

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
APRIL 19, 2011**

**CALL TO ORDER**

**Mayor Ferguson** called the 2100<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, City Recorder Pat DuVal, Community Services Director JoAnn Herrigel, Community Development and Public Works Director Kenny Asher, and Engineering Director Gary Parkin

**PLEDGE OF ALLEGIANCE**

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

**A. Arbor Day Proclamation**

**Mayor Ferguson** read a proclamation naming April 29, 2011, as *Arbor Day* in the City of Milwaukie and urged all residents to observe this day by planting trees appropriate for this area.

**B. Earth Day Proclamation**

**Mayor Ferguson** read a proclamation naming April 22, 2011 as *Earth Day* in the City of Milwaukie and urged all citizens to be mindful of local, state, and national laws which protect the environment and to join in efforts to preserve the beauty and wonder of the lands, skies, and water of the Earth in all its diversity.

**C. Fleet “Green Shop” Certification Award**

**Ms. Herrigel** introduced **Deborah Teaves** of the Pacific Pollution Prevention Resource Center who presented the “Green Shop” award to the City of Milwaukie Fleet Division. Ms. Teaves provided background on the program and the criteria by which an organization was certified. Gil Tamlyn, Jack Nelson, and Steve Brackenbrough were present to accept the award.

**D. Jackson Street Bus Shelter Update**

**Young Park**, TriMet Capital Projects Manager, reported the temporary shelters were installed and provided a brief update on installation of the high capacity structures. He discussed the delays in locating a fabricator and reported TriMet had located a credible contractor to build the shelters similar to those in the downtown Portland transit mall. The shelters will be stainless steel with illuminated columns. TriMet anticipated installation this September. He noted the landscaping would be restored and grass would be installed on Harrison Street this week.

## **E. Vehicle Registration Fee Ballot Measure**

**Clackamas County Commissioner Jim Bernard** thanked the City for the ongoing use of the Farmers' Market space which was going into its 13<sup>th</sup> season. He discussed how the non-profit had returned to the community throughout the years.

**Commissioner Bernard** outlined Clackamas County's transportation funding needs and the proposed \$5 vehicle registration fee to help build a new Sellwood Bridge. The proposed fee will be on the May 17, 2011 ballot.

## **CONSENT AGENDA**

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

- A. Resolution 46-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Adopting Its Council Goals; and**
- B. City Council Minutes:**
  - 1. February 1, 2011 Work Session**
  - 2. March 1, 2011 Regular Session**

**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, provided a map of the Kronberg/Poole properties to help clarify legal issues related to the Kellogg Lake light rail crossing. He had grave concerns that the properties had never been combined and protected as one park. He commented on the design for the ugliest bridge in America. He was speaking for hundreds of people who were very upset about what was being planned.

**Yvonne Lazarus**, Clackamas County, thought the region over-anticipated the use of MAX and underestimated impacts on the neighborhoods, businesses, and the environment by local decision makers. The ugliest bridge in America and the concrete park-and-ride at Park Avenue were environmental tragedies. A bus line can always be moved to allow for healthy growth. The amount of money being spent was criminal, and Ms. Lazarus urged the City Council to stop this atrocity.

## **PUBLIC HEARING**

None scheduled

## **OTHER BUSINESS**

- A. Software as a Service Intergovernmental Agreement with State of Oregon Secretary of State's Office, Archives Division – Resolution**

**Ms. DuVal** briefly reviewed the proposal and introduced Oregon State Archivist Mary Beth Herkert.

**Ms. Herkert** reviewed the software as a service offered by the Secretary of State's Office and the benefits of being a project pilot site.

**It was moved by Councilor Chaimov and seconded by Councilor Loomis to adopt the resolution authorizing the City Manager to execute an intergovernmental agreement with the State of Oregon acting through its Office of the Secretary of**

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

**RESOLUTION NO. 47-2011:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON ACTING THROUGH ITS OFFICE OF THE SECRETARY OF STATE AND THE CITY OF MILWAUKIE.**

**B. Photo Radar Contract Authorization – Resolution**

This item would be considered at May 3, 2011 regular City Council session.

**C. Construction of International and Monroe Sewer Replacement Project – Resolution**

**Mr. Parkin** provided the staff report in which the City Council was requested to sign a contract for the construction of the International and Monroe Sewer replacement projects with Columbia Earthworks in the amount of \$107,095. These were identified as low spots in the lines and potential problem areas. Work would be done May and June.

**It was moved by Councilor Hedges and seconded by Councilor Miller to adopt the resolution approving the award of contract for the construction of International Way and Monroe Street Sewer Replacement Project. Motion passed with the following vote: Councilors Miller, Chaimov, Hedges, and Loomis and Mayor Ferguson voting 'aye.' [5:0]**

**RESOLUTION NO. 48-2011:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE AWARD OF CONTRACT FOR THE CONSTRUCTION OF THE INTERNATIONAL WAY AND MONROE STREET SEWER REPLACEMENT PROJECT.**

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

**Mr. Monahan** reported at the previous meeting the City Council reviewed a resolution proposed by Councilor Miller and heard public comment on the matter related to Ed Aaron's Main/Monroe Building. Council directed that Councilor Loomis, Gary Parkin, and he meet with Mr. Aaron to discuss the public area requirements for his property. The meeting was held, and at the end of that discussion Mr. Parkin took documentation back to his office for review and evaluation. Tonight Mr. Monahan reported the discussion went well, and he recommended an additional meeting prior to making a recommendation to the City Council.

**Councilor Loomis** reported the conversation was a good one and that Mr. Aaron provided some information Mr. Monahan had not seen before. There were two figures on the table, so the City representatives felt the new information needed to be reviewed. Mr. Aaron agreed that he had until mid-June before progress would be impacted. He recommended another meeting with Mr. Aaron to come up with a resolution and tenant.

**Mr. Aaron** agreed last week's meeting was positive and hoped to get an update from Mr. Parkin about the work session briefing.

**Mr. Monahan** recommended further discussion with action on the proposal at the May 3, 2011 City Council regular session.

**Councilor Miller** was concerned that the City Council had spent six weeks discussing this resolution. Although he was pleased to work out this situation, he did not believe it solved the problem for other businesses in downtown Milwaukie. He felt the City needed to take a break from public area requirements and not continue to do what it had been doing because it was not working. He urged looking for a more positive outcome for the citizens and businesses in Milwaukie.

**It was moved by Councilor Miller to adopt the resolution 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, 2012**

**Councilor Loomis** appreciated Councilor Miller's passion and people's commitment to making this situation work. He hoped to move forward with the discussion and come to a resolution.

**Councilor Hedges** would support a proposal if the City's exposure were limited to \$50,000, for example.

**Councilor Chaimov** agreed the problem needed to be fixed but thought it needed to go through the budget process if the City were paying for public area requirements.

**Mr. Monahan** advised since there was no second no action had been taken on the resolution.

**Councilor Miller** stressed this was an important issue for downtown businesses. He would accept this particular delay, but at some point the City Council needed to make a decision. The public area requirements were a cost that needed to be considered by property owners and those interested in doing business in downtown Milwaukie.

The group agreed to add public area requirements to the April 26, 2011 study session agenda for a full discussion of public area requirements.

**Mr. Aaron** explained originally if one renovated a property the permit fee would be 10% or the entire cost of the public area requirements. The building had an assessed value, and if the renovation costs were less than 50% of that assessed value, then one was charged 10% of the renovation costs. That did not tie impacts of the renovation to the actual costs incurred. His project was assessed under that law, but it was not applicable to his project. He had made his case to the previous Council but was turned down. Six months later the law was changed such that impacts had to be taken into account. Only when changes of use take place can public area requirements, and system development charges for that matter, be imposed.

#### **E. Library Expansion Task Force Update**

**Mr. Monahan** updated the City Council on recruitment efforts for the Library Expansion Task Force. Due to the limited response he requested that the deadline be extended to April 25 with a resolution making appointments scheduled for the May 3, 2011 City Council regular session agenda.

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

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

Mayor Ferguson announced the Council would meet in executive session pursuant to ORS 192.660(2)(e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions immediately following adjournment of the regular session. The City Council would not return to open session.

## **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 8:38 p.m.

Respectfully submitted,

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Pat DuVal, Recorder

# REGULAR SESSION

**REVISED  
AGENDA**

**MILWAUKIE CITY COUNCIL  
APRIL 19, 2011**

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**2100<sup>th</sup> MEETING**

**REGULAR SESSION – 7:00 p.m.**

- |   | <b>Page<br/>No.</b> |
|---|---------------------|
| <b>1. CALL TO ORDER</b><br>Pledge of Allegiance   |                     |
| <b>2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS</b>   | <b>1</b>            |
| <b>A. Arbor Day Proclamation</b>  | <b>2</b>            |
| <b>B. Earth Day Proclamation</b>  | <b>3</b>            |
| <b>C. Fleet “Green Shop” Certification Award</b><br>Staff: JoAnn Herrigel, Community Services Director & Debra Taevs,<br>Deputy Director, Pacific Northwest Pollution Prevention<br>Resource Center   |                     |
| <b>D. Jackson Street Bus Shelter Update</b><br>Presented by Young Park, TriMet  |                     |
| <b>E. Vehicle Registration Fee Ballot Measure</b><br>Presented by Clackamas County Commissioner Jim Bernard   |                     |
| <b>3. 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>   | <b>4</b>            |
| <b>A. Adopt City Council Goals – Resolution</b>   | <b>5</b>            |
| <b>B. City Council Meeting Minutes:</b>   | <b>7</b>            |
| 1. February 1, 2011 Work Session  |                     |
| 2. March 1, 2011 Regular Session  |                     |
| <b>4. 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.)* **17**
- A. **Software as a Service Intergovernmental Agreement with State of Oregon Secretary of State's Office, Archives Division – Resolution** **18**  
Staff: Pat DuVal, City Recorder and Oregon State Archivist Mary Beth Herkert
- B. **Photo Radar Contract Authorization – Resolution** **23**  
Staff: Milwaukie Police Chief Bob Jordan
- C. **Construction of International and Monroe Sewer Replacement Project – Resolution** **24**  
Staff: Jason Rice, Civil Engineer
- D. **Consider Suspension of Public Area Requirements – Resolution**  
Staff: Bill Monahan, City Manager
- E. **Library Expansion Task Force Update**  
Staff: Bill Monahan, City Manager
- F. **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)(e) to deliberate with persons designated by the governing body to negotiate real property transactions.
- 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 Mayor and Council has designated the 29<sup>th</sup> day of April, 2011 as Arbor Day in the City of Milwaukie, Oregon; and

**WHEREAS** the celebration of Arbor Day encourages the planting of trees in urban forests and wetland areas, in an effort to encourage appreciation, protection, renewal and sound management of our forests and to encourage a healthy ecosystem; and

**WHEREAS** trees and shrubs improve the quality of urban environments by preventing erosion, controlling the wind, reducing noise and air pollution, and by enhancing the aesthetic quality of life; and

**WHEREAS** trees can help offset the greenhouse effect by turning carbon dioxide into life-giving oxygen.

**NOW, THEREFORE, BE IT RESOLVED**, I, Jeremy Ferguson, Mayor of the City of Milwaukie, Oregon, hereby proclaim the 29<sup>th</sup> day of April, 2011 as ARBOR DAY and urge all residents to observe this day by planting trees which are appropriate for this area and by participating in Arbor Day Programs.

**THE FOREGOING PROCLAMATION** was adopted by the City Council of the City of Milwaukie this the 19<sup>th</sup> day of April, 2011.

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Jeremy Ferguson, Mayor  
City of Milwaukie

ATTEST:

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Pat DuVal, City Recorder

*PROCLAMATION  
EARTH DAY  
CITY OF MILWAUKIE*

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**WHEREAS,** the first Earth Day was celebrated on April 22, 1970, with the goal of inspiring environmental awareness and encouraging the conservation, protection, and appreciation of our nation's natural resources; and

**WHEREAS,** it is the responsibility of each of us to safeguard the environment, by recognizing that all human life depends upon the Earth and upon one another for our mutual existence, well-being, and development; and

**WHEREAS,** steps to protect and preserve our natural environment through education, partnerships, and positive actions are being encouraged in City of Milwaukie public buildings through our Sustainable Milwaukie plan and in the community in general; and

**WHEREAS,** the citizens of the City of Milwaukie are committed not only to the protection and preservation of our environment, but also to the restoration of ecosystems and habitat; and

**WHEREAS,** the City of Milwaukie proudly recognizes all who participate in Earth Day, for their dedication to taking a proactive role in shaping the future of our environment and in protecting Milwaukie's precious natural resources.

**NOW, THEREFORE, BE IT RESOLVED** that I, Jeremy Ferguson, Mayor of the City of Milwaukie, Oregon, do hereby proclaim April 22, 2011 as

**EARTH DAY**

in the City of Milwaukie and urge all our citizens to be mindful of local, state and national laws which protect our environment, and to join in efforts to preserve the beauty and wonder of the lands, skies, and water of the Earth in all its diversity.

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Jeremy Ferguson, Mayor of the City of Milwaukie  
Signed this 19<sup>th</sup> day of April 2011

3.

# CONSENT AGENDA

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING ITS COUNCIL GOALS FOR 2011.**

**WHEREAS**, the City Council periodically establishes Council goals to guide it in carrying out the work of the City; and

**WHEREAS**, the Council met in a work session on December 15, 2010 and expressed ideas that were prepared by staff as potential goal statements within the categories of “effort initiatives” and “resource initiatives”; and

**WHEREAS**, the council met on January 20, 2011 to discuss the potential goals and added details to define its expectations; and

**WHEREAS**, staff took the input from the January 20, 2011 session and developed proposed tasks and timelines for Council review of the draft goals; and

**WHEREAS**, the Council directed that the staff advertise the draft goals on the City web page to solicit input from the public before council considered the goals for adoption; and

**WHEREAS**, the staff advertised the goals and compiled comments from citizens prior to the Council meeting of March 15, 2011; and

**WHEREAS**, the Council reviewed the written comments received from citizens, took input from the Neighborhood District Association leadership during the work session of March 15, 2011, accepted public testimony at the regular Council meeting that evening, and provided further direction to staff; and

**WHEREAS**, staff incorporated Council’s modifications into a list of twenty goals that was reviewed by Council at the April 5, 2011 Council meeting; and

**WHEREAS**, on April 5, 2011, the Council by unanimous vote adopted the list of twenty goals; and

**WHEREAS**, after the Council meeting of April 5 the Council offered to prioritize the list of goals to provide further direction to staff.

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

**Section 1.** That the list of City Council Goals adopted at the April 5, 2011 Council meeting are the Council Goals for 2011 and are attached as Exhibit A.

**Section 2.** That the Council has prioritized the goals to provide direction to staff which goals the Council considers most important for the coming year, attached as Exhibit B.

**Section 3.** This resolution is effective immediately.

Introduced and adopted by the City Council on April 19, 2011.

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

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

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

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

Document1 (Last revised 09/18/07)

## **Council Goals Adopted at the City Council meeting of April 11, 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.

**MINUTES  
MILWAUKIE CITY COUNCIL WORK SESSION  
FEBRUARY 1, 2010**

**Mayor Ferguson** called the work session to order at 5:00 p.m. in the City Hall Council Chambers.

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

Staff Present: City Manager Bill Monahan, Police Chief Bob Jordan, Community Development and Public Works Director Kenny Asher and Resource and Economic Development Specialist Alex Campbell

**City Manager's Report**

**Mr. Monahan** gave his report.

The City Council met in executive session pursuant to ORS 192.660(2)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations.

The Council work session resumed at 5:30 p.m.

**Main Street Storefront Improvement Program Proposal – Possible Downtown Milwaukie Façade Improvement Program**

**Mr. Campbell** explained the genesis for the idea came from Metro staff to support the City and to bolster the downtown Milwaukie retail core in downtown Milwaukie. They thought a storefront program was a way to get mileage out of a small investment.

The façade improvement program was 1:1 matching funds that a local government often made available through urban renewal. The funds would be available for improvements visible from the street and would encourage property owner investment with private and public benefits. There was also a cultural and community pride element. Typically grants were \$10,000-\$20,000.

**Councilor Chaimov** said he hoped the City would do this and suggested the Design and Landmarks Committee and the North Clackamas Chamber of Commerce might identify specific amenities. He commented on the constitutionality of adult business restrictions.

**Councilor Hedges** was opposed to giving taxpayer money to businesses and suggested using funds instead to help seniors maintain their homes.

**Councilor Loomis** liked the façade improvement idea and would like to see it expanded to help with the expense of public area improvements.

**Councilor Miller** thought it was a great idea to help people improve their businesses but had a problem using taxpayer money to help increase rents. A lot of people needed help and maybe it should extend outside the downtown area. He felt we needed members from the City Council, Planning Commission, and Design and Landmarks Committee to make the decisions. He had a greater concern about public area requirements.

**Mayor Ferguson** understood this program made money available for façade improvements, so the City should take advantage of opportunities for grants. He supported the program given what was required for public area improvements, and it was helpful offset the costs and enhance to vitality of Main Street.

**Councilor Loomis** asked what County programs assisted low income families.

CITY COUNCIL WORK SESSION – FEBRUARY 1, 2011

DRAFT MINUTES

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**Mr. Campbell** replied there were some weatherization programs, and it might be a good time to revisit and publicize those programs.

### **Photo Radar Enforcement Update**

**Chief Jordan** gave a brief background on the photo radar program. The main purpose of the program was to reduce motor vehicle accidents in the City and not to generate revenue. He reviewed crash statistics that showed a reduction in the number of accidents since photo radar was instituted. He discussed the cost of the program and noted the City netted approximately \$130,000 annually. Over the past 2 years he had been at neighborhood meeting talking about photo radar, and his sense was the community was supportive of the program. He asked the Public Safety Advisory Committee (PSAC) to poll their respective neighborhoods. At its last meeting, PSAC members indicated unanimous support for the program and adopted a resolution to that effect. He discussed mitigation efforts, including increased signage, if the City Council continued with photo radar. He further suggested a video tutorial on the City's website. He also recommend taking money from the traffic citation fund and returning it to the community through PSAC and neighborhood traffic safety projects. Based on statistical information and general community support, he recommended continuing the program.

**Mayor Ferguson** asked if would be possible to come back in the near future and set up the photo radar van and signage to see what it looked like.

**Chief Jordan** replied he could bring the van, but the operation of machinery was not available. The City's contract with ACS had expired, and the van was not being deployed at this time.

**Don Wiley**, PSAC Chair, reported the Linwood Neighborhood District Association unanimously supported the photo radar program. The safety aspect was overwhelmingly important. He had no idea that photos were not taken of a vehicle unless it was going 11 mph over posted speed limit which he thought was an excessive speed. He believed the photo radar van added to the safety of the community.

**Councilor Miller** asked if photo red-light was used or was being explored.

**Chief Jordan** replied it was not being used and would be the City Council's decision.

**Councilor Hedges** understood statistically there was a reduction in the actual number of injury accidents and asked if there was any data on the severity of injuries.

**Chief Jordan** replied data on the severity of injury is beyond the scope of first responder although higher speeds likely result in a more severe injury. All of the City's fatal accidents occurred on highway and not in the neighborhoods.

**Councilor Loomis** asked if most of the citations were issued on highways and noted he did not see significant change in crash statistics on the highways.

**Chief Jordan** replied Milwaukie did not have photo radar in 2007. The van was typically deployed on the major highways, in school zones, busy neighborhood streets, and by certain neighborhood streets as requested by residents. He noted drivers were slowing speeds.

**Councilor Loomis** had seen the van a lot but had not noticed the signage.

**Chief Jordan** replied the sandwich board signs were placed to the front and to the rear of the van as required by State law. People were typically focused on the van rather than the sign.

**Councilor Loomis** suggested increased and better sign placement might be in order.

**Mayor Ferguson** said it would be beneficial to see some of the suggestions Chief Jordan was making prior to the RFP.

**Councilor Chaimov** saw the van and saw people slowing down. He hoped to continue with the program as soon as possible as speeding was an avoidable offense. The complaints he heard generally had to do with people who were coming into the community on McLoughlin Boulevard and thought it is inappropriate to have a 30 mph zone in certain locations. It was most important to have active enforcement, and he was happy to follow Chief Jordan's suggestions and deploy the photo radar van to make the community safer.

**Councilor Miller** supported the van; most calls he received related to McLoughlin Boulevard. He also recommended deploying the van in the neighborhoods and near schools. That provided the greatest safety for the neighborhoods.

**Councilor Hedges** supported the van. How the van and signs could be described as a trap he did not understand. There were inherent risks in stopping speeding vehicles with a regular police car. He estimated 95% support from the neighborhoods for continuing the program.

**Councilor Loomis** disagreed with the 95% and thought it was more like 50%. He suggested people found officer-issued tickets more acceptable.

**Mayor Ferguson** appreciated the information being shared to help him make an educated decision. He was leaning toward a new contract and would like the van set up so the public could learn about it. He liked the idea of a webpage and video tutorial about the program. He still had concerns about better signage.

**Chief Jordan** replied that the police department does not set up speed signs or speed limits. ODOT just reconfigured the speed limits on McLoughlin after conducting a traffic study.

**Councilor Loomis** thought it was important to get the message out that the signs were not changed by Milwaukie.

**Mr. Monahan** would request a meeting with ODOT to discuss signage. He understood Council supported staff's beginning the RFP process.

**Mayor Ferguson** noted that Mary Weaver provided email supporting the program.

**Mayor Ferguson** adjourned the work session at 6:23 p.m.

Respectfully submitted,

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Pat DuVal, City Recorder

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

**3.B.2.**

**CALL TO ORDER**

**Mayor Ferguson** called the 2097<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, City Recorder Pat DuVal, Community Development and Public Works Director Kenny Asher, Planning Director Katie Mangle, Senior Planner Susan Shanks, and Finance Director Casey Camors

**PLEDGE OF ALLEGIANCE**

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

**A. Milwaukie High School Student of the Month**

Mayor Ferguson and City Council recognized Reuben Ofoia as the Milwaukie High School Student of the month.

**B. Portland – Milwaukie Light Rail Design Workshop**

**Mr. Asher** announced the upcoming workshop on March 7, 2011 in the Milwaukie High School Commons.

**CONSENT AGENDA**

Councilor Hedges requested that item C be removed for a separate vote:

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

- A. **Resolution 19-2011**: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Proposed Merger of Mel Deines Sanitary Service, Inc. and P. Deines Sanitary Services, Inc. to Result in the 100% Ownership of Mel Deines Sanitary Service, Inc. and Amending Resolution 56-2005 and the Solid Waste Service Area Map to Reflect this Change;
- B. **Resolution 20-2011**: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Russ Stoll to the Milwaukie Planning Commission;
- D. **Resolution 22-2011**: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Art Ball to the Public Safety Advisory Committee as a Member-at-Large;
- E. **Resolution 23-2011**: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City Manager to Increase the Personal Services Agreement with aHa Consulting Inc. in an Amount Not to Exceed \$5,000 through the End of the Fiscal Year 2010/2011; and
- F. **City Council Minutes:**
  - 1. November 16, 2010 Work Session
  - 2. December 7, 2010 Work Session
  - 3. December 7, 2010 Regular Session

4. December 21, 2010 Work Session
5. December 21, 2010 Regular Session
6. January 4, 2011 Regular Session

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

It was moved by Councilor Chaimov and seconded by Mayor Ferguson to adopt the resolution appointing Linda Hedges to the Public Safety Advisory Committee as a member at large. Motion passed with the following vote: Councilors Chaimov, Loomis, and Miller and Mayor Ferguson voting 'aye' and Councilor Hedges abstaining [4:0:1].

**C. Resolution 21-2011: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Linda Hedges to the Public Safety Advisory Committee as a Member-at-Large;**

## **AUDIENCE PARTICIPATION**

**Richard Recker**, Milwaukie, discussed the North Clackamas School District's proposed closure of Hector Campbell Elementary School and consolidation with Ardenwald, Lewelling, and Linwood Elementary Schools. He urged support for the District's adoption of the nationally-acclaimed curriculum and program from Sojourner School at Concord and provide an all-school offering at the Campbell site.

## **PUBLIC HEARING**

### **A. Land Use and Development Review Tune-Up Project Code Amendment**

**Mayor Ferguson** called the public hearing on the legislative Zoning Ordinance and Comprehensive Plan amendments initiated by the City of Milwaukie to order at 7:20 p.m.

The purpose of the hearing was to consider an ordinance to adopt proposed amendments to the Zoning Ordinance and Comprehensive Plan which included Title 14 Sign Ordinance, Title 17 Land Division Ordinance, and Title 19 Zoning Ordinance of the Milwaukie Municipal Code and Chapters 1 and 2 of the Milwaukie Comprehensive Plan and minor amendments to Titles 2, 3, 12, 13, and 18. The land use applications for these amendments were ZA-10-02 and CPA-10-03.

This was a legislative decision by the Council based on the following standards: state-wide planning goals; applicable federal or state laws or rules; any applicable plans and rules adopted by Metro; applicable Comprehensive Plan policies; and applicable provisions of implementing ordinances.

**Mayor Ferguson** reviewed the order of business. The City Council decision was the final decision of the City. All testimony and evidence was directed toward the applicable substantive criteria. Failure to address a criterion or raise any issue with sufficient detail precluded an appeal based on that criterion or issue. Any party with standing could appeal the decision of the City Council to the State Land Use Board of Appeals (LUBA) according to the rules adopted by that Board. Persons with standing were those who submitted written comments or testified and signed the City Council Attendance sign-up sheet.

There were no declarations of potential or actual conflicts of interest as defined in ORS 244. No member of the audience challenged any Council member's ability to participate in the decision.

**Ms. Shanks** provided the staff report including a project overview of the proposed amendments that were intended to modernize and improve the effectiveness of the City's land use and development review process. The Planning Commission worked with staff to develop the amendments during six work sessions, and a 2-person Planning Commission subcommittee met with staff for more focused discussions. At its February 8, 2011, public hearing, the Commission voted unanimously to recommend the amendments to Council for adoption.

The tune-up was needed because the current zoning code was old and messy and creating inefficiencies and confusion. The comprehensive update should remedy the problems created by past piecemeal efforts. The existing code did not convey current planning and technology advancements or changes to the Oregon Revised Statutes (ORS). Land use development was a basic function of a municipality. The code was used on an almost daily basis but was unwieldy and inconsistent for both staff and applicants. The City's review process should provide the decision makers – the City Council, Planning Commission, and Planning Director – with the needed tools and allow the public to participate in a meaningful way.

**Ms. Shanks** discussed the amendments in general which included code organization, review procedures, and land use applications. Not being proposed were zoning or use changes and development standards. She discussed public outreach efforts and public comments. Three people testified at the first Planning Commission hearing and only one at the second which was mostly in support of the amendments but raised a few concerns. After sending out the requisite Measure 56 notices, the Planning Department received approximately six calls from property owners inquiring how the amendments might affect them.

**Ms. Shanks** referred to packet page 440 and discussed review procedures that provided the framework for how the City conducted development review and land use review. This was how a determination was made as to whether an application triggered a development review, who received notification, decision timeframe, and decision and appeal authority. Most of the City's review procedures were dictated by State law. She provided an overview of the application and review types and how the 120-day clock was applied. Land use applications would be reorganized and modified including nonconforming uses and variances and expiration or extension dates for certain types of approvals would be identified. A new development review application would formalize existing practice and bridge the gap between the City's land use and development review functions. Further there was a process whereby certain kinds of nonconforming uses may be discontinued by the City through amortization. Ms. Shanks discussed the appeal process recommendation with on the record hearings. The proposal also recommended minor changes to the Comprehensive Plan, updated the public involvement processes, and condensed and clarified amendment procedures. The Planning Commission recommended adoption of the proposed ordinance with findings, and staff recommended adopting the proposed fee resolution reflecting the amendments.

No additional correspondence was submitted after preparation of the Council packet.

Testimony in support: **Lisa Batey**, chair-elect of the Milwaukie Planning Commission, supported adoption of the proposed code amendments. In her experience on the Planning Commission the code was old and messy as well as having holes and gaps. This was an important document to help things work better for both applicants and staff and was a good base upon which to build the more substantive issues such as residential standards.

There was no further testimony on the matter.

**Councilor Miller** noted a minority of Planning Commissioners wanted to maintain the existing appeal approach and asked Ms. Shanks to elaborate.

**Ms. Shanks** responded this was about whether an appeal should be unrestricted and whether new evidence or testimony should be allowed before the City Council on appeal or should it just be the evidence presented to the Planning Commission at the initial hearing. The minority opinion was that the City Council was made up of the elected officials and that the applicant might feel more satisfied if he/she could have an unrestricted de novo hearing and that the information should not be restricted to what was presented before the Planning Commission. It was also thought the less experienced applicants might have been more successful at the Planning Commission level had they had some professional help.

**Councilor Loomis** understood the intent of this review was to make the process more usable for the Planning Commission, applicant, and staff. He trusted the Commission and staff to implement amendments that improved the process for all parties.

**Councilor Hedges** appreciated the work and asked what happened if the appellant came across evidence of which he had previously had no knowledge.

**Ms. Shanks** replied the applicant could resubmit the application and go back to the Planning Commission. The evidence would be in the record from the Planning Commission forward in the re-application. The Type 1 fee was \$150, and Type II was \$900. The City Council appeal fee was \$500.

**Councilor Hedges** had some sympathy for those who would pay additional money, although it would not likely happen too often. He was minded toward the Planning Commission minority view.

**Ms. Shanks** explained it was not that frequent that people came up with new evidence, and this amendment was seen to be fixing a problem. The perceived problem was effective use of City Council and staff time. She noted staff provided a lot of assistance to property owner applicants leading up to a Planning Commission hearing.

**Ms. Mangle** added the cost of a Type I application was \$150, Type II \$900, and Type #3 \$1,700. She believed the fee was about \$1,000 to appeal a Planning Commission decision to the City Council.

**Councilor Chaimov** had his concerns addressed in the days leading up to this hearing.

**Councilor Miller** agreed with Councilor Hedges that applicants should have an open process. He thought applicants' inexperience was a greater reason for having a more open process in appealing to the City Council. He felt this section should remain "as-is." He also had a question regarding accessory dwellings that deleted "gross" and added "net." If he understood correctly, the City would be allowing much larger buildings than presently allowed.

**Ms. Shanks** replied the Councilor's conclusion was correct although perhaps exaggerated as a wall thickness was about 6-inches. How measurements were made would make a small difference. This was not really a policy change. The information necessary to make the calculations would be available on the site plan and building permit application.

**Councilor Miller** asked if these were considered accessory buildings or accessory dwellings.

**Ms. Shanks** replied they were accessory dwellings, and she discussed the dwelling unit sizes allowed in Milwaukie's residential zones.

**Councilor Hedges** referred to staff report page 223 and asked if subarea 4 was the MacFarlane site and if so seemed to allow high density residential

**Ms. Shanks** replied that section had not been amended, although it had been re-numbered with the code reorganization. She added the R-O-C zoning designation and MU overlays did not always play well together.

**Ms. Mangle** commented this was an example why sites could be difficult to redevelop.

**Councilor Loomis** referred to staff report page 411 and asked for an explanation of the tree permit fee.

**Ms. Mangle** explained that changes last year were made to partially cover the cost of issuing the permits. Engineering was also charging the applicant for a right-of-way permit. Those fees were combined, and staff was open to different approaches. It got to the question of recovering expenses and determining what behaviors should be encouraged.

**Ms. Shanks** discussed tree removal and associated fees currently being charged.

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

**Mayor Ferguson** closed the public hearing at 8:22 p.m. for Council deliberation:

**Councilor Chaimov** stated Types I and II applications were largely ministerial, and he felt confident these could be handled by the Planning Director and the Planning Commission. He did not believe new evidence coming to the City Council was appropriate and did not want to make a decision on an issue that had not gone to the Planning Commission. He would probably vote to remand the issue back to the Planning Commission. This happened infrequently, and he felt the amendments were excellent.

**Mayor Ferguson** was inclined to agree with Councilor Chaimov and was concerned the City Council would be in an awkward position to make a ruling based on new evidence which the Planning Commission and planning staff had not had an opportunity to witness.

**Councilor Miller** wanted citizens to have every opportunity to come before the Planning Commission and City Council. He was not as concerned about new information. Most people wanted the opportunity to be heard.

**Councilor Hedges** agreed with mainly what Councilor Miller had said and felt there should be a way to appeal with new evidence. He thought it was wrong to disadvantage people from a monetary point of view if they were not experts. People had a right to be heard by elected representatives if they felt it was needed.

**Councilor Loomis** understood Councilors Miller's and Hedges' points of view. It was not an issue for him either way, but he would vote for the amendments.

**It was moved by Councilor Chaimov and seconded by Councilor Loomis to approve the first and second readings by title only and adoption of the ordinance amending Comprehensive Plan Chapters 1 and 2, and the Milwaukie Municipal Code Title 2 Administration and Personnel; Title 3 Revenue and Finance: Title 12 Streets, Sidewalks, and Public Places; Title 13 Public Services; Title 14 Sign Ordinance; Title 17 Land Division Ordinance; Title 18 Flood Hazard Regulations; and Title 19 Zoning Ordinance to Revise and Improve the Process for Review and Approval of Land Use Applications and Development Permits (Files ZA-10-02 and CPA-10-03).**

**Councilor Miller** moved to amend the main motion by removing paragraph 7 from page 8 of the document where it stated, “a minority of commissioners wanted to maintain the existing approach of allowing ... especially in situations where more up-to-date or better information could be made available for Council.”

**Councilor Chaimov** understood the intent of the motion was to keep the current appeal provisions.

**Mr. Miller** said his intent was to remove that one section and go back to the original code language.

**Ms. Mangle** understood that when City Council heard an appeal, Councilor Miller wanted it to be able to hear new evidence. Further, all appeals should be able to go to the City Council.

**Councilor Chaimov** thought Councilor Miller was aiming to retain the current process of de novo appeal and not de novo restricted to the information before the Planning Commission. He saw two issues. Type I applications such as lot line adjustments which under the current plan would not be appealed to the City Council largely because the City Council had no discretion to exercise. The second issue was when there was an appeal to the City Council should it consider new evidence developed after the Planning Commission heard the case. He understood Councilor Miller’s concern was with the second issue and the City Council’s hearing new evidence.

**Mayor Ferguson** called for a recess at 8:35 p.m. and reconvened the meeting at 8:47 p.m.

**Ms. Shanks** reviewed the underline strikeout reflecting appeals going to the Planning Commission or City Council.

**Councilor Hedges seconded Councilor Miller’s amendment. Motion failed with the following vote: Councilors Miller and Hedges voting ‘aye’ and Councilors Chaimov and Loomis and Mayor Ferguson voting ‘no.’ [2:3]**

**The main motion passed with the following vote: Councilors Chaimov and Loomis and Mayor Ferguson voting ‘aye’ and Councilor Hedges and Miller voting ‘no.’ [3:2]**

**Mr. Monahan** read the ordinance one time by title only.

**Mayor Ferguson** announced the second reading of the ordinance would be at the regular session of March 15, 2011.

## **OTHER BUSINESS**

### **A. Resolution Setting Fees for Service**

**Ms. Shanks** reviewed the proposed fee schedule.

**It was moved by Councilor Chaimov and seconded by Councilor Loomis to adopt the resolution setting fees for services to be effective the same date as the ordinance read for the first time at this meeting. Motion passed with the following vote: Councilors Chaimov, Hedges, Loomis, and Miller and Mayor Ferguson voting ‘aye.’ [5:0]**

**RESOLUTION NO. 24-2011:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SETTING FEES FOR SERVICES.**

## **B. Regional Committee Assignment**

It was moved by Councilor Chaimov and seconded by Councilor Loomis to adopt the resolution nominating Mayor Jeremy Ferguson as the City of Milwaukie's representative to the Clackamas County Service District #1 RiverHealth Advisory Board. Motion passed with the following vote: Councilors Chaimov, Hedges, Loomis, and Miller and Mayor Ferguson voting 'aye.' [5:0]

### **RESOLUTION NO. 25-2011:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, NOMINATING MAYOR JEREMY FERGUSON AS THE CITY OF MILWAUKIE REPRESENTATIVE TO THE CLACKAMAS COUNTY SERVICE DISTRICT #1 RIVERHEALTH ADVISORY BOARD.**

## **C. Council Reports**

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

## **ADJOURNMENT**

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

Mayor Ferguson adjourned the regular session at 9:08 p.m.

Respectfully submitted,

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Pat DuVal, Recorder

6.  
OTHER BUSINESS



To: Mayor and City Council  
Through: Bill Monahan, City Manager  
From: Pat DuVal, City Recorder  
Subject: Software as a Service Intergovernmental Agreement with State of Oregon,  
Secretary of State, Archives Division  
Date: April 10, 2011 for April 19, 2011 Regular Session

### **Action Requested**

Adopt the resolution authorizing the City Manager to sign an Intergovernmental Agreement (IGA) with the State of Oregon acting through the Secretary of State for electronic Records Management Services.

### **Background**

The City Council was briefed on this matter in a work session on April 5, 2011 relating to an opportunity with the Secretary of State's Office (SOS) to implement an electronic records management system (ERMS). This system combined with our current assets can move Milwaukie toward greater transparency in its public recordkeeping as well as streamlining the City's internal operations. The overarching goal is to honor and comply with the State public records and public meetings laws and to meet Council's number one goal of cultivating avenues of two-way communication between the City and citizens. The City's currently available assets include Granicus, a solution for creating, managing, and distributing live and on-demand streaming media content to the general public, the more robust redesigned City website, and FileNet, a document imaging system currently storing approximately 96,000 images which we would look to migrate to a new system.

The 2010 IT Assessment recommended evaluating software as a service (SaaS) as contracts came due and services became available to help ease the burden on the City IST staff for maintaining numerous and sometimes complex applications. The assessment further identified implementation of an ERM system as a high priority project to address the creation and retention of electronic records consistently in all departments. Records are being created at such a rate that our current processes for storing and archiving them is inadequate, and documents are being kept beyond their legal retention periods.

The Secretary of State's Office (SOS), Archives Division is recruiting cities into a pilot program to partner with the State to implement an ERM system using a product called HP TRIM. Representatives from a number of City departments including the City Manager, City Recorder, Finance, IST, Community Development, and Public Works attended a demonstration conducted by Oregon State Archivist Mary Beth Herkert and her staff on February 28. The current evaluation is that this product would increase our options for scanning, storing, indexing, and retrieving records for staff and citizens while adding transparency and increased efficiency to our electronic records structure. The system will store 480 file types including data, audio, and video. At this time, files are stored in multiple locations and not consistently accessible to all users. The document imaging system is not used consistently throughout City departments making records searches more laborious than necessary. Signing this IGA would likely include a service to migrate the images currently stored in FileNet into the TRIM system.

Cindy Phillips of Jordan Schrader Ramis completed a legal review of the proposed IGA on March 18 and provided comments. As the City's records manager, I see this as very beneficial agreement for the Milwaukie in that we have ongoing involvement with a State Agency, not a software vendor, as the system evolves. The City of West Linn is interested in pursuing the SaaS option, so we may find ways to pool our resources. Briefly SOS would agree to provide:

- a. Record classification and retention consulting;
- b. File structure consulting;
- c. Preparation for use of ERMS services; and
- d. Training for City personnel related to the ERMS and records management.

SOS will provide trained staff; use reasonable efforts to ensure that levels of service quality, responsiveness, and dependability are maintained; and revise its internal incident-resolution escalation process as necessary to fulfill its obligations.

The City will:

- a. Negotiate an agreement with the service provider through the cooperative purchasing provisions;
- b. Incorporate the SOS record structure work required to use the ERMS service;
- c. Appoint an authorized City representative;
- d. Designate a representative to the change advisory board to provide input for enhancement recommendations to the service provider;
- e. Act as a pilot participant and agree to aid on a statewide rollout of services; and
- f. Respond timely to SOS requests for information to aid in resolving issues.

The proposed partnership would have the City buy the system as a service with the electronic records stored offsite and accessed by City employees through a system that meets Department of Defense (DOD) standards adopted by the State. The advantages of entering into such an agreement are:

- a. Use of an ERM system that is already approved by SOS, the agency that regulates records management for its own agencies as well as cities, counties, and special districts in the State of Oregon;
- b. Avoid City software and maintenance-related costs and places responsibility on the State to do so;
- c. Reduce City's personnel costs by redirecting maintenance costs to the service provider;
- d. Costs per seat should decrease as more jurisdictions use this system; and
- e. The risk for disaster is reduced as the data would be stored in another part of the State.

The cost is currently \$37.02 per user per month with a projected cost of \$10.54 per user per month in the fifth year of the project. There are no upfront costs; we would begin paying when we started using the system. Pilot agencies will also receive a rebate once users reach 20,000. Although there may be some organizational challenges, electronic records management is a challenge most communities feel cannot be overlooked. If the City truly commits to this effort the benefits over time should be substantial. The service is currently being implemented in the City of Beaverton, and Tualatin Hills Parks and Recreation District is in the queue. Local agencies including Metro and the City of Portland have used TRIM for a number of years and endorse its use as a valuable organizational tool.

#### **Concurrence**

Representatives from a number of City departments including the City Manager, City Recorder, Finance, IST, Community Development, and Public Work have provided input on the system. The City Attorney's office conducted a legal review of the proposed IGA.

#### **Fiscal Impacts**

There are sufficient funds in the Records and Information Management FY 2011 budget to migrate images into HP TRIM from FileNet. There are no State fees involved for the implementation phase which includes setting up file structures and staff training. Once the system "goes live" the fees are \$37.02 per user per month and are included in the Records and Information Management FY 2012 proposed budget.

#### **Work Load Impacts**

Much of the work will be absorbed by personnel in the Office of the City Recorder with involvement by the departmental records managers.

#### **Attachments:**

1. Proposed resolution authorizing execution of the agreement
2. Intergovernmental Agreement between the City of Milwaukie and State of Oregon

# Attachment 1

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON ACTING THROUGH ITS OFFICE OF THE SECRETARY OF STATE AND THE CITY OF MILWAUKIE.**

**WHEREAS**, under ORS 192.015 the legislature designated the Secretary of State as public records administrator of the State; and

**WHEREAS**, the State Archivist may grant to public officials of the state or any political subdivision specific or continuing authorization for the retention or disposition of public records that are in their custody; and

**WHEREAS**, Milwaukie Municipal Code Chapter 2.35 adopts Oregon Administrative Rules Chapter 166, Secretary of State, Archives Division, and further outlines the duties of the City's records officer as well as the duties of the City departments; and

**WHEREAS**, the State Archivist has developed services for managing electronic records and established a statewide agreement with a service provider for ongoing electronic records management system (ERMS) services that allows for the consistent and proper management, access, and final disposition of electronic records; and

**WHEREAS**, for those agencies and local government bodies that implement an ERMS under the statewide agreement it is the goal of the State Archivist to provide archival consulting and implementation services to participating agencies and entities that incorporate improved and consistent records management practices and comply with the Secretary of State's public records administration requirements; and

**WHEREAS**, The City of Milwaukie has an interest in implementing such a system and being a pilot project site;

**NOW, THEREFORE, BE IT RESOLVED** that Milwaukie City Council wishes to enter into said agreement and authorizes the City Manager to execute the agreement attached herein as Exhibit A on behalf of the City of Milwaukie.

Introduced and adopted by the City Council on April 19, 2011.

This resolution is effective immediately upon adoption.

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

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

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

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

# Attachment 2

OFFICE OF THE SECRETARY OF STATE

KATE BROWN  
SECRETARY OF STATE

BARRY PACK  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
MARY BETH HERKERT  
DIRECTOR  
800 Summer Street NE  
Salem, Oregon 97310  
(503) 373-0701  
Facsimile (503) 378-4118

**INTERGOVERNMENTAL AGREEMENT #707030**  
**For**  
**The Oregon Records Management Solution**  
**between**  
**Oregon Secretary of State and City of Milwaukie**

This Intergovernmental Agreement (the "Agreement") is made and entered into between the State of Oregon, acting through its Office of the Secretary of State ("SOS ") and the **City of Milwaukie**, (hereinafter "**City**"), a municipal corporation of the State of Oregon (each a "Party", collectively, the "Parties"). This Agreement is effective on the date this Agreement is fully executed and approved as required by applicable law (the "Commencement Date").

## RECITALS

Under ORS 192.015, the legislature designated SOS as public records administrator of the state, with the responsibility "...to obtain and maintain uniformity in the application, operation and interpretation of the public records laws." Further to this designation, "[t]he State Archivist may grant to public officials of the state or any political subdivision specific or continuing authorization for the retention or disposition of public records that are in their custody." (ORS 192.105(1))

In order to effectively carry out the above-stated duties and assist state agencies and local governments in the shared responsibility of public records retention and disposal, SOS has determined that the effective management of public records must address information that is primarily contained in or derived from electronic formats. ORS 192.001 to 192.105 gives the State Archivist the authority to conduct an electronic records management system ("ERMS") services program.

The State Archivist has developed services for managing electronic records (including e-mail) that include a uniform, non-technical records classification specification (file structure and records classification). SOS has established a statewide agreement with a service provider for ongoing ERMS services, including provision of a central repository to house electronic records that allows for the consistent and proper management, access and final disposition of electronic records. These additional services are available to state agencies and local governments through a separate contract between each participating entity and the ERMS service provider. The City may enter into a contract with the ERMS service provider under the cooperative purchasing provisions of the contract and state law. For those agencies and local government bodies that implement an ERMS under the statewide agreement, it is the goal of the State Archivist, through intergovernmental agreements, to provide archival consulting and implementation services to participating state agencies and local government entities that incorporate improved and consistent record management practices and comply with the Secretary of State's public records administration requirements.

## AGREEMENT

### SECTION 1. TERM AND RENEWAL

The initial term of this Agreement begins on the Commencement Date and ends on June 30, 2012 (the "Initial Term"). Thereafter, this Agreement shall automatically renew each year for a one-year term beginning on July 1 of a calendar year and ending on June 30 of the following calendar year ("Extension Term"; the Initial Term together with the Extension Term shall be hereinafter collectively referred to as the "Term"), unless either Party

provides written notice to the other Party of its intent not to renew this Agreement at least six months prior to the expiration of the current Term.

## **SECTION 2. SERVICES; OBLIGATIONS; OPTING OUT**

### **2.1 Services.**

2.1.1 SOS shall make consulting services (“Consulting Services”) available to City as set forth in this Agreement. As used in this Agreement “ERMS Services” means the ERMS services that incorporate HP TRIM, the ERMS software and are provided under separate contract between City and the third party provider (“ERMS Provider”) under statewide agreement with SOS. The parties mutually agree that, a service level agreement (SLA) which describes the minimum levels of system performance, availability, operation, reliability and continuity will be made part of this separate contract and remain in effect during the use of the ERMS Services.

SOS will work with the individuals identified in Appendix A.

2.1.2 SOS shall provide City with the following services, including those described in Appendix B:

- a. Record Classification and Retention Consulting;
- b. File Structure Consulting;
- c. Preparation for use of ERMS Services; and
- d. Training for City personnel related to the ERMS and record management.

2.1.3 In providing Consulting Services, SOS shall:

- a. Provide appropriately trained staff to fulfill its obligations under this Agreement;
- b. Use reasonable efforts to ensure that levels of service quality, responsiveness and dependability are maintained; and
- c. Make revisions to the SOS internal incident-resolution escalation process to the extent SOS determines such revisions are necessary to fulfill its obligations under this Agreement.

Provision of Consulting Services is subject to City’s timely response to requests for critical information necessary to resolve issues.

### **2.2 City Obligations. City shall:**

- a. Negotiate to enter into an agreement with the ERMS service provider using the HP TRIM solution through the cooperative purchasing provisions of the State agreement as allowed under state law;
- b. Incorporate, with SOS assistance, the record structure work provided by SOS that is required to use the ERMS Services;
- c. Appoint an authorized representative upon signing and notify SOS immediately of any change in authority;
- d. Designate a City employee to participate as necessary as a representative on a change advisory board” made up of SOS personnel and representatives from the participating city, county and state entities which shall be responsible for reviewing requested enhancements to ERMS Services, and making recommendations for implementation of such enhancements to the ERMS Provider;
- e. Act as a pilot participant and agree to aid in further developing a model for the statewide rollout of ERMS services related to public records management; and
- f. Timely respond to SOS requests for critical information necessary to resolve issues.

Nothing in this Agreement shall be construed to require SOS to perform any record management activities that City is required to perform pursuant to state or federal law.

### **2.3 Opting Out.**

2.3.1 City may, at its sole discretion and at any time during the Term, discontinue use of Consulting Services by sending 3 months prior written notice to SOS of its intention to discontinue such use (such

action shall be referred to in this Agreement as “Opting Out,” or the City’s “Opt Out”). City shall specify in its notice the date on which it will Opt Out, which shall not be earlier than 3 months following the date of City’s Opt Out notice. Following the notification date of the City’s Opt Out, SOS shall have no obligation to provide Consulting Services under this Agreement. Opting Out shall terminate this Agreement as provided in Section 7.

2.3.2 If City chooses to Opt Out, then:

- a. SOS shall have no responsibility for any of City’s costs for Opting Out;
- b. SOS shall have no obligation to develop or maintain City’s interface to the system employed under ERMS Services that allows City to use another application to manage records within City’s own systems, however, SOS shall provide reasonable cooperation to City to assist City in developing such interfaces;
- c. SOS shall allow City to export records, and shall provide reasonable cooperation and assistance to City in completing such export, however SOS shall have no obligation to provide City with any data that resides in the system employed under ERMS Services in any particular format; and
- d. City shall continue to maintain records in accordance with Oregon record retention laws.

### **SECTION 3. TREATMENT OF DATA**

Each Party shall comply with applicable state laws governing the use and disclosure of public records. Each Party shall be responsible for responding to any public records request it receives, to the extent that it has access to the information requested, including responsibility for evaluating and appropriately handling the confidentiality of the information.

### **SECTION 4. FEES**

There shall be no charge to the City by SOS for the Consulting Services described in this agreement during the Term of this agreement, unless specified in a mutually acceptable amendment to this agreement, signed by both parties..

### **SECTION 5. REPRESENTATIONS AND WARRANTIES**

5.1 By City. City represents and warrants to SOS as follows:

5.1.1 City is unit of state government as defined under ORS 190.003, duly organized and validly existing under the laws of the State of Oregon and its duly enacted Charter.. The City has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

5.1.2 The making and performance by City of this Agreement: (a) have been duly authorized by all necessary action of City; (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative City or any provision of City’s charter or other organizational document; and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which City is a party or by which City or any of its properties may be bound or affected.

5.1.3 No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by City of this Agreement.

5.1.4 This Agreement has been duly executed and delivered by City and constitutes a legal, valid and binding obligation of City, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors’ rights generally.

5.2 By SOS. SOS represents and warrants to City as follows:

5.2.1 SOS is an agency of the State of Oregon duly organized and validly existing under the laws of the State of Oregon. SOS has full power, authority and legal right to make this Agreement and to incur and perform its obligations hereunder.

5.2.2 The making and performance by SOS of this Agreement: (1) have been duly authorized by all necessary action of the State; (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of any other organizational document' and (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which SOS is a party or by which SOS or any of its properties may be bound or affected.

5.2.3 No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by SOS of this Agreement.

5.2.4 This Agreement has been duly executed and delivered by SOS and constitutes a legal, valid and binding obligation of SOS, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.

## **6. DEFAULT**

A Party shall be in default under this Agreement if:

- a. The Party fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein; or
- b. Any representation, warranty or statement made herein by the Party is untrue in any material respect when made.

## **7. TERMINATION**

7.1 By City. City may terminate this Agreement:

- a. Immediately upon written notice to SOS, or at such later date as City may establish in such notice, if City fails to receive funding, appropriations, limitations or such other expenditure authority at levels sufficient to enable it to meet its contract obligations under this Agreement. In the event City reasonably believes it must terminate this Agreement pursuant to this section, City shall provide notice to SOS as soon as possible of its intent to terminate this Agreement. When possible, City shall provide such notice to SOS 6 months prior to the effective date of the termination;
- b. Immediately upon written notice to SOS if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that City's performance of its obligations under this Agreement is prohibited;
- c. Upon breach of this Agreement by SOS and failure by SOS to cure the breach within 30 calendar days after written notice from City specifying the breach; or
- d. By Opting Out as provided in Section 2.4.

7.2 By SOS. SOS may terminate this Agreement:

- a. Immediately upon written notice to City, or at such later date as SOS may establish in such notice, if SOS fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to continue to provide the Services.
- b. Immediately upon written notice to City, if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that SOS's performance of Consulting Services under this Agreement is prohibited.
- c. Upon breach of this Agreement by City and failure by City to cure the breach within 30 calendar days after written notice from SOS specifying the breach.

7.3 By Either Party. Either Party may terminate this Agreement, for any or no reason, upon six month's written notice to the other Party.

7.4 Remedies. Termination of this Agreement shall not affect any other remedies and rights which a Party may have under this Agreement, in law or in equity.

## **8. INDEMNITY**

The Parties shall (consistent with ORS chapter 180) defend, save, hold harmless, and indemnify one another, including all officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature resulting from or arising out of any negligent acts or omissions under this Agreement. SOS's liability under this Section is limited to the extent permitted by Article XI, Section 7 of the Oregon Constitution and subject to the terms, conditions and limitations of the Oregon Tort Claims Act (ORS 30.260 - 30.300). City's liability under this Section is limited to the extent provided by any applicable provisions of the Milwaukie Charter, the Oregon Constitution and the Oregon Tort Claims Act. City and SOS shall either carry appropriate insurance or comply with an appropriate self-insurance program. Neither City nor any attorney engaged by City or any other entity shall defend the claim, suit or action in the name of the State of Oregon or any city of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Oregon Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon. Nor shall City or any other entity settle any claim, action or suit on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Grantee is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or that an important government principle is at issue and the State of Oregon desires to assume its own defense.

## **9. OWNERSHIP OF WORK PRODUCT**

All Work Product created solely by SOS pursuant to or in connection with this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of SOS. All Work Product created solely by City pursuant to or in connection with this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of City. All Work Product created jointly by City and SOS pursuant to or in connection with this Agreement, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the joint property of SOS and City, "Work Product" means every invention, discovery, work of authorship including academic programs or course curricula, trade secret or other tangible or intangible item and all intellectual property rights therein that a Party may produce pursuant or in connection with this Agreement. As to Work Product created solely by SOS pursuant to this Agreement, the Parties agree that such original works of authorship are "work made for hire" of which SOS is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to this Agreement is not "work made for hire," SOS hereby irrevocably retains any and all of its rights, title, and interest in all original Work Product created by SOS, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. City forever waives any and all rights relating to original Work Product created pursuant to this Agreement, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

## **10. GENERAL PROVISIONS**

10.1 Notices. Notices shall be in writing and either delivered personally or sent by registered or certified mail, postage prepaid, by internationally recognized air courier or by facsimile or electronic means which provides for confirmation and acknowledgment of receipt. Notices sent to any Party under this Agreement shall be sent to the Party's Authorized Representative. "Authorized Representative" means (i) with respect to v, the person that is designated in Appendix A; and (ii) with respect to SOS, the Director of the Archives Division of the Office of the Oregon Secretary of State or the person that the Director of the Archives Division designates. Each Party may change its address for receiving notice or its Authorized Representative at any time upon notice given in

accordance with this Section. Notices shall be deemed given upon delivery or, in the case of facsimile or electronic transmission, when acknowledgment and confirmation of receipt is received electronically, provided that a printed copy of such acknowledgment and confirmation is forwarded on the date received, by another means provided for in this Section.

10.2 Force Majeure. Neither Party shall be liable for a delay or failure to perform due to causes beyond its control.

10.3 Independent Status. SOS and SOS's staff, are at all times independent contractors. City shall have no right to, and shall not, control the manner or determine the method of accomplishing Consulting Services. Neither SOS nor SOS's staff are employees or agents of City, nor are City or City's staff employees or agents of SOS for any purpose whatsoever. Neither Party nor its staff shall, under any circumstances, have any authority to act for or to bind the other Party, or to sign the name of the other Party, or to otherwise represent that it is in any way responsible for the other Party's acts or omissions.

10.4 Governing Law; Venue; Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflict of law. Any claim, action, suit or proceeding, (collectively, "Claim") between SOS (or any other city or department of the State of Oregon) and City that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court of the District of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. City, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

10.5 Severability; Waiver. If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected. The rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provisions held to be invalid. The failure by a Party to enforce any provision of this Agreement shall not constitute a waiver of that or any other provision.

10.6 Survival. All rights and obligations shall cease upon termination or expiration of this Agreement except for the rights and obligations set forth in the following sections: Section 4 (Payment); Section 5 (Representations and Warranties); Section 8 (Indemnity); Section 9 (Work Product); Section 10.4 (Governing Law; Venue; Consent to Jurisdiction); Section 10.6 (Survival); Section 10.8 (Records); and Section 10.9 (Entire Agreement; Amendments).

10.7 Compliance with Law. Both Parties shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Agreement.

10.8 Records. Each Party shall maintain financial records relating to this Agreement in accordance with generally accepted accounting principles to clearly document the Party's performance. Additionally, each Party shall maintain any other records pertinent to this Agreement in such a manner as to clearly document the Party's performance of its duties under this Agreement. SOS, City, and the federal government and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of the Parties that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. City and SOS shall retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

10.9 Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No amendment, waiver, consent, modification or change of terms of

this Agreement shall bind either party unless in writing and signed by both parties. Such amendment, waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the day, month and year noted below.

**THE STATE OF OREGON, acting through its  
OFFICE OF THE SECRETARY OF STATE**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address and Fax for Notices: Oregon Secretary of State  
Attn: Linda Lichty  
255 Capitol St NE, Suite 180  
Salem, OR 97310  
Phone # 503-986-2241  
Fax #503-378-4991

**[City of Milwaukie, Oregon]**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**City Address and Fax for Notices MUST be filled in:**

City Contact: \_\_\_\_\_

City Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

**Appendix A**

**City Profile**

City will use the ERMS Services

Annual Payment to SOS for the Initial Term (as that term is defined in Section 2.1): \$0

City **Contact Information**:

<b>Title</b>	<b>Name</b>	<b>Phone</b>	<b>email</b>
<b>Project Management and Records Contact</b>			
<b>IT Contact</b>			

## **Appendix B**

### **Supported Services**

**Record Classification:** SOS shall assist the City with classification of all appropriate records as determined jointly by SOS and the City

**Retention Services:** SOS shall specify and recommend record retention schedules and SOS shall assist the City with applying the City Records Retention Schedule to electronic records in the ERMS System

**File Structure:** SOS will work with the City to develop and implement a file structure that best fits the needs of the City and the use of the ERMS Services. SOS shall assist the City to help ensure that file structures are in place to effectively implement the ERMS Services

**ERMS Preparation:** SOS shall ensure the City records and structures are in order to effectively begin using the ERMS Services.

**Training Services:** SOS shall provide all necessary training to ensure a successful migration to the new records management system.

**Final Acceptance:** SOS will work with the City for final user acceptance which meets success criteria outlined by both parties.

6.B.



To: Mayor and City Council  
Through: Bill Monahan, City Manager  
From: Pat DuVal, City Recorder  
Subject: Photo Radar Contract Authorization  
Date: April 12, 2011 for April 19, 2011 Regular Session

The Milwaukie Police Department is currently evaluating proposals from photo radar vendors. A contract for the successful vendor is currently under legal review and could be sent out before the April 19 regular session.



**To: Mayor and City Council**

**Through: Bill Monahan, City Manager  
Kenneth Asher, Community Development & Public Works Director**

**From: Jason Rice, Civil Engineer**

**Subject: Contract Award for the Construction of the International Way and  
Monroe Street Sewer Replacement Project**

**Date: April 1, 2011 for April 19, 2011 Regular Session**

### **Action Requested**

Authorize the City Manager to sign a contract for the construction of the International and Monroe Sewer Replacement Project with Columbia Earthworks in the amount of \$107,095.

### **History of Prior Actions and Discussions**

**June 2010:** City Council adopted the 2010/11 budget which including the Wastewater Capital Maintenance Program.

### **Background**

The City's Capital Improvement Plan recommends the spending of \$100,000 each fiscal year to repair known deficiencies in the wastewater system; this amount was taken from a recommendation in the City's Draft Wastewater Master Plan. Essentially, these smaller repairs over the past 10 years were costing the City on average \$100,000 and the plan does not anticipate that rate changing due to our infrastructure. This amount may change however due to climbing costs in materials and services.

The priority of the repair projects is determined by utilizing the City's asset management software. The software has characterized pipe deficiencies based on video inspections performed by Public Works Operations. The pipe information is compiled by the

software and based on predetermined parameters, the pipe sections are sorted into a priority list for repair.

This year's project consists of two repairs in separate locations. One at International Way, the other located on Monroe Street. Both sections have similar deficiencies a low spot or "belly" where material collects and causes maintenance issues such as frequent cleaning and inspection to prevent backups. Because of the "bellies," these pipes are not candidates for trenchless replacement methods such as pipe bursting (which generally causes fewer impacts since street surface damage is avoided). Pipes at both locations have infiltration issues, with groundwater entering at opened pipe joints. By replacing these pipes, the City's conveyance system will reduce groundwater infiltration and increase capacity downstream from these sections.

The International Way and Monroe St Sewer Replacement project went through a competitive bidding process in accordance with Chapter 30 of the City's Public Contracting Rules. The City received eight bids before the March 31 at 2:00 PM bid opening. This was the City's first project to be posted to the new Bids and RFP page. Feedback about the bidding change from contractors and staff has been overwhelmingly positive and while there are still minor changes needed, the bidding site now has a permanent link on the City's homepage.

The following table is a summary of all bid amounts as well as the engineer's estimate.

<i>Rank</i>	<i>Contractor</i>	<i>Bid Amount</i>
1	Columbia Earthworks Inc.	\$107,095.10
2	SUBCOM	\$114,000.00
3	Columbia Paving and Excavation	\$117,204.76
4	Paul Lambson Contracting Co.	\$119,000.00
5	Dunn Construction	\$124,736.00
6	Moore Underground, Inc.	\$124,941.00
7	David Roberts Contracting	\$129,824.00
8	Jim Smith Excavating	\$134,987.00
	Engineer's Estimate	\$111,000.00

Construction is expected to begin in May and complete in June.

During the repair at Monroe Street, vehicular access to Milwaukie Lumber Co., Chase Bank, the Waldorf School and the American Legion will be impacted. These organizations have been contacted and made aware of the impacts. The City has arranged to minimize these impacts where possible by maintaining at least one access point throughout construction and providing signs on private property to help direct traffic safely in and out of the businesses.

A larger impact due to the temporary blocking of the left turn movement at the Milwaukie Lumber exit was explored in depth. A solution was presented to Milwaukie Lumber routing their trucks to turn east onto Monroe Street, to avoid conflict with the trench being dug down the centerline of Monroe. The City currently has signage prohibiting commercial truck traffic on Monroe Street. The prohibition will be waived for the week that this site is being worked on. Staff will notify the residents of Monroe Street between 21<sup>st</sup> Ave. and Hwy 224 at least one week prior to construction on Monroe Street, about the temporary truck traffic due to trucks from Milwaukie Lumber and the contractor.

### **Concurrence**

Engineering staff coordinated with Public Works Operations on both concept and design phases of the project. Community Development Staff was consulted regarding the business interaction aspects of this project.

Finance is aware of the project and concurs that the project is necessary and can be supported by the Wastewater Fund

Community Services is aware of the project and concurs that all measures have been taken to notify the surrounding business of the impacts.

### **Fiscal Impact**

This project is a part of the 2010-11 CIP. The approved Wastewater Fund budget includes \$100,000 for construction, design and administrative fees. The recommended bid for total construction cost for this project is \$107,095.10 (including \$10,000 for contingency). Funding is available for this project from the Wastewater Capital and Reserve Fund. Budget status of the fund is healthy and the additional \$7,095.10 (if spent) can be absorbed.

### **Work Load Impacts**

Engineering staff will provide inspections on this project. During the first 2 weeks of construction, inspections will require 4 hours per day of one Civil Engineer's time, while the remaining two weeks of the contract will require dedication of approximately 2 hours per day. This amount of time is normal and to be expected for this type and size of project.

### **Alternatives**

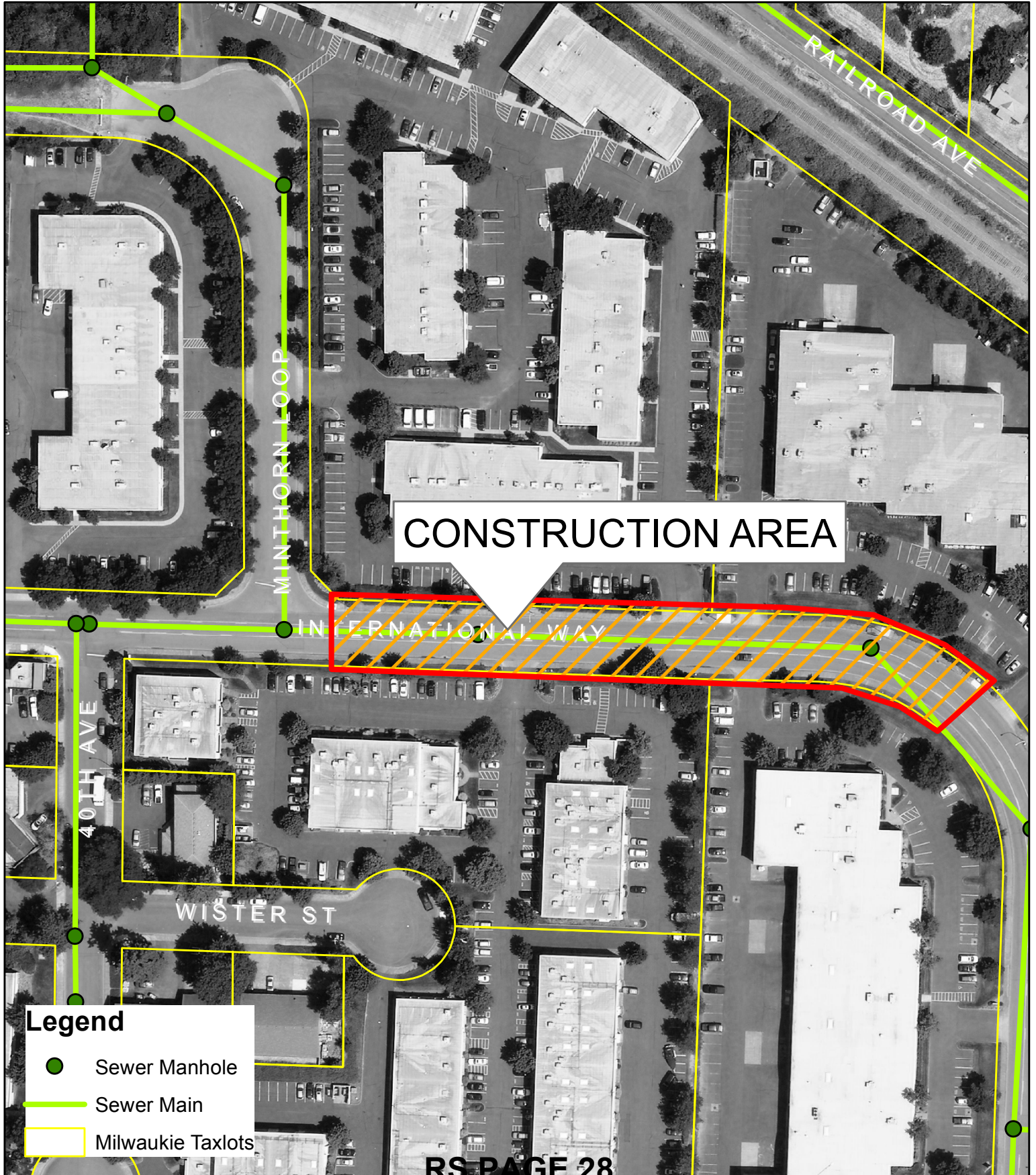
- 1) Do not award project (defer indefinitely). The project would be removed from the CIP list.

- 2) Reject all proposals and direct staff to re-advertise for new proposals for any reason.
- 3) Reject all proposals and direct staff to amend the Request for Proposals and re-advertise for submission of new proposals.

**Attachments**

1. International Way Vicinity Map
2. Monroe Street Vicinity Map
3. Resolution

# International Way and Monroe Street Sewer Replacement Attachment #1



# International Way and Monroe Street Sewer Replacement Attachment #2



ATTACHMENT 3

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE AWARD OF CONTRACT FOR THE CONSTRUCTION OF THE INTERNATIONAL WAY AND MONROE STREET SEWER REPLACEMENT PROJECT.**

**WHEREAS**, the sewer main section east of the intersection of Minthorn Loop and International Way is deficient in structure; and

**WHEREAS**, the sewer main section east of the intersection of Monroe Street and 21st Avenue is deficient in structure; and

**WHEREAS**, the wastewater system improvements were approved for funding in the 2010/2011 budget and 2011-2015 Capital Improvement Plan; and

**WHEREAS**, Columbia Earthworks Inc. is the lowest responsive and responsible bidder;

**NOW, THEREFORE, BE IT RESOLVED** that the City of Milwaukie authorizes the City Manager to sign a contract for the construction of the International and Monroe Sewer Replacement Project with Columbia Earthworks Inc., in the amount of \$107,095.10.

Introduced and adopted by the City Council on April 19, 2011.

This resolution is effective on April 19, 2011.

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

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

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

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