

**MINUTES
MILWAUKIE CITY COUNCIL WORK SESSION
JULY 19, 2011**

Mayor Ferguson called the work session to order at 5:00 p.m. in the City Hall Conference Room.

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

Staff Present: City Manager Bill Monahan, City Recorder Pat DuVal, Associate Planner Brett Kelter, City Attorney Tim Ramis, Assistant to the City Manager Teri Bankhead, Public Affairs Coordinator Grady Wheeler, Community Services Director JoAnn Herrigel

City Manager's Report

Mr. Monahan introduced Teri Bankhead recently hired to the position of Assistant to the City Manager.

Mr. Monahan distributed correspondence related to Natural Resource Overlay from the Audubon Society as well as the proposed amendments Mr. Kelter would discuss later in the work session. In addition he provided a document related to the garbage rate increase and consolidated fees.

Mr. Monahan briefly discussed code amendments and a resolution regarding board, commission, and committee changes and distributed information on a case filed against Lane County regarding open meetings law violations.

Mr. Monahan announced the executive session and study session on July 20.

Mr. Asher briefly reviewed community development and planning active projects. He updated the City Council on projects including the Commercial Core Enhancement Program (CCEP), the Dark Horse Real Estate Study, and the Gleaners Project. The Planning update focused on land use and development review and the Downtown Façade Improvement Program. He announced Nicole West had accepted a position with the Audubon Society.

Natural Resource Code Amendments

Mr. Asher said the planning staff had been working on amendments for over 2 years to bring Milwaukie into compliance with State and Metro regulations. He discussed the process and added the plan had been written in such a way that there were many ways the City could be in compliance.

Mr. Kelter said one of the questions asked was related to Milwaukie being in Compliance with Metro Title 13. There were several options the City could take to be in compliance: adopting the model code, using existing code, if it met the standards, or making additional changes over the model rules. When staff reviewed the model it made sense to forge an alternative path. He discussed the alternatives before the Council in more detail.

Mr. Kelter referred to the proposed tree removal language. The City had received correspondence from the Audubon Society expressing its concerns. When he looked at the activities requiring a Type I review, a provision was added that would allow some tree removal. After talking with the Audubon Society about the shade canopy and water quality resource issues, they reduced the fee appropriately. If a tree were not a nuisance, native, or in any water quality area, it would be allowed under a Type I review.

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This stemmed from conversations with the advisory group about making provisions more robust and addressing more situations.

Councilor Chaimov understood the amendments on the green sheet had not been considered by the Planning Commission.

Mr. Kelver replied that the Planning Commission had not considered either set of amendments and added that he felt the tree removal regulations had been clarified.

Councilor Miller referred to page 26 and the caliper size of the replacement trees. He said a ½-inch caliper tree could not be 6-feet in height. He questioned if that requirement minimized the replacement tree and if it had to do with the expense of a larger replacement tree.

Mr. Kelver referred to page 26 and said there was an “or” depending on the species.

Councilor Miller said trees 6-feet tall would be about 2-inch in caliper. He noted page 32 had the same plant sizes.

Mr. Kelver said part of the conversation with the advisory board was if the caliper grew too large it might put a burden on the property owner. It was a fair point, and they gave a choice and some flexibility by using “or” depending on the species.

Councilor Hedges referred to page 26 and asked what happened if a tree did not last two years. If a tree died and had to be replanted, then would the tree have to live 2 years from the initial planting or at the time the replacement tree was planted?

Councilor Miller thought there needed to be some standard with another 2-year clause.

Mr. Asher understood staff should add language to demonstrate a 2-year life span to be compliant.

Councilor Hedges thought the intent was to protect the water quality. He was not sure if a 2-year period was a long enough time. If the tree died after 2 years then it did not matter, which did not seem in the spirit of the amendments.

Mr. Ramis suggested that the City Council determine and state the policy and not leave it to interpretation. He understood from the conversation that the section was ambiguous, so he would prepare on clarifying language. Mr. Ramis recommended crafting the language now rather than amending it in the future.

Mr. Kelver discussed housekeeping changes to the nonconforming development language.

Councilor Hedges referred to page 18, section 8 regarding preserving existing native vegetation against removal and replacement of lawns and gardens and asked if that had to do with restoration or new activity on the property.

Mr. Kelver replied a property owner may have to do some mitigation in an equivalent area. Some restoration may be required on proposed development. The intent is that one did not have to do restoration just because he was in the area. There were no changes in water quality area, but now the newly-established habitat conservation area was being regulated. He discussed the Metro exemption which, as written, applied to levels of projects that did not require a building permit.

Councilor Hedges wanted to know if we were putting limitations on property owners.

Mr. Kelver replied to be in compliance with Title 13, regulations had to be imposed.

Councilor Hedges asked if the City was being stricter than necessary because it felt preserving water quality was more important than the rights of property owners.

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Mr. Asher said that was the nub of the issue. The only way to answer that for staff was to test and balance the new Code against the opinions of property owners, builders, and other jurisdictions.

Councilor Hedges felt the wording “normal” yard and lawn maintenance was open to interpretation.

Mr. Kelver said the intent was to set a standard that removing native vegetation was not normal. The current code was not as clear and this choice of wording was deliberate not to define what “normal” meant. The subsequent sentence further defined vegetation.

Mr. Ramis said the City should try to cure the ambiguity. He discussed the definition of the word “practicable” which he felt was needed.

Monthly Neighborhood District Association Dialogue

Matt Rinker, Jeff Davis, and Bryan Dorr, Ardenwald-Johnson Creek; Vincent Alvarez and Debby Patten Lake Road; Mary Weaver and Linda Hedges, Hector Campbell; and Ed Zumwalt, Historic Milwaukie.

Ms. Hedges announced the August 8 Neighborhood picnic and said that Jason Smith from Blount had attended the July Association meeting to introduce himself and the company.

Ms. Bird said the owner of medicinal marijuana business and two people from Portlansterdam University came to the last Neighborhood meeting. The owner reassured them that there is no consumption on the property with the exception of one person who was a bicyclist. The other issues they discussed were light rail and the art work.

Mr. Zumwalt urged the Mayor and Councilors to attend the monthly leadership meetings.

Mr. Dorr announced upcoming Neighborhood Association events. They have an opening for a Public Safety Advisory Committee (PSAC) representative from Ardenwald and noted that Naomi’s had been demolished.

Ms. Weaver discussed economic development generally and the interconnection of business, the City, and the neighborhoods.

Mayor Ferguson noted a void in the economic development position and the role that City Council had with businesses. He did not believe the Council was aware of any issues.

Councilor Chaimov offered the Chamber of Commerce perspective and expressed appreciation for Alex. Campbell’s economic development efforts. The downside was transportation, lack of activities, and little growth in the area as compared to Happy Valley. Light rail might provide that opportunity.

Mr. Asher added that Milwaukie was a built-out community and had limited development areas other than MacFarlane and Murphy sites. It was important that the City plan to attract business for that site, and he hoped to tackle that with the neighborhoods in the future.

Mr. Monahan said most of the issues raised with the neighborhood questions would be handled by the Economic Development Specialist. His or her job would be to communicate with new businesses; however, why businesses left was a more difficult issue.

Mr. Asher said economic development and retention efforts had historically been meager. The question was local government's role related to business development. He would like to do more than had been done in the past. The Commercial Core Enhancement Program was an attempt to make the codes more business friendly.

Councilor Miller suggested inviting downtown business to the neighborhood leadership meeting.

Mayor Ferguson encouraged neighbors and citizens to focus on doing business in Milwaukie.

Mayor Ferguson adjourned the meeting at 6:48 p.m.

Respectfully submitted,

Juli Howard, Deputy City Recorder

WORK SESSION

**MILWAUKIE CITY COUNCIL
WORK SESSION**

JULY 19, 2011

MILWAUKIE CITY HALL

Conference Room
10722 SE Main Street

WORK SESSION – 5:00 p.m.

A light dinner will be served

Discussion Items:

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>	<u>Page #</u>
1.	5:00 p.m.	City Manager's Report	Bill Monahan	
2.	5:30 p.m.	Natural Resource Code Amendments	Brett Kelter	
3.	6:15 p.m.	Monthly Neighborhood District Association Dialogue		
4.	6:45 p.m.	Adjournment		

Information

Executive Session: The Milwaukie City Council may meet in executive session pursuant to ORS 192.660(2). 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.

Public Notice

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the one previous to it.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.
- The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities (ADA). If you need special accommodations, please call 503.786.7502 or email ocr@ci.milwaukie.or.us at least 48 hours prior to the meeting.



MILWAUKIE

Dogwood City of the West



Memorandum

To: City Council

From: Kenny Asher, Community Development/Public Works Director
Katie Mangle, Planning Director

CC: Bill Monahan, City Manager
JoAnn Herrigel, Community Services Director

Date: July 19, 2011

Re: CD & Planning Active Projects: City Council Update for 7/19/11

Community Development

- **Commercial Core Enhancement Program**
- **Dark Horse Real Estate Study**
- ODOT Yard/Minor League Baseball
- Light Rail Project Management
- South Downtown Planning and Implementation
- Public Facilities Study
- Light Rail Station Building
- Kellogg for Coho Initiative
- Lake Road Multimodal Improvements
- Walk Safely Milwaukie Program
- Street Surface Maintenance Program
- **Gleaners Project**

Planning

- Natural Resources Code and Map Amendments
- Residential Development Standards
- Light Rail Urban Design
- Development Review Code Tune-Up Project
- Downtown Public Restroom
- Annexations
- **Land Use and Development Review**
- **Downtown Facade Improvement Program**
- Metro Population/Employment 2035 Forecast Data

Community Development

Commercial Core Enhancement Program

Based on a late June phone conversation with Metro staff, it appears that it will be difficult to outright eliminate the urban renewal component from the CCEP scope of work. According to the CET Grant Manager at Metro, any significant alteration of scope would require a Metro council action (which to date, has not yet occurred for any of the grantees). Staff is preparing to provide council with a refined scope of work for the CCEP in August, at which time the council can determine how it would like to proceed.

Dark Horse Real Estate Study

Dark Horse is meeting with the city's Development Engineer to determine PAR and SDC costs and requirements. Cavanaugh + Cavanaugh had a preapplication conference with city staff and is proceeding with architectural work on the Pickle Barrel remodel. Drawings are being provided to the commercial broker for leasing brochures. The team is also preparing to apply for a Storefront Improvement Grant.

Gleaners Project

Jean Baker is looking for someone in town to make garage space available to establish a local warehouse for the The Gleaners of Clackamas County which is a 100% volunteer run 501C3 non-profit organization that collects and distributes food and non-food items for the low income, elderly, and disabled residents. The warehouse would provide food for about 14 families, and would need to be open twice a week for four hours at a spell.

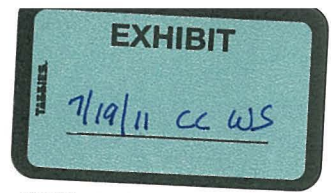
Planning

Land Use and Development Review

Demand for zoning and development information from the Planner on Duty continues to be strong, and several land use applications have been approved or are in the process of being reviewed. Planning Commission will hear a Type III application on July 26 for the conversion of Royalton Place on King Rd. This application involves the conversion of Royalton Place, an existing senior independent living facility, into a continuing care housing facility that would provide assisted living and memory care services. Staff expects to receive the first two packages of Type III applications from TriMet at the beginning of August for review of the Kellogg bridge structure and Trolley Trail modifications. Since the Kellogg bridge structure requires design review, the Planning Commission and Design and Landmarks Committee will both be reviewing this application.

Downtown Façade Improvement Program

The Design and Landmarks Committee will review six Façade Improvement Program applications on July 27. The grant award requests included in this round of applications total \$43,802. Since this program's inception, the Committee has reviewed six applications and approved two. One application was denied outright and the remaining three were encouraged to resubmit. Since the award of the first two grants, one applicant changed the project's scope and became ineligible for the award. There is \$47,200 still available.



Milwaukie Neighborhoods and Businesses - Discussion Points, July 19, 2011

Presented by Mary Weaver, Hector Campbell Neighborhood Association

ho·lis·tic/hō□listik/Adjective: Characterized by comprehension of the parts of something as intimately interconnected and explicable only by reference to the whole. (Google)

1 - How does the city track and respond to the needs of businesses? Is there a systematic approach or is it on a case by case basis as a need or concern surfaces?

2 - What percentage of tax revenue for the Milwaukie budget comes from business related taxes and fees? (compared to private citizens)

How do Milwaukie's business utility rates generally compare to residential rates? (a neighbor asked if business water bills went up at the same rate as his)

3 - How much vacant land is available that is zoned for business? Does the vacant land include many large areas or is it mostly for small business development (if "large" were defined as Lowe's or bigger, and "small" were defined as Safeway on King or smaller)

4 - How much available office space is for lease? What affect does vacant office space have on people's perception of a city?

5 - We know when businesses move into Milwaukie, but is there any way or any relationship that tells us when a company is thinking of leaving or wants to move (and may or may not find space to stay in Milwaukie)?

6 - How much of the available land or office space (if any) is owned by the City of Milwaukie?

7 - Are the owners of available business properties in Milwaukie a diverse group, or are there some owners who control large percentages of what's available?

8 - Hector Campbell NDA recently had a guest from Blount speak at our meeting. He mentioned a business association of which they are a member. Someone else was working on starting a downtown business association at one time (I think). What business connections or associations exist specifically for businesses in Milwaukie (thinking of ways Neighborhoods may wish to connect with businesses). Blount mentioned one of their motivations for connecting with us was to get to know each other before a need or even a crisis might arise (hopefully not) and to let us know what sorts of preventions and responses are in place and how to communicate

with them. (Precision Castparts incident in May, 2011, contributed to this effort, it seems, and we appreciated hearing from them.)

Note to Neighborhood Leaders:

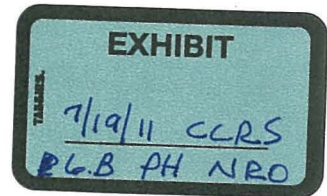
9 - North Clackamas Chamber of Commerce - website says:

Our area influence and broad-based membership provides opportunities for everyone. The Chamber serves more than half of Clackamas County and the southern portion of Multnomah County adjacent to Clackamas, including the following locales:

- The incorporated Oregon cities of Milwaukie, Gladstone, Happy Valley, Damascus and Johnson City.
- The unincorporated areas of Clackamas, Sunnyside, Carver, Boring, Barton, Oak Grove in Clackamas County.
- Portland Metro including Sellwood, Moreland and Westmoreland

Beyond our wide variety of member benefits and community programs, the Chamber's rich tourism program helps visitors feel at home and find the resources they need.

As a neighborhood leader, all I know about this organization is what I read in the news or on their website. I suggest we may want to invite a representative to speak to the Neighborhood Leadership Team in the coming year.



Milwaukie City Council
Milwaukie City Hall
10722 SE Main Street
Milwaukie, OR 97222

July 18, 2011

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Karen O'Connor Kruse

Bob Liddell

David Mandell

Noelwah Netusil

Jim Rapp

Dan Rohlf

Lee Savinar

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Board Member

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Dave Marshall

Mayor Ferguson and City Council,

On behalf of Audubon Society of Portland and our 12,000 members in the Portland-Metro region- including over 380 residing in the City of Milwaukie- we submit the following comments on the proposed natural resource amendments to the Milwaukie Comprehensive Plan Chapter 3 and the Milwaukie Municipal Code Title 19 Zoning Ordinance.

The protection and restoration regionally significant riparian habitat is critical to maintaining ecologically viable fish and wildlife habitat in the Johnson Creek and Mt. Scott Kellogg Creek watersheds. Local governments, nonprofits, and private landowners are investing significant resources into the restoration and recovery of both these watersheds. It is essential that those efforts not be undone by the lack of adequate safeguards for the public's water and wildlife resources. Therefore, we respectfully request the following:

- 1. We request the City Council adopt updated natural resource protections in a timely manner and without further weakening of safeguards for clean water and wildlife.** The City of Milwaukie is one of four jurisdictions in the Portland-Metro region that have not come into compliance with Title 13 of the Regional Functional Plan since the January 2009 local adoption deadline. The proposed comprehensive plan and code changes are the culmination of over 12 years of planning and public review by residents, conservationists, local governments, and Metro to safeguard the region's water quality and biodiversity as the region accommodates population growth. We believe the extensive public process and technical review throughout Metro's regional Goal 5 planning between 1999 and 2005 and the current Natural Resource Overlay Project which began in July 2008 afforded more than ample review, discussion, and balancing of public and private interests land use regulations to protect clean water and wildlife. Every additional reduction, variance, exemption, and delay of protections for environmentally sensitive lands increases the direct and cumulative risk to the region's water quality, biodiversity, and public health and safety. For these reasons, and others outlined in our March 22 and April 12 testimony to the Planning Commission, we respectfully request that the City Council adopt of comprehensive plan

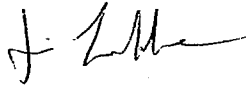
and zoning code amendments as soon as possible.

2. **We urge the City Council to revise permitted tree-cutting in Water Quality Resource Areas (19.402.6 B.1.f) in order to adequately protect and improve the water quality and aquatic habitat in Johnson Creek and Mt. Scott-Kellogg Creek.** With some reservation, the Planning Commission expanded the allowed tree cutting in “Marginal” or “Poor” Water Quality Resource Areas (WQRAs) by allowing the removal of three non-native, non-invasive trees in a 12-month period under Type 1 Review. The 1-to-1 tree replacement required under Type I review does not require planting native trees that will maintain or improve ecological functions. Water Quality Resource Areas provide **critical** ecological functions for maintaining water quality and supporting aquatic wildlife. One of those functions is shade, a limiting factor for water quality and native fish in Johnson Creek and Mt. Scott-Kellogg Creek. Some non-native trees can provide a very significant amount of shade along urban waterways, especially in lower quality riparian areas that have fewer native trees. We agree with the Planning Commissioners who felt the current proposal went too far in allowing tree cutting in WQRAs. Indeed we believe the current proposal may compromise Milwaukie’s compliance with Title 3 of the Regional Functional Plan. We urge the City Council to make any tree removal and replacement in WQRAs Type III permits that would only allow tree removal and replacement if a net environmental benefit for water quality and aquatic habitat can be demonstrated.
3. **We request that the City Council not adopt broad exemptions that would effectively allow unmitigated tree cutting in Habitat Conservation Areas (HCAs) on developed residential properties.** The Planning Commission debated and rejected the inclusion of a broad exemption that would allow tree cutting and removal in HCAs on developed residential properties. We agree with their decision. This provision of the Title 13 model ordinances was very controversial when proposed by then Metro President Bragdon. The Metro Council acquiesced to it only with the hope and expectation that local tree protection ordinances would prevent tree removal in environmentally sensitive areas. Most local governments have city-wide tree ordinances that include special regulations for tree cutting in environmentally sensitive areas but the City of Milwaukie does not. A Regional Urban Forestry Assessment and Evaluation for the Portland-Vancouver Area conducted by Audubon Society of Portland and Portland State University in 2009 found that Milwaukie is one of a very few jurisdictions that does not regulate tree removal consistently across land-uses and in development and non-development situations. Currently Milwaukie only regulates tree removal in WQRAs and on some flag lots. For more information see Appendix I thru L of the

Regional Urban Forestry Assessment and Evaluation, online at:
http://library.oregonmetro.gov/files//060110_forestry_assessment_revised_web.pdf

We thank you for your consideration of these issues and your work and attention to this important step toward implementing regional natural resource plans. Land-use regulations are one critical element to of broader efforts to protect, enhance, and manage our urban ecosystems so that people and wildlife flourish together in our region.

Sincerely,



Jim Labbe
Urban Conservationist
Audubon Society of Portland

CC: Metro Council