 is repealed.**

28 **SECTION 4. ORS 459.235 is amended to read:**

29 459.235. (1) **Applications for permits shall be on forms prescribed by the Department of Envi-**  
30 **ronmental Quality. An application shall contain a description of the existing and proposed operation**

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.

LC 23

1 and the existing and proposed facilities at the site, with detailed plans and specifications for any  
 2 facilities to be constructed. The application shall include a recommendation by each local govern-  
 3 ment unit having jurisdiction and such other information the department deems necessary in order  
 4 to determine whether the site and solid waste disposal facilities located thereon and the operation  
 5 will comply with applicable requirements.

6 (2) The Environmental Quality Commission shall establish a schedule of fees for disposal site  
 7 permits. The permit fees contained in the schedule shall be based on the anticipated cost of filing  
 8 and investigating the application, of issuing or denying the requested permit and of an inspection  
 9 program to determine compliance or noncompliance with the permit.

10 (3) In addition to the fees imposed under subsection (2) of this section, the commission shall  
 11 establish a schedule of permit fees for the purpose of implementing this section and ORS 90.318,  
 12 182.375, 279A.125, 279A.155, 279B.025, 279B.240, 279B.270, 279B.280, 459.005, 459.015, 459.247, 459.418,  
 13 459.995, 459A.005, 459A.010, 459A.020, 459A.030 to 459A.055, 459A.070, 459A.110, 459A.115, 459A.475,  
 14 459A.480, 459A.500 to 459A.685[, 459A.695] and 459A.750. The fees shall be based on the amount of  
 15 solid waste received at the disposal site.

16 (4) Notwithstanding any other fee or surcharge imposed under ORS 459.005 to 459.437 or  
 17 459A.005 to 459A.120, for the disposal of solid waste, in order to encourage the use of suitable ma-  
 18 terial other than virgin material for daily cover at a disposal site, the only fee that may be charged  
 19 for the disposal of substitute material that is also used for daily cover is the permit fee established  
 20 under this section.

21 **SECTION 5.** ORS 459A.115 is amended to read:

22 459A.115. (1) From January 1, 1992, to December 31, 1993, the schedule of fees as established  
 23 by the Environmental Quality Commission under ORS 459A.110 (1) is increased by 35 cents per ton.  
 24 The portion of the fees attributable to the 35 cents per ton increase shall be deposited into the  
 25 General Fund and credited to an account of the Department of Environmental Quality. Such moneys  
 26 are continuously appropriated to the department to implement the provisions of this section and  
 27 ORS 459.005, 459.015, 459.235, 459.247, 459.418, 459.995, 459A.005, 459A.010, 459A.020, 459A.030 to  
 28 459A.055, 459A.070, 459A.110, 459A.500 to 459A.685[, 459A.695] and 459A.750.

29 (2) Beginning January 1, 1994, the schedule of fees as established by the commission under ORS  
 30 459A.110 is increased by 31 cents per ton and shall be deposited into the General Fund and credited  
 31 to an account of the department. Such moneys are continuously appropriated to the department to  
 32 implement the provisions described in subsection (1) of this section, excluding ORS 459.418.

33 **SECTION 6.** (1) Except as provided in subsection (2) of this section, sections 1 and 2 of  
 34 this 2010 Act, the repeal of ORS 459A.695 by section 3 of this 2010 Act and the amendments  
 35 to ORS 459.235 and 459A.115 by sections 4 and 5 of this 2010 Act become operative on January  
 36 1, 2012.

37 (2) The Environmental Quality Commission may adopt rules before the operative date  
 38 specified in subsection (1) of this section, or take any other action before the operative date  
 39 specified in subsection (1) of this section, that is necessary to implement, on or after the  
 40 operative date specified in subsection (1) of this section, sections 1 and 2 of this 2010 Act, the  
 41 repeal of ORS 459A.695 by section 3 of this 2010 Act and the amendments to ORS 459.235 and  
 42 459A.115 by sections 4 and 5 of this 2010 Act.

43 **SECTION 7.** This 2010 Act being necessary for the immediate preservation of the public  
 44 peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect  
 45 on its passage.

## RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUSPENDING THE APPLICATION OF PUBLIC AREA REQUIREMENTS OF MILWAUKIE MUNICIPAL CODE SECTION 19.312.5 FOR THE PERIOD FROM APRIL 6, 2011 THROUGH OCTOBER 31, 2112.**

**WHEREAS**, the City of Milwaukie requires under Section 19.312.5 of the Milwaukie Municipal Code that those who develop or redevelop property in the Milwaukie Downtown make certain public area requirement improvements within the public right-of-way; and

**WHEREAS**, the public area requirements were adopted to ensure the development of a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment with a unified urban design; and

**WHEREAS**, the redevelopment of the Milwaukie Downtown continues to be a high priority of the City; and

**WHEREAS**, during the last few years economic conditions have caused redevelopment to slow and some buildings in the Milwaukie Downtown are at less than full occupancy; and

**WHEREAS**, the imposition of public area requirements has been identified by some downtown property owners as an impediment to redevelopment efforts and the attraction of new businesses or the expansion of existing businesses; and

**WHEREAS**, the temporary suspension of public area requirements for the owners of redeveloping properties coupled with the City assuming responsibility for funding and constructing those public area requirements could be a stimulus to economic development in the downtown; and

**WHEREAS**, the City intends to resume the full application of the public area requirements to property development and redevelopment in the Milwaukie Downtown as of November 1, 2012; and

**WHEREAS**, the City is committed to carrying out the revitalization of the Milwaukie Downtown with consistent and high quality public right-of-way.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Milwaukie, Oregon, that:

**Section 1.** That the obligation of property owners to develop public right-of-way under the public area requirements of Section 19.312.5 of the Milwaukie Municipal Code are suspended for all occupancy permits issued for property within the Milwaukie Downtown between April 6, 2011 and October 31, 2012,.

**Section 2.** That the City of Milwaukie Community Development Department will calculate and keep track of all public area requirements suspended during this period of time.

**Section 3.** That the City of Milwaukie will undertake a reexamination of Milwaukie Municipal Code Section 19.312.5 Public Area Requirements for the purpose of considering whether the requirements should be applicable in the future in the present form.

**Section 4.** That the City of Milwaukie will develop a program to complete the public area requirements identified in Section 2. and fund the construction of the improvements so that they are in place by June 30, 2013.

**Section 5.** That property owners in the Milwaukie Downtown shall be required to resume obligation for public area requirements on November 1, 2012 under the then existing requirements of Section 19.312.5 of the Milwaukie Municipal Code.

**Section 6.** This resolution is effective immediately.

Introduced and adopted by the City Council on April 5, 2011.

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Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

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Pat DuVal, City Recorder

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City Attorney

Document1 (Last revised 09/18/07)

## **Draft** Council Goals From the City Council meeting of March 15, 2011

1. Cultivate other avenues of two-way communication between City and citizens
2. Pursue economic development initiatives that:
  - promote small business investment and development that capitalize on making Milwaukie a unique destination
  - promote development of neighborhood-centered commercial centers, including 20-minute walking neighborhoods.
  - promote downtown as a special place
  - identify facilities in the City to attract destination events and activities
  - continue to explore the opportunity to bring minor league baseball and secure the ODOT property
3. Improve collaboration between Council, Boards, Commissions, Committees, and Neighborhood District Associations
4. Review the City's boundaries - negotiate with Happy Valley in establishing Milwaukie's eastern border
5. Council play a greater role in regional bodies.
6. Bring forward cost and scope information to complete Master Plans for Kronberg and Balfour Parks and complete the plan for Kronberg Park by the time light rail opens.
7. Make the Kellogg Plant a good neighbor
8. Complete a fair wastewater agreement with Clackamas County Service District #1
9. Gather more information on Tree City USA designation and assess current greening efforts

10. Allocate resources within the Capital Improvement Plan to improve livability in the neighborhoods.
11. Review Public Facilities Study and provide direction for implementation.
12. Identify where the \$5 million for light rail comes from by August 30, 2011.
13. Develop Riverfront Park by Jan. 1, 2013.
14. Develop a plan for consideration of Ledding Library expansion options.
15. Complete Kellogg for Coho Project by Jan. 1, 2016
16. Develop an intra-city transportation system to coordinate with Light Rail.
17. Move from a reactive to proactive Code Enforcement Program in the City.
18. Address emergency preparedness by developing and implementing a plan of what the City does to prepare and respond to an emergency while assisting City residents to become sufficiently prepared.
19. Develop the station building with the Light rail line so the building is in place when the Light Rail line opens in Milwaukie.
20. Decide how the City will care for City parks, open space, median strips and other public area that are the responsibility of the City.