

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
August 2, 2011**

CALL TO ORDER

Mayor Ferguson called the 2107th meeting of the Milwaukie City Council to order at 7:02 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, Associate Planner Brett Kelder, Assistant to the City Manager Teri Bankhead, Community Development and Public Works Director Kenny Asher, Civil Engineer Jason Rice, Engineering Director Gary Parkin, Public Affairs Coordinator Grady Wheeler, and Planning Director Katie Mangle

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

Ed Zumwalt expressed his appreciation to those who volunteered at Festival Daze and presented Mayor Ferguson with a special "hook" to get people off the stage as the need arose. He urged the City Council consider installing a temporary dock while Riverfront Park was being constructed.

Mayor Ferguson and Councilors thanked Mr. Zumwalt for all of his work to make Festival Daze a remarkably successful community event.

A. National Night Out Proclamation

Mayor Ferguson read a proclamation naming August 2, 2011, as "National Night Out" in the City of Milwaukie and called upon all citizens to join the Milwaukie Police Department and the National Association of Town Watch in supporting the 28th annual event.

B. Main Street Sewer Main Grant Program and Decommissioning Schedule Update

Mr. Rice provided history on the project and updated the City Council on the status of the Main Street Sewer Main Grant Program. The goal had been to ultimately abandon the old line within a five-year period, and the City Council established a grant program to help properties connect. Of the six remaining properties, staff believed five would connect within the identified timeframe. Extending the deadline at this point would probably only present a delay, and staff recommended staying with the original deadline to prevent further delays. There has been no communication with the sixth, remaining property owner, and the next step may be direct personal communication.

Councilor Chaimov believed the City Council should accept staff's original recommendation for the scheduled decommissioning of the line.

Mr. Rice replied it appeared the property owners were waiting for the deadline whenever that might be. He suggested it was in the best interest of the community to move forward with the current decommissioning deadline.

Mayor Ferguson agreed it made sense to uphold the original schedule.

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C. Baseball Update

Mr. Asher provided an update on the City Council goal of pursuing minor league baseball as an economic development initiative in Milwaukie. This was an update on the five elements: public involvement, site control, securing a team commitment, facility development, and financing. To date, there was no formally sanctioned public outreach effort. He discussed the Oregon Department of Transportation (ODOT) property, an 8-acre site on McLoughlin Boulevard. He updated the City Council and audience on the recent discussions with ODOT. TriMet was also a partner in acquiring a small segment for the alignment, and the site was being appraised.

Staff continues to work with Mike Higgins, former Sr. Vice President of Portland's PGE Park on attracting a franchise and securing a team commitment for a 4,000-seat stadium to house a single A team in the Northwest League similar to the teams in Keizer and Eugene. He hoped to have a formal agreement in place by September 15 to move forward into the next phase. He had not personally reached out to any teams in the Northwest League and planned to become more active on that front this fall. Assuming that progress continues with ODOT and a baseball partner, he recommended City Council establish a baseball task force this fall.

No work had been done on facility development. However, Mr. Asher believed it would fit on that site, but no land use planning or transportation work had taken place to date. There were some ideas about co-locating that might benefit the community. Finally, no financing work had been done because it depended on a number of factors that had not fallen into place yet.

Councilor Hedges would rather try and fail rather than fail to try.

Councilor Chaimov felt the City was trying to do what the residents wanted which was to enjoy the amenities that came with density but without the density. People wanted to come to town for family-friendly activities such as baseball. It had been noted on many occasions that there were insufficient funds to make improvements such as sidewalks in the hinterlands. The best way to do that was to raise property values throughout the City. If this effort were to work out, it would pay extra dividends to the entire community by making Milwaukie a walkable and sustainable community and a place where people wanted to live.

Councilor Miller enjoyed the game as would other Milwaukie citizens. He was not as concerned about the success of the baseball franchise as he was about how the park would be used the other 9 months of the year. The City Council needed to hear from citizens about what they wanted.

Councilor Loomis felt this project was do-able. This was a fantastic location close to light rail, bike lanes, and highways. Baseball will come back to this region, and it was important to create and follow a plan with help from Milwaukie citizens and our regional partners.

Mayor Ferguson commented Milwaukie's greatest asset was its location in the region and accessibility by a variety of transportation modes. He supported moving to the next step and creating a task force.

Tim Salyers, Milwaukie, spoke in support of the endeavor as resident and voter.

Councilor Loomis commented on other possible uses of the facility including a community arts center.

CONSENT AGENDA

It was moved by Councilor Hedges and seconded by Councilor Chaimov to approve the consent agenda as presented:

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- A. **Resolution No. 73-2011**: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Award of Contract for On-Call Construction Inspection Services in the Amount of \$50,000 Per Year for Two Budget Years; and
- B. **City Council Minutes:**
1. June 21, 2011 work session
 2. July 5, 2011 work session

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

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. **Natural Resource Amendments to the Zoning Code and Comprehensive Plan – Ordinance and Resolution**

Mr. Kelver provided the staff report and reviewed the amendments made in response to the City Council's comments and concerns expressed at the July 19, 2011 hearing.

Councilor Miller was concerned about the planting times for bare root and potted plants.

Mr. Kelver responded those were recommended planting times found in the Metro Model Code to provide direction to those who may lack of expertise.

Mayor Ferguson understood bare root trees could be planted between December and April 15 because they were dormant and that potted trees could be planted at any time.

Mr. Monahan understood Councilor Miller's issue which seemed to be appropriate planting time during a calendar year and suggested something illustrative using a calendar year with colors indicating best planting times.

Ms. Mangle discussed the implementation and an education plan where this could be addressed.

Councilor Miller would agree to that so that it was perfectly clear.

Councilor Loomis did not see this issue was necessary for the Code.

It was moved by Councilor Chaimov and seconded by Councilor Miller for the first and second readings by title only and adoption of the ordinance amending the Comprehensive Plan Chapter 3 and the Milwaukie Municipal Code Title 19 Zoning Ordinance to protect the City's natural resources File #s ZA 11-01 and CPA-11-01.

Councilor Loomis would have voted in favor only if the homestead exemption had been included. He also had concerns about future fees and felt there could be a property tax reduction for those being the most impacted.

Councilor Hedges was reluctant to vote affirmatively on this, but it was probably the best that could be done for the City of Milwaukie. He felt this was another Metro boondoggle.

Mayor Ferguson felt bound because of the Metro compliance issue.

Councilor Loomis said the City had the ability to make its Code somewhat less restrictive. He appreciated people's passion, but his concerns remained. There was a homestead exemption in the Metro Model Code.

Councilor Chaimov thanked those who had spent months participating in the code review process. The care in its crafting was evident. Even though certain views were not incorporated in the code, the expression of those views made a better code than it might have been.

Motion passed with the following vote: Councilors Hedges, Miller, and Chaimov and Mayor Ferguson voting "aye" and Councilor Loomis voting "no." [4:1]

Mr. Monahan read the ordinance for the first time by title only. The second reading of the proposed ordinance would be on August 16, 2011.

B. Revisions to Board, Commission, and Committee Terms – Ordinances and Resolution

Mr. Monahan provided the staff report on the proposed code amendments related to Board, Commissions, and Committees. The City Council identified a number of issues that included term limits and that the number of individuals appointed from a single household would be limited.

Mayor Ferguson suggested applying the household limitation to all boards, commissions, and committees.

Councilor Chaimov did not feel that limitation was necessary.

Councilors Hedges and **Miller** supported Mayor Ferguson's recommendation.

Councilor Loomis felt it should be up to the discretion of the City Council to make appointments and ensure a balanced advisory body.

Councilor Chaimov was not in favor of extending the household ban because the other boards and commissions do not take the same types of votes as the Budget Committee and Planning Commission.

Mayor Ferguson was concerned about perception and felt that the City Council should be held above criticism and beyond reproach. He felt having a limitation in place would be more prudent.

Councilor Loomis thought it came down to the discretion of the City Council. What about those who could not be married?

Mayor Ferguson replied it had nothing to do with marital status; two people could be roommates. He was seeking to have more diversity on advisory bodies.

It was moved by Councilor Miller and seconded by Councilor Loomis for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.10 to modify the limitations on reappointment for persons appointed to various City boards, commissions, and committees. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting "aye." [5:0]

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

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

ORDINANCE NO. 2031:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.10 TO MODIFY THE LIMITATIONS ON REAPPOINTMENT FOR PERSONS APPOINTED TO VARIOUS CITY BOARDS, COMMISSIONS, AND COMMITTEES.

It was moved by Councilor Loomis and seconded by Councilor Miller for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.14 to modify terms of members of the Design and Landmarks Committee. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting "aye." [5:0]

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

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

ORDINANCE NO. 2032:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.14 TO MODIFY THE TERMS OF MEMBERS OF THE DESIGN AND LANDMARKS COMMITTEE.

It was moved by Councilor Hedges and seconded by Councilor Chaimov for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.16 to establish a limitation on the number of individuals from a household appointed to the Planning Commission. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting "aye." [5:0]

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

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

ORDINANCE NO. 2033:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.16 TO ESTABLISH A LIMITATION ON THE NUMBER OF INDIVIDUALS FROM A HOUSEHOLD APPOINTED TO THE PLANNING COMMISSION.

It was moved by Councilor Chaimov and seconded by Councilor Hedges for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Chapter 2.14 to establish a limitation on the number of individuals from a household appointed to the Budget Committee. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting "aye." [5:0]

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

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

ORDINANCE NO. 2034:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE

CHAPTER 2.16 TO ESTABLISH A LIMITATION ON THE NUMBER OF INDIVIDUALS FROM A HOUSEHOLD APPOINTED TO THE BUDGET COMMITTEE.

It was moved by Councilor Miller and seconded by Councilor Hedges to adopt the resolution clarifying the terms of office for certain board, commission, and committee members under Milwaukie Municipal Code Section 2.10.030.G. Motion passed with the following vote: Councilors Hedges, Loomis, Miller, and Chaimov and Mayor Ferguson voting "aye." [5:0]

RESOLUTION NO. 74-2011:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CLARIFYING THE TERMS OF OFFICE FOR CERTAIN BOARD, COMMISSION, AND COMMITTEE MEMBERS UNDER MILWAUKIE MUNICIPAL CODE SECTION 2.10.030G

A. Council Reports

Mayor Ferguson and Councilors provided an update on meetings they attended on behalf of the City and announced upcoming community events.

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

ADJOURNMENT

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

Mayor Ferguson adjourned the regular session at 8:50 p.m.

Respectfully submitted,



Pat DuVal, Recorder

REGULAR SESSION

AGENDA

MILWAUKIE CITY COUNCIL AUGUST 2, 2011

MILWAUKIE CITY HALL
10722 SE Main Street

2107th MEETING

REGULAR SESSION – 7:00 p.m.

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| B. Main Street Sewer Main Grant Program and Decommissioning
Schedule Update
Staff: Jason Rice, Civil Engineer | 3 |
| C. Baseball Update
Staff: Kenny Asher, Community Development & Public Works
Director | 10 |
| 3. CONSENT AGENDA <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> | 13 |
| A. On-Call Inspection Service Contract – Resolution | 14 |
| B. City Council Meeting Minutes: | |
| 1. June 21, 2011 Work Session | 28 |
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| 4. AUDIENCE PARTICIPATION <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 <i>(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.)</i> | |
| A. 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.)* **36**
- A. **Natural Resource Amendments to the Zoning Code and Comprehensive Plan and Fees for Services – Ordinance and Resolution**
Staff: Brett Kelter, Associate Planner
- B. **Board, Commission, and Committee Terms and Term Limits – Ordinances and Resolution** **37**
Staff: Bill Monahan, City Manager
- C. **Council Reports**
7. **INFORMATION**
8. **ADJOURNMENT**

Public Information

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

2.

PROCLAMATIONS,
COMMENDATIONS,
SPECIAL REPORTS,
AND AWARDS

PROCLAMATION

WHEREAS, the National Association of Town Watch (NATW) started a unique, nationwide crime and drug prevention program called “National Night Out”; and

WHEREAS, the “28th Annual National Night Out” will take place on August 2, 2011 and provides a unique opportunity for Milwaukie to join forces with thousands of other communities across the country in promoting cooperative, police-community partnership efforts; and

WHEREAS, Milwaukie Police Department plays a vital role in promoting crime and drug prevention efforts and is supporting “National Night Out 2011” locally; and

WHEREAS, it is essential that all citizens of Milwaukie be aware of the importance of crime prevention programs and impact that their participation can have on reducing crime, drugs and violence in Milwaukie; and

WHEREAS, police-community partnerships and neighborhood safety and awareness and cooperation are important themes of the “National Night Out” program;

NOW, THEREFORE, WE, MILWAUKIE CITY COUNCIL, do hereby call upon all citizens of Milwaukie to join Milwaukie Police Department and the National Association of Town Watch in supporting the “28th Annual National Night Out” on August 2, 2011.

FURTHER, LET IT BE RESOLVED, That, I, Jeremy Ferguson, Mayor of the City of Milwaukie, Oregon, hereby proclaim Tuesday, August 2, 2011 as “National Night Out” in Milwaukie.

Introduced and adopted by the City Council on August 2, 2011.

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal, City Recorder



To: Mayor and City Council

Through: Bill Monahan, City Manager
Kenneth Asher, Community Development Director & Public Works Director
Gary Parkin, Engineering Director

From: Jason Rice, Civil Engineer

Date: July 15, 2011 for the August 2, 2011 Regular Session

Subject: Main Street Main Grant Program Update

ACTION REQUESTED

To update City Council on the status of the Main Street main grant program. Staff will also be asking for direction on extending the program beyond its deadline of September 30, 2011.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

February 2009: Council established a grant program to defray private sewer re-connection costs associated with the Main Street Sewer Main Replacement Project.

December 2008: Council directed staff to seek Community Development Block Grant funds to support the Main Street main replacement project.

Spring 2008: Council approved the Main Street main replacement project as a part of the regular budget process.

BACKGROUND

In 2008 Staff determined the need for a replacement sewer main in the downtown area. The main, running in a vacated alley way parallel to Main St, has failing joints and is located under buildings. The City contracted to construct a replacement main in Main Street and provided laterals to the properties served by the old main. Reconnecting the properties to the new main was left to the property owners as much of that work is within the buildings.

In recognition of the cost that will be incurred as the properties transfer service, Council created a grant program to offset some of the business costs associated with making new connections

and encourage a timely transfer of services. The program offers repayment of half the connection cost up to \$5,000. \$80,000 has been budgeted over the years to provide for the 16 properties. The program will end on September 30, 2011, two years after the completion of the Main Street main project. Each of the affected property owners have been notified by mail three separate times since the project was completed, that the program will end after summer of 2011.

Along with the creation of this grant program, Council was presented a 5-year timeline for the abandonment of the sewer main line that was replaced. During this period Staff has committed additional resources to perform inspections every six months, continue regular maintenance, make emergency repairs, and prevent any new connections to the old line. While inspections have not revealed any major changes in the line, it is still the intention of Staff to abandon this line in the fall of 2014.

To date, seven of the original fifteen properties have connected, all in the past six months. A total of \$25,657.50 has been paid as part of this program. Eight properties have yet to make their connection. Staff has contacted these properties and believes that six of these properties intend to connect before the deadline. The remaining two properties are connected to a separate main that is not scheduled for decommission. While these two properties would qualify for this grant program, the owner would like to wait until a date for decommissioning has been set, with the understanding that this grant program is set to expire September 30, 2011.

The intent of this program is to encourage connections to the new wastewater main so they are off the old main when the City plans to abandon it. Staff does not believe that extending the deadline would promote additional connections, but only delay the four that plan on meeting the current grant deadline.

CONCURRENCE

The City Attorney provided input on both the City's obligation/liability under the existing situation and on the grant program. The City Attorney did not find any legal obligation for the City to pay for the private costs necessary to connect to the new main. Program development and outreach has involved CD, Engineering, Community Services, and Planning staff.

FISCAL IMPACT

Of the original \$80,000, \$54,342.50 remains. Staff expects to see a payout of an additional \$20,000 for 4 of the 8 remaining property connections.

WORK LOAD IMPACTS

At this point in the program, Staff time is minimal. When an application is received, it is reviewed; a check request is generated, signed and sent to finance.

ALTERNATIVES

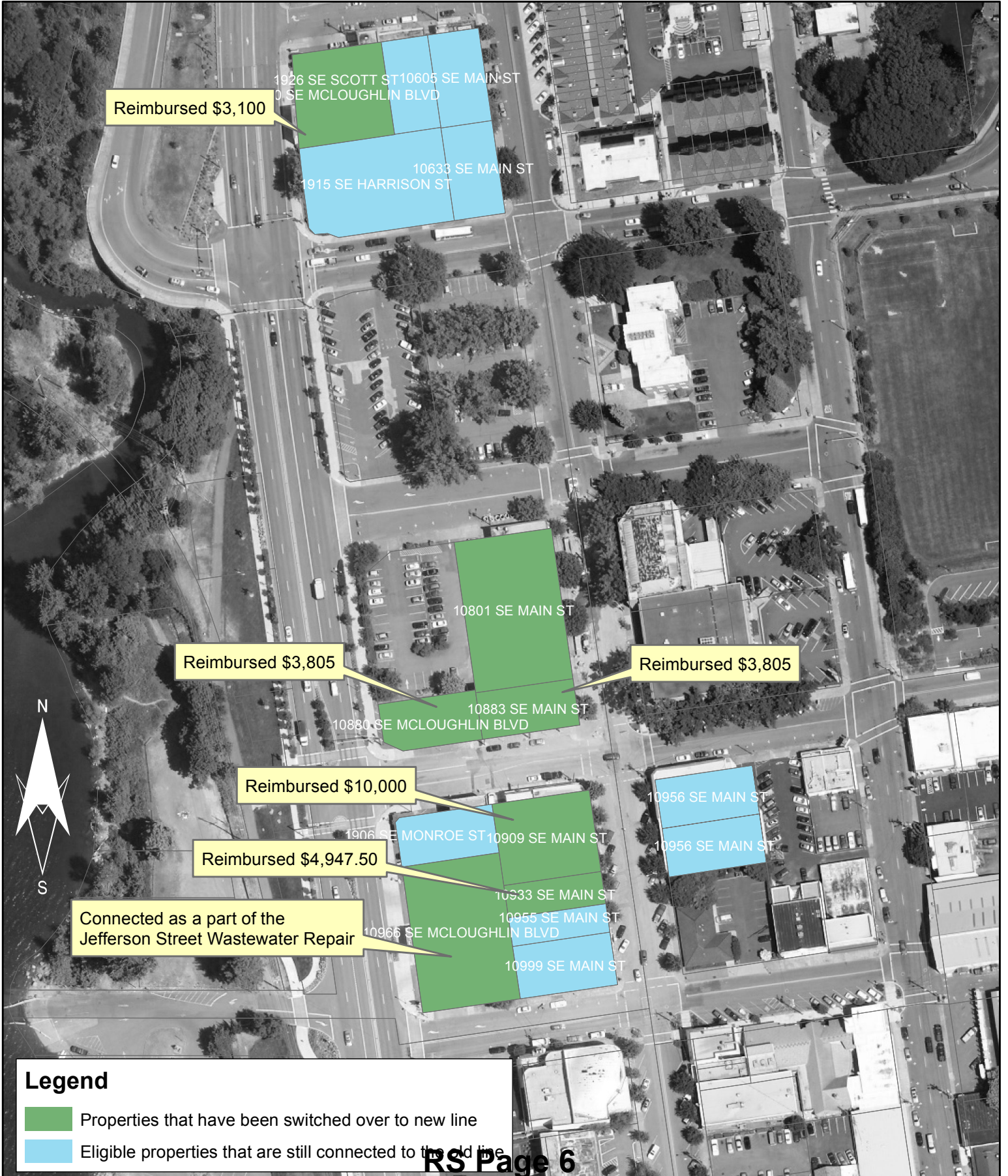
1. Rather than end the program September 30, Council may direct Staff to:
 - a. extend availability of funds until they run out
 - b. extend availability of funds through the end of the fiscal year

ATTACHMENTS

1. Map of Connected and Reimbursed Properties
2. Example Letter of Final Notice

Attachment 1

Main Street Main Grant Program Properties



Attachment 2



August 3, 2011

OWNER
ADDRESS
CITY, STATE ZIP

Subject: Main Street Sewer Grant Program

Dear Downtown Property Owner:

The City's Main Street Sewer Main Replacement project was completed in September 2009. This letter is to remind you that you have approximately 2 months to take advantage of the City's offer to contribute to your cost to change the sewer connection at your property over to the new line.

The City will continue to maintain the old sewer line, with the expectation of decommissioning the existing sewer main in 2014. The five year delay is intended to allow property owners flexibility to transition to the new main as properties redevelop or have significant improvements made.

All buildings will be required to connect to the new main before the old line is decommissioned. In order to encourage property owners to change their connections to the new main in a timely fashion and to help defray the private costs incurred, the City Council established a grant program to assist private property owners. The grant will cover 50% of your cost up to a maximum of \$5,000. An application form is attached with additional details. Please be aware that grant funds are only available for two years after project completion, i.e, through summer 2011.

If you have questions please contact Matt Palmer at (503) 786-7602 or palmerm@ci.milwaukie.or.us.

Sincerely,

Jason Rice
Civil Engineer
(503) 786-7605

CC: Gary Parkin, Engineering Director
Bonnie Lanz, Permit Specialist
File



Main Street Sewer Line Replacement Grant Program Application

Instructions – Fill out the form; all fields are required. If you have questions, contact Matt Palmer at (503) 786-7602 or palmerm@ci.milwaukie.or.us . Submit completed application to Matt Palmer / City of Milwaukie / 6101 SE Johnson Creek Blvd. / Milwaukie, OR 97206. Payment will be issued to property owner listed on the relevant deed.

Property Owner (corp. name or legal name of individual):	(Attach copy of deed of trust or document establishing ownership.)
Building location (address):	
Date of construction:	(Only pre-existing buildings are eligible for compensation.)
Taxlot Number:	
Milw. Biz Reg. # of Property Owner:	
Mailing Address:	
Contact name:	
Phone:	
Email:	
Contractor name & phone #:	
Oregon CCB # of contractor:	
Description of and total cost of work completed:	(Attach invoice detailing work, hours and materials. Must identify location, date of work, and clearly identify purpose of work completed.)
Date of new connect & dis-connect from old main:	(Grants are only available for first 2 years after project completion.)
Amount requested:	(Maximum of 50% of total plumbing cost or \$5,000, whichever is less.)

I, the undersigned, legal owner of the property described herein (“Applicant”) submit this application for reimbursement of \$_____ for plumbing work described above related to the City of Milwaukie’s Main Street Sewer Main Replacement Project Grant Program (the “Grant”). I attest that all the information provided above is complete and true and that all costs for which Applicant seeks reimbursement have been paid to the contractor and were necessary to reconnect the property to the City’s new sewer main (collectively, the “Work”). In consideration of the Applicant’s receipt of grant money under the Main Street Sewer Program, the Applicant hereby releases the City of Milwaukie (“City”) from any liability for and relinquishes and waives any claim against the City for additional compensation related to the location, condition, or decommissioning of the old sanitary sewer line serving

the referenced property; the City's construction of the replacement sewer main line; or the private costs of re-connecting to the new line or lines.

In relation to any claims related to plumbing work performed by the Applicant's contractor, Applicant shall defend, save, hold harmless, and indemnify the City and its Board members, officers, and employees from (i) any cost, expense, invoice, lien or other claim for materials, labor, equipment, services or charges of any kind made by the contractors or any other person or entity which comprises the Work and (ii) any loss, claim, suit, action, loss, damage, liability, cost and expense for personal injury (including death), and damage to real or tangible personal property resulting from, arising out of, or relating to performance of the Work (collectively, the "Claims"), the activities of Applicant or its officers, employees, subcontractors or agents, or another third party. This indemnification includes all legal fees and costs of defending actions or suits, resulting directly or indirectly from Applicant's performance or nonperformance of the Work, including without limit, where the Claim is attributable to or alleged to be the result of the negligence or other fault of the Applicant's employees, agents, or other persons acting on behalf of or at the invitation of Applicant.

Signed

Date

Printed Name & Title



To: Mayor and City Council

Through: Bill Monahan, City Manager

From: Kenneth Asher, Director of Community Development & Public Works

Date: July 25, 2011 for the August 2, 2011 Regular Session

Subject: Status Update on Council Goal to Attract Minor League Baseball and Secure the ODOT Maintenance Yard at 9002 SE McLoughlin

ACTION REQUESTED

No action requested. This report updates the Council on staff efforts related to the Council's economic development goal of pursuing site control of ODOT's maintenance yard at 9002 SE McLoughlin, potentially as the future home of a minor league baseball franchise.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

April 2011: The City Council adopted resolution 46-2011 identifying the pursuit of minor league baseball as a high priority economic development initiative.

Oct 2010: In a work session, Council discussed exploring the possibility of locating a minor league baseball stadium in the City. There was consensus that the idea was worth looking into.

BACKGROUND

On March 7, staff sent a letter of interest to ODOT regarding possible acquisition of the 8-acre maintenance yard at 9002 SE McLoughlin. Staff also suggested the parties begin negotiating a Memorandum of Understanding (MOU) to include, among other things, the City's intent to purchase the site, and ODOT's intent to sell.

On May 3, ODOT responded in support of the idea, indicating that a team had been formed to work with the City on the real estate transaction and the MOU. ODOT explained that because the site is a functioning maintenance yard, a fully operational alternative site would need to be in ODOT's possession before the agency could vacate the existing location.

ODOT is in the process of appraising this site and a possible replacement site for their yard operations. The City anticipates splitting the cost of the appraisals with ODOT. These are expected to be complete in a few weeks. A Best Use study conducted by Kidder Matthews suggests that the interim highest and best use of the ODOT yard is outdoor storage and occupancy of the existing buildings, but that in the future, development of small industrial buildings across the site will be viable. However Kidder Matthews does not yet see a strong market for industrial users for this land and recommends against the City purchasing the site speculatively.

Staff toured the historic building on the site with several parties, including Mike Higgins, the McMenamain brothers, architects and city councilors. The historic structure, completed in 1938 as ODOT's former Portland Division Headquarters, is a rare example of a National Park Service rustic style administrative building in Oregon. It is the highest rated property on the City's inventory of Goal Five resources (historic properties).

With support from Metro's Brownfields Recycling Program, staff is in the process of applying to the State of Oregon Business Development Department's Brownfields Program to cover most costs associated with evaluating any possible contamination on the site. Subject to ODOT's consent, the City would apply for these funds and engage an environmental remediation firm to conduct this work. This will occur as the City and ODOT make progress toward the MOU.

TriMet needs to acquire a portion of the site for light rail and has been in discussions with the City and ODOT to coordinate on various real estate activities. TriMet has expressed support for the baseball concept given that it will enhance ridership and station area activity, and is awaiting progress reports from the City.

Additional site planning will occur through a Tacoma Station Area Transportation and Growth Management (TGM) grant that the City was recently awarded. The ODOT-based grant will enable land use and transportation studies to occur in the Tacoma Light Rail Station area, and will answer questions such as what kind of bike, street and transit connections must occur in the station area (which includes the ODOT site), and what kind of parking and other transportation demand management strategies need to be employed to match the land uses and transportation infrastructure. Planning staff will lead the TGM project, in conjunction with the City of Portland Bureau of Planning and Sustainability.

Staff continues to work with Mike Higgins, former Senior Vice President of Portland's PGE Park, on a public-private partnership that would bring a minor league franchise into Milwaukie. Mr. Higgins has been focused on the Northwest League, which is an eight-team, Major League Baseball-affiliated organization playing at the Single A level. Mr. Higgins is in discussions with team owners from the league, which itself is interested in the Portland metro market now that the region is without a professional baseball presence. Clark County is in relocation negotiations with the Yakima Bears, one of the eight teams in the Northwest League. Staff is monitoring the progress of those negotiations, which if successful, would move the Bears from Yakima to a new \$23 million ballpark at Clark College in Vancouver.

Assuming that progress continues to be made with ODOT and a baseball partner, staff recommends Council convene a task force of Milwaukie citizens and business people to evaluate the possible design, uses, and impacts of a baseball facility on the ODOT site. In

beginning a community-led process now, the City could potentially get a commitment from a team in 2012. With a successful finance plan (to be created), the facility could be constructed in 2013-14, and open for use for the 2014 season.

CONCURRENCE

Members of Council report positive discussions with Milwaukie residents about the baseball concept, and are now preparing to attend upcoming NDA meetings with information about the project. The Oregon Sports Authority, Clackamas County, and TriMet have all voiced support for Milwaukie's endeavor to attract baseball back to the greater Portland region.

FISCAL IMPACT

Not applicable, as no action is sought. As progress is made toward an ODOT site acquisition and development agreements regarding a sports facility, there will be fiscal considerations for the Council to weigh. Staff will prepare and analyze these and will present them to the Council as more information becomes available.

WORK LOAD IMPACTS

This project is a significant workload impact for the Community Development and Planning Departments, and will eventually be a significant workload impact for the Administration, Engineering and Finance Departments. Staff will rely on the City Attorney's office heavily as both partnerships (ODOT and the baseball partner) progress.

ALTERNATIVES

Not applicable, as no action is sought.

ATTACHMENTS

None.

3.

CONSENT AGENDA



3.A.

To: Mayor and City Council

Through: Bill Monahan, City Manager
Gary Parkin, Engineering Director

From: Jason Rice, Civil Engineer

Date: July 11, 2011 for the August 2 Regular Session

Subject: Engineering On-Call Inspection Services Contract through June of 2013

ACTION REQUESTED

Authorize the City Manager to execute a contract with CMTS LLC. in an amount not to exceed \$50,000 per year for two years of construction inspection services to augment the City Engineering staff for paving and construction project inspections.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

September 2009: The City contracted with AKS Engineering for paving inspection services related to the Surface Street Maintenance Program (SSMP) through June of 2011.

June 2008: The City contracted with CMTS Inspection Services for paving inspection services related to the SSMP through June of 2009.

BACKGROUND

It is important to verify that public work construction activities are completed according to the City's Public Works Standards. Inspection and quality assurance activities are needed to protect the City's infrastructure investments. For example, inspections can avoid poor trench compaction that will lead to premature failure of the utility and undermine roadways and the improper placement of a road sub-grade that will cause pavement failure. Testing of water and sewer mains ensures that they will operate efficiently and are easily maintained.

The construction of public work projects requires many inspections, tests, other quality assurance activities and documentation. Some of the tests such as asphalt density, rock compaction, manhole vacuum pressure, and waterline pressure, can take several hours to

perform. Documenting construction conflicts, proper materials, and work progress is also time-consuming. While engineering staff is able to provide coverage for the majority of the projects, there are occasions when a proper level of on-site construction is difficult to provide. For instance, paving projects should have the oversight of an inspector throughout the paving process. Often a paving operation will extend for multiple blocks and more than one inspector is needed to monitor the work. At other times an engineer will have design or other office work that must be done, creating a problem with providing construction oversight. Having an experienced inspector available enables the engineers to use their time more efficiently as project managers and designers.

During the past three years, Engineering has used contracted inspectors to assist only during the paving projects (beginning with King Road). A total of \$54,000 was spent over the past three years on this type of contracted inspection. City projects with outside funding (usually from ODOT) also make use of contracted inspectors.

It is anticipated that the total need for construction inspection services will not exceed \$50,000 per year. Of this amount, approximately half would be used for the SSMP and half for other capital improvement projects.

The contracted inspector will have the ability to fill a variety of roles in any City projects. Potential duties include performing compaction testing, density testing, sewer and water line tap inspection, catch basin installs, water line testing, documenting time and materials and similar tasks. The contract would be utilized as needed, with Engineering staff continuing to perform the bulk of the inspections.

The City recently advertised a Request for Proposals (RFP) for construction inspection services and received four proposals. The RFP's were evaluated by a team of four staff members who ranked them based on qualifications, experience, schedule, and hourly rate. CMTS was selected based on their ability to provide the services from a large pool of inspectors, experience of years of providing construction inspection, and value to the City with the most reasonable hourly rates.

CONCURRENCE

The Operations Department supports this action and participated in the selection process.

FISCAL IMPACT

The services will be paid from the individual projects utilizing the service as they have been budgeted. Projects from this year's budget that may use contracted project inspection include the Harrison Street sidewalk/Quiet Zone project, Harrison Street Water project Phase 1, Harrison Street paving Phase 1, International Way paving, and the City's utility relocations due to the light rail project. Under this contract the maximum fiscal impact would be \$50,000 per year for the next two years. Staff believes this amount will cover all of the needed inspections.

WORK LOAD IMPACTS

This proposal improves the working capacity of the Engineering Department and improves the inspection coverage.

ALTERNATIVES

1. Not approve the proposed resolution but request that Staff re-advertise to see if better proposals would be received.
 - a. This decision would require devotion of Engineering Staff's time to inspect the paving of International Way which would occur before it would be possible to repeat this selection process and come back to Council.
2. Not approve the proposed resolution, and not re-advertise for additional interest
 - a. This decision would require devotion of Engineering Staff time to all construction projects until Council decided an on-call inspector was needed.

ATTACHMENTS

1. Resolution
2. A copy of the CMTS Proposal

ATTACHMENT 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE AWARD OF CONTRACT FOR ON-CALL CONSTRUCTION INSPECTION SERVICES IN THE AMOUNT OF \$50,000 PER YEAR FOR TWO BUDGET YEARS.

WHEREAS, the Engineering Department’s efficiency will be improved with additional skilled construction inspectors; and

WHEREAS, the current adopted project budgets accommodate the inspector charges; and

WHEREAS, the City recently advertised for proposals for construction inspection services; and

WHEREAS, a formal request for proposals process following Chapter 30 of the City’s Public Contracting Rules was conducted, and

WHEREAS, CMTS LLC. was found to be the most qualified, responsive, responsible proposer;

NOW, THEREFORE, BE IT RESOLVED that the City of Milwaukie authorizes the City Manager to sign a contract for construction inspection services with CMTS in the amount of up to \$50,000 per year, for a maximum of two budget years.

Introduced and adopted by the City Council on _____ .

This resolution is effective on _____ .

Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

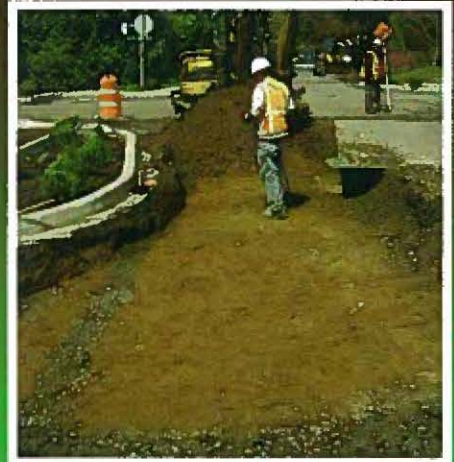
Pat DuVal, City Recorder

City Attorney



Request for Proposals

To Provide Professional Inspection Services for the City of Milwaukie



City of Milwaukie
Attention: Jason Rice
6101 SE Johnson Creek Blvd
Milwaukie, OR 97206

RE: 2011 On-Call Inspector

CMTS LLC
3220 SW First Avenue Suite 150
Portland, OR 97239
503.242.1388



July 5, 2011

City of Milwaukie
Attention: Jason Rice
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

RE: Request for Proposal to Provide Professional Inspection Services for the City of Milwaukie

Dear Mr. Rice and Selection Committee Constituents,

CMTS is pleased to submit our qualifications in response to your RFP for professional inspection services for the City of Milwaukie.. Our proposed personnel are industry leaders in their respective fields and have worked on an on-call/as-needed basis thus are familiar with the need to be available and prepared to mobilize quickly. At CMTS, addressing the client's individual needs guides our solutions for staffing projects. After listening to the needs of our client and determining the project scope, we provide the professionals who meet even the most stringent requirements. These needs range from augmentation of our client's staff to turnkey operations where CMTS runs the entire program or project on behalf of our client.

A concise summary of our firm's capabilities includes:

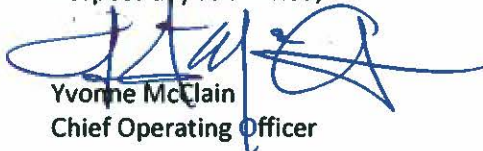
- Constructability Review
- Construction Inspection
- On-site Owner Representative
- Cost Estimating / Control
- Claims Avoidance / Resolution
- Scheduling
- Construction Administration
- Document Control
- Survey Coordination
- Contractor / Subcontractor Coordination
- Materials Testing Coordination
- Value Engineering

We have reviewed the Request for Proposal and sample City of Milwaukie Engineering Services Agreement and accept all terms and conditions contained therein.

Ms. Yvonne McClain, Chief Operating Officer and part-owner of CMTS, is the primary contact person for solicitation purposes. She is authorized to represent the firm, negotiate, and serve as the legal representative to bind the firm, or sign any contract that may result from this proposal. Ms. McClain's contact information is: Yvonne McClain, CMTS LLC, 3220 SW First Avenue, Suite 150, Portland, OR 97239.

Per your request, enclosed you will find three copies of our submittal. On behalf of CMTS, we thank you for this opportunity to present our qualifications and answer any questions you may have.

Respectfully submitted,



Yvonne McClain
Chief Operating Officer

EXTENT OF PRINCIPAL INVOLVEMENT:

Yvonne McClain
Principal-in-Charge

Ms. McClain is the Chief Operating Officer of CMTS and has over 12 years experience in project and construction management. Her involvement in the construction industry includes both new construction and rehabilitation projects ranging from \$20,000 to more than \$30 million. Her leadership is highly regarded for her visionary skills, mentorship, collaboration and ability to listen to each client’s needs. She offers innovative concepts for CMTS clients’ consideration with regard to creating training opportunities that are optimally beneficial to our client and the trainee as well as unique means and methods for subconsultant teaming and participation. Ms. McClain will serve as the Principal-in-Charge for the City of Milwaukie contract.

- B.A., Architecture, University of Oklahoma
- Competent Person Trenching & Excavation
- Work Zone Traffic Control
- OSHA 10-Hr Safety Compliance
- Member, Oregon Chapter APWA (2004-2011)

Laurie Allen
Project Manager

Ms. Allen has worked at CMTS practically since its inception in Portland, Oregon. She is responsible for the operations of the northwest CMTS office as well as recruitment, screening, staffing and monitoring of our personnel; monitors our performance on the projects; conducts contract administration, provides oversight for all safety training and ensures personnel remain current in their certifications. Laurie has assisted with staffing for several fast-track projects including the City of Portland Bureau of Transportation, Water Bureau, and BES; Port of Portland, City of Salem, City of Lake Oswego, and City of Lincoln City. She excels in meeting with and listening to our client’s needs and has proven to be very successful in matching the correct personnel to our client’s projects. She will provide the same services for the City of Milwaukie.

- Competent Person Trenching & Excavation
- Work Zone Traffic Control
- Confined Space Entry
- OSHA 10-Hr Safety Compliance
- Member, Oregon Chapter APWA
- National Register of Who’s Who 2002-2003 for Business Professionals and Execs

Bill Vincent
Quality Assurance Manager

Mr. Vincent has over 20 years experience as a construction manager, project manager, project coordinator, civil inspector, and surveyor for a variety of construction projects including sanitary and storm sewers, light rail, tunnel, airport projects, bridges, and streets. Mr. Vincent works on the premise of identifying and resolving constructability concerns prior to the start of construction. He maintains thorough communication with the owner and contractors throughout the project to further avoid budget overruns and schedule delays. Bill will assist Laurie in ensuring our inspection personnel assigned to City projects are meeting QA goals.

- Work Zone Traffic Control/Flagger
- Confined Space Entry
- OSHA 10-Hr Safety Compliance
- Member, Oregon Chapter APWA

The inspection personnel we are proposing have been selected based particularly on their expertise and relevant project experience, in conjunction with their demonstrated experience working together as a team integrating with client staff to uphold the best interests of our clients. Our proposed personnel are local, will be available when needed, and are committed to fulfill their project roles for the duration of the assignment.

Chris Berquist
Sr Civil Inspector

Current Assignment: Chris provides on-call inspection and plan review services for BES in Portland, OR. **Similar Project Experience:** Chris’ most recent BES project

<p>Work Zone Traffic Control, Flagger, Confined Space Entry, Ex/Tr Safety</p>	<p>involved construction of 70 green street facilities (including stormwater facilities) and 25 sidewalk access ADA ramps with a construction value \$700k. Qualifications: Chris offers over 30 years of experience and was responsible for the construction and maintenance of streets, water and storm drainage, and the maintenance of the City of Roseburg's buildings and utilities till retirement from the City. Percentage of Time: Chris can be available 100% of his time to inspect projects for the City of Milwaukie.</p>
<p>Jake Edwards <i>Sr Civil Inspector</i></p> <p>ODOT Certified in: General, Bridge, Drilled Shaft, HMAC, Traffic Signal</p>	<p>Current Assignment: Currently assigned to the Portland Bureau of Transportation in Portland, OR. Similar Project Experience: Inspection services for the SW Moody Street project which is a streetcar track and street realignment project. Jake also provides inspections of private development projects. Qualifications: Offers 15 years of prior experience working for ODOT in survey and inspection of roadway and bridge projects. Percentage of Time: Jake's assignment with PBOT will conclude in Oct. or Nov. 2011 at which time he can be available 100% for assignment with the City of Milwaukie.</p>
<p>Dan Holte <i>Civil Inspector</i></p> <p>Work Zone Traffic Control, Flagger, Confined Space Entry, Ex/ Tr Safety, OSHA 10-Hour, Fall Protection, Adult CPR Std 1st Aid, Erosion Control</p>	<p>Current Assignment: Dan provides technical instruction at CMTS' Portland, OR office for our Inspection Apprenticeship Program. Similar Project Experience: Dan's most recent BES projects include N Wilson Sewer Rehabilitation, Portland Street Car Utility Relocation, and the Nob Hill Sewer Rehabilitation project. Qualifications: Offers over 23 years experience in construction and 9 years experience working on public works projects. Dan has a comprehensive understanding of roadway reconstruction, water/storm/sewer utility installations, catch basins, bio swales (rain gardens), and manhole placement. Percentage of Time: Dan is available 100% of his time to inspect projects on behalf of the City of Milwaukie.</p>
<p>Rob Pean <i>Civil Inspector</i></p> <p>Traffic Control/Flagger, Confined Space Entry Ex/Tr Safety</p>	<p>Current Assignment: Currently assigned to the Festiv15 Street Improvement Project in Lincoln City, OR. Similar Project Experience: Additional project experience includes inspection services of roadway reconstruction, curb/gutter, mainline storm/sewer/water installations, manholes, utility vaults and reclaimed water irrigation systems. Qualifications: Offers 16 years of progressive construction experience in airport, roadway construction and rehab, subdivision, and facility projects. Percentage of Time: Rob will be available 100% of his time beginning August 2011 for assignment with the City of Milwaukie.</p>
<p>Terry Hite <i>Civil Inspector</i></p> <p>Work Zone Traffic Control, Flagger, OSHA 10-Hr, Confined Space Entry, Fall Protection Lock-Out/Tag-Out Adult CPR Std 1st Aid</p>	<p>Current Assignment: Currently assigned to the SW Moody Streetcar and Realignment Project in Portland, OR. Project involves installation of 48" RCP for new sewer line consisting of 42"-48" of Hobas pipe and core-lock gasket manholes. Similar Project Experience: Additional project experience includes inspection services of the Portland Streetcar Loop for utility relocation and street repair, Woods Outfall Abandonment, and the Gibbs Pedestrian Bridge. Qualifications: Offers over 15 years of progressive construction experience in installation of underground utilities, manholes, pipe bursting, conduit, curbs/gutter/sidewalks, and inter-agency projects. Percentage of Time: Terry will be available 100% of his time beginning October 2011 for assignment with the City of Milwaukie.</p>
<p>Jason Wengrzynek <i>Civil Inspector</i></p> <p>Work Zone Traffic Control, Flagger, OSHA 10-Hr, Confined Space Entry, Ex/Tr Safety, Erosion Control Adult CPR Std 1st Aid</p>	<p>Current Assignment: Currently assigned to the W Moody Streetcar and Realignment and MLK Viaduct projects in Portland, OR. Similar Project Experience: Includes the E Burnside-Couch Couplet project where Jason inspected sewer installation and stormwater facilities (rain gardens) construction, Portland Street Car Sewer Project, and several utility upgrade projects. Qualifications: Offers 16 years of progressive construction experience in underground utilities and paving projects. Experience also includes setting manholes ranging from 48" to 144", placing box culverts ranging from 4x4 to 12x12, pipe bursting, cured-in-place liners, and directional boring. Percentage of Time: Jason will be available 100% of his time beginning October 2011 for assignment with the City of Milwaukie.</p>

CMTS Inspector personnel responsibilities include: Plan reviews at 30/60/90%; submittals; attend pre-construction meetings; on-site full-time inspection of materials and workmanship to ensure contractor compliance with project specifications, plans, and site safety plan; attendance at weekly progress meetings; preparation of daily progress reports; construction photos and preparation of photo logs; coordinate/observe/document materials testing procedures and results; traffic control; erosion control; as-built drawings; tracking bid items for quantity calculations and pay estimates; community outreach and coordination with public with regard to impacts of construction; and be knowledgeable in City and ODOT specifications.

QUALITY ASSURANCE REVIEW RESPONSIBILITY:

At CMTS, what matters most to our clients, comes first. We don't enter into a business relationship with a client thinking that we know what they want. Instead we listen to our clients, ask questions, and follow-through and check back often to ask how we're doing. This is how we have established an elite reputation of true commitment to the success of our clients' projects. CMTS responds swiftly to our client's requests and we have the ability to make decisions at the local level which means our clients aren't left waiting for results. Our partnering approach, flexibility, willingness to meet with our clients and listen to their needs and concerns; making ourselves available around the clock to our clients and employees; competitive rates; and then most importantly our unique ability to match up the most qualified personnel to meet or exceed our clients' expectations and goals, even in emergency staffing situations continue to enable us to maintain functional and productive working relationships with our clientele.

Quality Assurance is the responsibility of our inspection personnel and management. CMTS' Project Manager shall remain in regular contact with our employee to determine if any on-the-job challenges have occurred and to provide additional training as needed. Additionally, our Project Manager will also communicate with the City to conduct new-hire performance reviews on a regular basis to ensure work performance is on-track and to address and resolve concerns should they arise. Should qualified replacement personnel and/or emergency staffing be requested by the City, CMTS has the resources available to facilitate that request within one (1) week or less of our notification from the City. Furthermore, our Project Manager will compare the hours worked and associated cost to the Not-to-Exceed contract funds and provide weekly billings/updates to the City's PM.

Because of their years of experience in construction, our proposed inspectors can clearly identify the relationship of the construction activities, and denote the responsible parties to ensure that all aspects of the construction project including parking, construction staking, access, hoisting, and phased construction, system commissioning, training, and warranty related activities have been addressed; as well as identify Site Logistics issues. Our Inspectors will track the project on a daily basis, identifying critical issues that may cause delays or allow acceleration and communicate these components on a regular basis to the City's Project Manager. All project documents submitted by CMTS will be compatible with Microsoft Office Suite 2010.

All work will be documented in daily progress reports. Photos of the work-in-progress will be taken and recorded in a photo log. As-built drawings will be prepared to record construction on the plans. Quantity measurements will be taken (in English) to verify contractor pay requests. Our inspectors will ensure the contractor keeps the construction site clean, orderly, and promote and maintain safety awareness. CMTS Inspection personnel will ensure erosion control measures are in place and will also drive/walk the site each morning as well as evening once the project is winding down to ensure all traffic control signage and site containment is in place. Throughout the day they also ensure public safety is first and foremost.

Overall CMTS' Project Manager will be the nucleus for providing leadership and support for the success of this project. All elements of service will meet the goals of timing, quality, budget, safety, and logistics set by the City.

FIRM EXPERIENCE & RESOURCES:

CMTS is a coast-to-coast consulting construction management and quality assurance firm known for our our leadership and client-centric focus. "Quality" is a core expectation for all CMTS staff and our interdisciplinary teams work independently or as an extension of an agency's staff. With over \$30 billion dollars in construction value completed since our inception, our pledge is simple – to complete projects within the agreed upon schedule and budgetary constraints.

The CMTS Oregon office has provided consulting services to the Portland Metropolitan area since 1995 and continues to demonstrate the ability to be an integral part of the Owner/A&E/contractor team on some of the most complex transportation/infrastructure construction projects ever undertaken. Our transportation area features a national core staff of 40 who specialize as an owner's representative specifically in construction management, planning, permitting, and quality assurance inspections.

We presently employ a total of 44 individuals in the following capacities:

Professional Engineer	2	Construction Manager	4	Senior Tunnel Inspector	1
Electrical Inspector	3	Mechanical Inspector	1	Structural Inspector	2
Sr. Civil Const. Inspector	6	Civil Const. Inspector	14	CAD Technician II	1
Engineer Technician II	3	CMTS Office Staff	7		

Name of Firm: CMTS, LLC

Managing and Home Office in Oregon:
3220 SW 1st Ave., Ste 150
Portland, OR 97239

Type of Firm: Construction Management/Quality Assurance Inspection

Federal Tax ID #: 27-3989901

Multnomah County/City of Portland Account No: 727909

Number of Years in Business: In the State of Oregon: 16 * Company Overall: 26

Number of Professional Staff: In the State of Oregon: 44 * Company Overall: 135

SIMILAR PROJECTS:

E Burnside Couch Couplet Project - Portland Bureau of Transportation – Portland, OR (2010)

The East Burnside-Couch Couplet project was constructed on existing roadways from NE 14th Ave to NE 3rd Ave. Burnside and Couch Streets were previously each two-way streets, but are now realigned into a one-way couplet system between E. 14th and W. 16th Avenues. This was an inter-agency project with City of Portland, Environmental Services, Water Bureau, and ODOT. CMTS' Sr. Inspector provided full-time inspection of all aspects of the work performed ensuring contract compliance with plans/specifications with respect to workmanship/materials. *Key Personnel: Dan Moyer, Sr. Construction Inspector (PBOT), Jason Wengrzynek, Dan Holte, Terry Hite, Construction Inspectors (BES)*

Festiv15th Street Improvement Project – Lincoln City Urban Renewal Agency (Est. Completion 07/2011)

This project provides improvements to NW 15th Street between Hwy 101 and Harbor Avenue, a popular spot in the Ocean Lake District to access the beach and Pacific Ocean. Agency Development funds were utilized to encourage commercial, retail, and mixed-use development. Improvements include underground (storm, sewer, irrigation, electrical conduit); concrete (retaining walls, curb/gutter/valley, sidewalks); water service connections; landscaping; and pavement. The completed project will provide wider sidewalks, more organized parking, benches, lighting, and traffic calming features such as a street chicane, district archway, and speed table that also serves as a raised crosswalk. *Key Personnel: Rob Pean, Construction Manager/Inspector*

AVAILABILITY OF KEY RESOURCES:

Our goal is to provide the City of Milwaukie with the highest caliber of qualified individuals to work with the City's staff. We have identified 15 inspectors for assignment on City of Milwaukie projects. Below is a timeline summary of three of our proposed team's availability. Each person's experience is highlighted in Section 2 as required per the RFP.

Chris Berquist– Sr. Construction Inspector

Available: July 2011



Dan Holte – Construction Inspector	Available: July 2011
Rob Pean – Construction Inspector	Available: August 2011

PROJECT QUALITY AND CONTROL:

Our clients have come to rely on CMTS as being prompt in responding to their needs. We don't pretend to listen to our clients and then offer a "cookie cutter" option of 1, 2, or 3 that our clients are expected to mould into. Instead we focus on a client centric approach ensuring our services are built around what's important to our client's project goals and budget incorporating even the smallest of details we recognize as being important to our client. This sets CMTS apart and has provided us the opportunity to participate on some of the most significant projects constructed here in the northwest.

Monitoring and inspection of project quality is an important function for every project. We will maintain open communication between the City of Milwaukie Project Manager (PM), design consultant, and the contractor to ensure all quality issues are swiftly resolved. Our staff's essential assignment is to ensure the quality of the owner's finished product meets the contract documentation criteria.

Construction Inspection is a cooperative process. Our inspector will coordinate on a daily basis with both the City PM and contractor to ensure we are present to monitor contractor installations and testing procedures. Our inspector will become intimately familiar with all provisions of the contract, and will require the contractor to take corrective action when conditions arise due to contractor acts and/or omissions or deficient work quality. This will facilitate the process in achieving a mutually acceptable solution that allows activities to occur with the least possible impact on time, quality, and cost. The following are a few key points of our inspector's role with respect to project quality assurance:

- Function as prime liaison between the City, design consultant, property owner, and contractor to coordinate and facilitate communications and information flow;
- Coordinate and work closely with the City PM and the contractor to minimize the construction impact inconvenience to the owner and/or resident;
- Manage the General Conditions tasks outlined in the contracts;
- Work closely with the City PM by reviewing all project documentation including RFI's and submittals for completeness, accuracy, and conformance with the contract documents;
- Ensure compliance with all regulatory requirements, appropriateness of percentage of work complete on each contractor payment application, status of the construction contingency, monitor safety practices, and submission of all required lien releases.

MANAGEMENT CAPABILITIES:

Our goal is to work effectively with our client. We understand the City of Milwaukie is looking for a partner with demonstrated experience in CIP inspections to assist the City in completing your capital improvement projects. While providing the requested project inspections services, we will meet our contractual obligations through delivery of a successful quality project that is on time, within budget, and exceeds your expectations. Our firm is capable of providing the City of Milwaukie with construction inspection personnel whose sole purpose is to serve as your eyes and ears in the field and provide you with superior service. Our personnel will ensure your taxpayer's dollars are not being wasted on contractor errors or consumed by change orders.

Our CMTS Management will include Ms. Laurie Allen, V.P. of Operations who will be the main point of contact for the City of Milwaukie for all staffing needs. In addition Mr. Bill Vincent, our Quality Assurance Manager, will work with Ms. Allen to ensure our inspection staff is meeting our QA goals for the program. Both individuals are available 24/7 to respond to your needs. Their contact information is: 503. 242.1388 or by email at lallen@cmtsinc.com and bvincent@cmtsinc.com.

4. Compensation Requirements

At CMTS we understand the challenges of managing projects vs. budgets in today's economy. In consideration of this, we do not have a "laundry list" of fees. Our fee structure is simple and to the point. We've listed rates for the positions of Construction Inspector and Sr. Construction Inspector to provide the City of Milwaukie with the option of selecting the classification that best fits the project requirements.

Classification & Description	Multiplier	Regular Hourly Bill Rate	Overtime Hourly Bill Rate
Construction Inspector: CMTS Construction Inspectors have a minimum of 5 years construction inspection and/or construction supervision experience and are extremely knowledgeable with regards to paving and roadway construction, (grading, catch basins, manholes, rain gardens/stormwater facilities, ADA curb and gutter, ADA sidewalks), as well as underground utilities (water, storm, sewer, electrical, and gas) and the testing requirements of each system. They are familiar with ODOT specifications.	2.1	\$ 59.28	\$ 77.06
Sr. Construction Inspector: CMTS Sr. Construction Inspectors have a minimum of 12 years construction inspection and/or supervision experience. They are distinguished by their advanced experience inspecting public works projects that have a higher level of complexity. Typically these projects have tight schedules, involve extensive coordination among many stakeholders, and have high visibility and an increased level of community involvement.	2.1	\$ 70.77	\$ 92.00

Overtime will only be paid for regular hours worked in excess of 40 hours in any one workweek, defined as Sunday through Saturday. Holiday, sick, or vacation hours are not considered "regular" hours. Overtime will be paid at 1.5 times the regular rate of pay, **but only billed at 1.3 times the regular hourly rate.**

Auto reimbursement will be billed at the current Federal Standard Mileage Rate which is .55.5/mile effective July 1, 2011 through December 31, 2011. This applies to any work-related miles driven in excess of 50 miles per week. Our office is located 6.36 miles from the City's office however auto reimbursement would only apply to miles driven **once** the inspector reports for work at the City's office or job site and **not from the CMTS office** to the City's assigned work location. Inspection personnel will record their work-related miles on a Mileage Log. CMTS agrees to submit weekly financial updates for hours and mileage expenses per the City's request.

CMTS personnel will be provided a 10-12.1 megapixel digital camera with 2 memory cards, asphalt temperature gun and A/C thermometer, 2' smart level and torpedo level, 25' foot tape measure in 10ths & 100ths, measuring wheel (English), fire extinguisher, first aid kit, eye/hearing/sun protection, manhole hook, three (3) 30-minute safety flares, hard hat, safety vest, clipboard, cell phone, and rite-in-the rain books.

CMTS provides health and welfare benefits to all employees who work a minimum of 30 hours per workweek.

All CMTS personal are required to be certified and current in our required safety training inclusive of: Work Zone Traffic Safety Control/Flagger Certification, Excavation/Trench Safety, Confined Space Entry, Adult CPR/Standard First Aid, OSHA 10-Hr Safety Compliance, and Erosion Control.

Since our inception in Oregon in 1995, CMTS has provided construction management and inspection services on behalf of a variety of public projects similar to those listed in the City's RFP, throughout the Pacific Northwest. References for our current and past clients include:

City of Portland, Bureau of Transportation

- Burnside-Couch Couplet Project – Provided Sr. Inspector for Project (2009-2010)
- OHSU Aerial Tram Project – Provided Capital Project Manager to assist recovery team and deliver timely and complete finished product (2005-2007)
- SW Market/SW Clay Resurfacing Project – Provided Sr. Inspector for Project. **Project was completed one week ahead of schedule and only had twenty-seven pay items, no change orders, no extra work, and came in only \$8,000 over the engineer's estimate (2002)**

Contact:

Mr. Todd Liles, P.E., Contract Manager
City of Portland, Bureau of Transportation
1120 SW 5th Avenue, Suite 800
Portland, Oregon 97204
503/823.6992



City of Portland, Water Bureau

- Downtown Water Mains (2006-2007)
- Meter Shop Building (2009)
- East County Groundwater Project (2003-2004)
- SE 59th & 60th Street Reconstruction Project (2008-2009)
- Portland Street Car Loop Project – Utility Relocates (200-2010)
- Downtown Light Rail Transit Mall Project (2006-2007)

Contact:

Mr. Roy Martinez, Public Works Inspection Supervisor
City of Portland Water Bureau
1120 SW 5th Avenue, Room 600
Portland, OR 97204-1926
503/823.4518



City of Portland, Bureau of Environmental Services

- Portland Street Car Utility Relocation Project (2009-2010)
- Inspection Services for Brownwood Floodplain Restoration Project (2007)
- Inspection & Technical Support Services for the East Side CSO "Big Pipe" Tunnel Project (2006-2011)
- Portsmouth Force Main Project (2009-2011)
- Columbia Boulevard Wastewater Treatment Plant Additions & Improvements (1995-Ongoing)

Contact:

Ms. Sue Williams, Contract Manager
City of Portland, Bureau of Environmental Services
1120 SW 5th Avenue, Room 1000
Portland, OR 97204-1912
503/823.5520



Letter of Recommendation

CMTS solidifies our client relationships through excellent customer service and the ability to place the right staff on the right projects. Our staff works diligently to ensure every project is done on time and under budget with a minimum number of change orders. Below we have provided our most recent letter of recommendation for your review.

LINCOLN CITY URBAN RENEWAL AGENCY



April 12, 2011

Re: Letter of Recommendation for CMTS Inc.

To Whom It May Concern:

This letter is to convey my highest recommendation of CMTS Inc.

The staff at CMTS has successfully placed us with an experienced Construction Manager for our Festiv15th Street Improvement Project in our OceanLake District of town.

This construction project has created a temporary demand for an additional employee that we needed to fill quickly. During the placement process, CMTS displayed an excellent understanding of how to enhance the construction process when considering the staffing intricacies and realities of our public improvement project. Their dedicated assistance during placement continues while we are mid-construction.

I have no doubts in their abilities to assist entities, public or private in nature, with employment needs for public improvement projects. I strongly encourage you to select CMTS, an exceptional firm, to carry out the needs of your organization.

Best regards,



Kurt Olsen
Urban Renewal Director
kurt@lincolncity.org

**MINUTES
MILWAUKIE CITY COUNCIL WORK SESSION
JUNE 21, 2011**

Council President Chaimov 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 Attorney Tim Ramis, City Recorder Pat DuVal, Community Development and Public Works Director Kenny Asher, Planning Director Katie Mangle, Community Services Director JoAnn Herrigel, Associate Planner Ryan Marquardt

City Manager's Report

Councilors provided Council President Chaimov direction prior to his attending the Portland-Milwaukie Light Rail Land Use Final Order (LUFO) Steering Committee meeting.

Mr. Ramis spoke about the code amendments related to the Kellogg Treatment Plant.

Mr. Monahan discussed the proposed Happy Valley annexation, the Urban Growth Management Agreement (UGMA), and the open space at Scouters' Mountain.

Other topics discussed were the Farmers' Market Community Booth sign up, the proposed Neighborhood District Association (NDA) agenda, and the Clackamas County Coordinating Committee (C4) retreat.

Mr. Asher reviewed the Community Development and active Planning projects including the Kellogg for Coho American Rivers grant to measure sediment, the Lake Road Multimodal project, Natural Resource code amendments, and development review for a large LED-illuminated sign in the north industrial area.

Mr. Marquardt said a sign code amendment would be going to the Planning Commission in a work session.

Councilor Hedges wanted information on potential homestead exemptions related to water quality resources and habitat conservation areas, and **Councilor Loomis** thought site visits might be helpful.

Mr. Asher briefly discussed the façade program and commented on the public area requirements (PAR) Grant Program.

Councilor Miller would have some questions about the Wastewater Master Plan in the regular session.

Commercial Code Enhancement Program

Mr. Asher discussed the program that included making commercially zoned property more productive and contribute to neighborhood livability. The issue from the study session had to do with whether the City wanted to share some of the risk by accepting the Metro grant that was currently under appeal. He reviewed the timelines.

Mr. Ramis addressed the legal side of this matter. The degree of risk was half the grant amount or \$112,000, and the staff recommendation was to set aside contingency

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funds. He briefly reviewed the case and the Homebuilders' Association's complaint. He felt Metro had a good case; there was, however, risk and issues that could be debated.

Councilor Miller asked if money should be risked now that the City had some contingency. He felt urban renewal should be removed from this program and discussed separately as he felt it jeopardized the entire package. He thought it was a good program but was concerned about risking \$112,000.

Councilor Loomis liked the program, but it seemed risky.

Councilor Hedges suggested waiting for the outcome of the case and stated he was wary of taking the gamble. He had been looking at urban renewal and felt the boat had sailed, and Milwaukie had missed it. His instinct was that urban renewal was gone for years.

Council President Chaimov understood staff was seeking direction on coming back with the merits and demerits of urban renewal in the context of Milwaukie so Council can make its determination. It was also the question of risking \$112,000 to improve the commercial cores.

Mr. Asher said that was half of it, the other half was that should we even begin. There was a timing question as well as process.

Councilor Hedges asked if there was a financial implication for waiting.

Mr. Ramis replied as far as he knew the case had just been argued, so it could be a year before the outcome was known.

Councilor Miller recommended that if it were worth \$112,000 then the money could come out of contingency without applying for the grant.

Councilor Loomis felt it was worth the risk.

Councilor Hedges asked what the impact would be to City finances.

Mr. Monahan said the risk was probably a position in the budget or maybe more. If the City did not take the risk, then it will not have positioned itself by having a plan in place to capture future development activity.

Councilor Hedges said one of the Council's goals was to get the City positioned to where it was ready to go when the economy turned around.

Councilor Miller thought it was worth taking the gamble but did not feel time should be spent on urban renewal.

Mr. Asher would return in August to discuss the program scope and what could be done if the City did not undertake urban renewal. Metro may have an opinion on the matter.

Metropolitan Area Communications Commission (MACC) Agreement

Ms. Herrigel reviewed the agreement that covered day-to-day activities and benefits to becoming a member including a lower fee of approximately 18% from 23%, telecom advice, possible public access management, and negotiation of the Comcast Agreement that expired in 2012. If given direction to pursue this agreement, then the Comcast agreement would be extended 2014. The proposed resolution would approve MACC membership and allow the City a position on the Board. The contract with Willamette Falls had expired, so the City needed to make a decision on how to proceed. The alternative to signing an agreement with MACC was for her to do all the work. The

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only disadvantage she could think of was loss of local control as MACC was located in Beaverton.

There was consensus of three Council members that Ms. Herrigel should move forward with the MACC agreement. As Council President Chaimov at times represented Comcast, he had not comments

Neighborhood Leadership Monthly Meeting

Neighborhood leadership present: Linda Hedges, Hector Campbell; Bryan Dorr, Ardenwald; Beth Kelland, Linwood; Ed Zumwalt, Historic Milwaukie; Mary Weaver, Hector Campbell; Dave Aschenbrenner, Hector Campbell; Pepi Anderson, Lewelling; JoAnne Bird, Island Station; and Chris Davis. The leadership members made various announcements.

Ms. Hedges said at its last meeting the leadership had discussed how to improve communication between NDAs and Boards and Commissions. They selected NDA leaders to attend meetings to learn what is going on, review minutes and agendas, and share information. The two items the leadership wanted to discuss at this work session were the brown water event and the medical marijuana dispensary.

Mr. Zumwalt said he would like to know the City's legal stance on the second item.

Mr. Monahan replied there were two aspects: zoning and potential violation of criminal law.

Mr. Marquardt explained the medicinal marijuana facility was located in a commercial limited (CL) zone. The use was first described to planning staff as being along the lines of a clinic or office use which were allowed outright in that zone. After the lease was signed and the tenant moved in, signs indicated it would be a medicinal marijuana lounge/café type of business. If it were operated as a lounge or café, staff would consider it a high impact commercial use, which would require Planning Commission review prior to operation. It became apparent that the business would operate in bounds of the CL zone. The tenant indicated he wanted to lease space to physicians or massage therapists.

Mr. Monahan added the operation would be monitored by code enforcement.

Chief Jordan discussed legality and explained that Oregon was one of the states that considered marijuana as medicine. The City did not want to use police force for what was considered lawful by the State. If the business began operating in a way that deviated, there may be a zoning violation. At this point, the City could not act to investigate a premise that was considered legal. If the property owners were leasing to someone committing a federal crime, the property would be subject to forfeiture. There was no reasonable suspicion a crime was going on, but the department would investigate if there were. He discussed HIPAA statutes.

Ms. Bird noted Rusty's Resale was concerned about their gowns smelling like marijuana. The consensus at the Island Station meeting was that residents were more concerned about the effects of consumption than dispensing. She noted there had been little traffic.

Mr. Davis asked if there was a way to create a good neighbor agreement such as the one that was written for Balfour secure residential facility.

Chief Jordan discussed his role in developing the good neighbor agreement with the Balfour facility. He had gotten the sense at the last Island Station NDA meeting that not

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everyone felt the business was unwelcome if operated within the law. If people were leaving the business and operating vehicles under the influence, then the police could do something about that.

Mr. Dorr added this was a private business while the secure residential treatment facility included a number of public agencies.

Ms. Weaver asked if the neighborhood chair could be notified if someone wanted to open up an establishment with marijuana or adult businesses to start an early dialogue.

Mr. Zumwalt cautioned against being judgmental and saying a certain type of business was immoral.

Ms. Bird would have appreciated some advanced warning about this business in order to open up a dialogue with the residents.

Mr. Ramis said the City did retain its authority to put additional requirements in the Code.

Council President Chaimov suggested the NDA Chairs, through Ms. Hedges, provide suggestions of attributes of a business that NDA's would want to be notified about and forward those suggestions to Mr. Monahan.

Mr. Monahan said the suggestions should identify characteristics such as outside storage, odors, or traffic as opposed to specific uses. He discussed neighborhood review and input on code changes to address impacts in the future. Staff can send an email to all neighborhood chairs when new business tax applications were received.

Mr. Marquardt explained it was difficult for staff to ascertain how serious an inquiry might be. It was possible, but staff did deal with some very speculative inquiries.

Council President Chaimov suggested that staff notify all NDA chairs of all business license applications, and if gaps in information were identified, then the issue could be revisited.

Ms. Hedges said several neighborhoods had experienced brown water, and there had been no notification from the City. She hoped to identify a better way to communicate.

Mr. Aschenbrenner said in the past year it has happened twice at his house. The City advised him to run cold water to flush pipes. He thought people should be given a credit for the water usage.

Council President Chaimov understood people wanted notice before and after an incident.

Mr. Asher said in some cases it was not possible to provide advance notice. He discussed the hydrant flushing program and public outreach plans including signage and notices on the website.

Mr. Monahan recommended a discussion with Mr. Wheeler, the water division and NDA's on the most effective ways to communicate with the leadership.

Council President Chaimov adjourned the work session at 6:54 p.m.

Respectfully submitted,

Pat DuVal, City Recorder

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**MINUTES
MILWAUKIE CITY COUNCIL WORK SESSION
JULY 5, 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 Attorney Tim Ramis, City Recorder Pat DuVal, Planning Director Katie Mangle, Assistant Planner Li Alligood, and Associate Planner Brett Kelder

City Manager's Report

The group discussed the resolution extending the public area requirement (PAR) grant and the ban-the-bag proposal. The Neighborhood District Association (NDA) leadership had made an overture to Council to meet outside the monthly work session for a more open and frank discussion.

Mr. Monahan discussed board and commission terms and term limits. Staff will contact two individuals whose applications will not be entertained. He also discussed specific language regarding no people from the same household on the Budget Committee and Planning Commission. Citizens will be encouraged to apply for other boards and commissions that had openings.

Ms. Mangle reviewed the light rail project management and station building, the Street Surface Maintenance Program, and efforts related to Dark Horse redevelopment.

Mayor Ferguson announced the City Council would meet in executive session pursuant to ORS 192.660(2)(h) to consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to occur at 5:34 p.m. The City Council would resume its work session upon completion of the executive session.

Mayor Ferguson resumed the work session at 6:03 p.m.

Joint Meeting with Design and Landmarks Committee

Members present: Greg Hemer, Jim Perrault, and Becky Ives. Not Present: Patty Wisner and Chantelle Gamba.

Ms. Alligood described the role of the Design and Landmarks Committee (DLC). Its current focus was on design and identifying and refining the City's character. Members were continuing to increase their knowledge of urban design and following the Committee's 2011-2012 work plan.

Mr. Hemer said the Committee had gone through the first round of façade grant applications. The group was reviewing light rail as it went through downtown and advising the Planning Commission on some features.

Mr. Perrault felt the most notable work was with the Mayer Reed group to preserve the integrity of the downtown.

Ms. Ives said the group went to the Milwaukie Museum to review materials and collect information. She found the work on the historic properties inventory very interesting. The Committee were looking for images of historic properties and hoped to help the Museum acquire a scanner at some time.

Ms. Alligood distributed copies of the work that had been done on historic properties to date.

Mr. Hemer said for 2011 – 2012 the Committee was going to review the Kellogg Lake Bridge, Riverfront Park, historic properties, code revisions related to the downtown, south downtown implementation plan, and residential development standards

Mayor Ferguson asked what the timeline was and steps for the Kellogg Lake Crossing review.

Ms. Mangle replied the DLC review portion was of the structure in the downtown zone. They were expecting the application in the next couple of weeks, DLC discussion in August, a formal design review meeting at the end of October, and a full Planning Commission in November.

Councilor Chaimov encouraged the group to continue education on Milwaukie history and particularly helping the Museum. He asked what the City Council could do to help.

Mr. Hemer replied that Council could support a Historic Commission to review and guide renovation of some of the historic buildings in Milwaukie. The thought would be to combine the DLC and Historic Commission with two Commission meetings annually.

Councilor Miller liked the idea of designating historic buildings as well as historic trees.

Councilor Hedges agreed with comments about preserving history. Milwaukie has not seemed to keep its older buildings. He asked how the DLC considered citizen opinion.

Mr. Hemer answered the five members of the Committee reflected a diversity of interests. Their meetings were open to the public, and the Committee encouraged community participation.

Mr. Perrault described how the Committee listened at the light rail open houses and conveyed what they heard to the project architects and engineers. In that situation, the Committee was the mouthpiece for the public.

Ms. Ives said the open houses were informational, and she felt she had a good grasp of what various groups were saying. She had been focused on landscape, but now her mind was really opened up to architecture as well.

Councilor Loomis observed there were many historic properties in the City, but few people knew about them.

Councilor Hedges asked what the Museum needed.

Ms. Alligood replied a scanner would be very helpful in order to digitize old photos.

Mr. Hemer recognized Ms. Alligood, Mr. Asher, Ms. Shanks, and Ms. Mangle as excellent City employees.

Natural Resource Overlay

Mr. Kolver said the City Council public hearing on this amendment was scheduled for July 19. He asked if the Council had identified any issues at this point.

Councilor Hedges said his biggest concern was grandfathering-in existing homeowners. To require people to get permits to do work on their property went against his beliefs.

Ms. Mangle explained none of the regulations were triggered by existing conditions. The code would be triggered, however, if someone wanted to engage in an activity such as big changes to landscaping, a new use, or new development

Mr. Kelper explained there were two types of resources: water quality resource (WQR) and habitat conservation areas (HCA). The Code was clear about not requiring someone to restore an existing property, a lawn for example, as long as there was no development. Another example was repairing a retaining wall. If an owner did a certain amount of small work, there could be some limited requirements. The proposal was to keep it simple and not charge a review fee for small projects. Regulations already existed in the WQR area. He reviewed some of those exemptions and allowances in the HCA including tree removal. WQR rules right now were very protective of trees and somewhat restrictive on what can be done. They had written in lower level reviews for small projects with a lower fee and an easier process to make it less onerous for property owners.

Councilor Hedges did not believe people living next to the creek should be treated differently than other property owners. Those people purchased properties when certain regulations were in effect, and now the City wants to amend the Code. He felt that those people should be grandfathered in until a new owner came along. For him, it was a matter of fairness.

Ms. Mangle said location did matter for these regulations. The focus was on riparian areas and habitat viability. The region identified these areas to focus on sustaining and restoring habitat, and the regulations apply only to those areas.

Mr. Kelper commented on tracking ownership. Staff wants to make the process easy and at no cost to the property owner.

Councilor Loomis asked how the HCA was defined.

Mr. Kelper provided a map of the WQR and HCA and noted detailed maps were available on the City website and at the Planning Department office.

Councilor Miller asked if replacement trees had to be native.

Mr. Kelper responded that they did not have to be native but could not be a nuisance tree.

Councilor Chaimov said for purposes of the presentation at the public hearing, he thought it would be helpful to have a set of hypotheticals to give a concrete picture of what these amendments meant to property owners.

Ms. Mangle described the notification process. The public involvement plan had been very focused on property owners to keep them informed of what is going on.

Councilor Loomis asked if there were any hypotheticals included in the notifications or was it simply a notice.

Ms. Mangle replied they had tried to be clear about the new regulations, and up to 25 people had attended open houses where they could ask specific questions about their properties. There was a mixed reaction depending on the homeowner.

Councilor Miller asked how these regulations compared with those of the County.

Ms. Mangle replied it was similar with the exception that the County had a tree protection policy. Clackamas County based its code on Metro Titles 3 and 5 and had adopted more of a wholesale approach.

Councilor Loomis had concerns about gardening restrictions.

Ms. Mangle reviewed the landscaping and gardening language; it allowed for the addition of a garden or play area not exceeding another 150 square feet. The amendments did not impact existing gardens. Minor disturbances would be allowed under the new rules.

Mr. Kelter said in general the rule did not want to see people removing native vegetation to put in lawns and other things. The rules applied to public and private property as long as was not right-of-way.

Councilor Loomis asked about the moving of the boat ramp at Riverfront Park.

Ms. Mangle responded it fully met all of the requirements. The boat ramp had already gone through the process and was permitted.

Mr. Monahan said this item was on the July 19 agenda, and any additional questions should be sent to Ms. Mangle or Mr. Kelter by Monday. Staff responses to those questions would be posted on the website. Time was also available during the July 19 work session for any final clarification prior to the hearing.

Mayor Ferguson adjourned the work session at 7:09 p.m.

Respectfully submitted,

Pat Duval, City Recorder

6.
OTHER BUSINESS



To: Mayor and City Council

From: Bill Monahan, City Manager

Subject: Revisions to Board, Commission, and Committee Terms

Date: July 11, 2011

Action Requested

Approve the attached ordinances and resolution that implement direction given by City Council during the July 5, 2011 work session for potential modifications to the regulations that apply to individuals applying for and holding positions on boards, commissions, and committees.

Specifically, Council directed that new guidelines be prepared that place the following limitations on certain board, commission, or committee appointments:

Appointments will be for terms of two (2) years except the Budget Committee will continue to have three (3) year terms, and, the Planning Commission will continue to have four (4) years terms.

Planning Commission and Budget Committee members are limited to two (2) terms, while all others, those boards, commissions, or committees with two (2) year terms, will be limited to three (3) terms.

The limitation on terms will be firm; the language within MMC 2.10.030 D. that allowed the waiver of the limitation and allowance for additional terms "if it is in the public interest to do so" will be removed.

No individual shall be considered for appointment to a position on either the Planning Commission or Budget Committee where a member of their household serves on that commission or committee and their respective terms would overlap.

Background

Council held a retreat discussion on June 4, 2011 where it discussed a number of topics. Council discussed boards, commissions, and committees and whether modifications should be made to terms of individuals appointed in the future to these bodies. In addition, Council discussed by-laws and a code of conduct.

Initial ideas expressed by Council included:

- Each board, commission, and committee should have a set of by-laws that comply with a standard set established by City Council.
- The Council will develop a Code of Conduct that it will consider adopting for itself. If the Council adopts a Code, that Code will then be made a requirement of all City boards, commissions, and committees.
- The terms of individuals appointed to City boards, commissions, and committees should be two years unless the term is specified as being otherwise in the City Charter or state law.
- Two individuals from the same household should not serve on the same board, commission, or committee.

A draft set of by-laws and code of conduct are being developed by staff. Drafts will be presented to the Council for review at a later date.

Staff conducted a review of City codes that revealed that the terms of City boards, commissions, and committees vary. Section 2.10.030 G. of the Milwaukie Municipal Code states that terms shall not exceed four years and expire on the last day of March unless mandated by State statute or by the City ordinance that established the board, commission, or committee. Presently, Section 2.10.030 D. states that no person “may serve more than two (2) successive terms on any board, commission, or committee unless there is an interval of at least one (1) term prior to the reappointment; provided that the council may waive the limitation if it is in the public interest to do so.” Prior practice of Council has allowed some individuals to serve on bodies for more than two successive full terms.

Research showed that individuals were assigned terms for four years in all cases except where a code provision stated a lesser term. Apparently, the Council historically interpreted Section 2.10.030 G. to provide for four year terms, although the language states that an appointment is made for a term “not to exceed four years.” Council has discretion to direct a lesser term for those bodies.

Present term limits as defined or practiced:

- CUAB – term is not stated in Chapter 2.11, but four years has been the norm.
- Park and Recreation Board – term not stated in Chapter 2.12, but four years has been the norm.
- Budget Committee – Chapter 2.14 specifies three year terms, consistent with state law for cities that have an annual budget process. Terms now expire on June 30.
- Planning Commission – term is not stated in Chapter 2.16, but four years is the norm.
- Arts Committee – Chapter 2.17, adopted in 2008, established the initial terms as three and two years. At the expiration of the initial terms, each position is filled for a two year term.

- Design and Landmarks Committee – Chapter 2.18 specifies that each member is appointed for a three year term.
- Center/Community Advisory Board – the Council nominates one individual to this board, as provided by Chapter 2.20. The term is three years. Since the board is appointed by Clackamas County, our term should remain consistent with that established by the County.
- Public Safety Advisory Committee – Chapter 2.24 established the terms for two years. The terms expire on June 30.
- Riverfront Board – Chapter 2.26 does not specify length of terms, but four years has been the norm. Terms expire on October 31.
- Library Board – Chapter 2.28 does not specify length of term, but four years has been the norm.

Council discussed these findings at its work session of July 5, 2011. Council directed staff to prepare a resolution and an ordinance to specify that all future appointments will be for two year terms except for those to the Budget Committee and Planning Commission.

To change the terms of those boards, commissions, and committees that do not have specific terms noted in the Milwaukie Municipal Code, Council can by resolution interpret Section 2.10.030 G. to allow terms less than four years and direct staff to begin transitioning new appointments and reappointment to two year terms. A code revision is needed to change the Design and Landmarks Committee to two year terms (Chapter 2.18). To modify the terms of the Design and Landmarks Committee, an ordinance has been drafted.

Council also directed staff to prepare a code amendment to provide for a three term limit for those positions with a two year term. To accomplish this, a code revision is needed to change the language of Section 2.10.030 D. to read:

“D. Reappointment to a board, commission, or committee shall be considered in accordance with the guidelines listed in this section, together with the type of service the individual has already given to the board, commission, or committee and his or her stated willingness to continue. No person may serve more than:

1. Two (2) successive terms on the Budget Committee or Planning Commission unless there is an interval of at least one (1) term prior to the reappointment;
2. Three (3) successive terms on any other board, commission, or committee unless there is an interval of at least one (1) term prior to the reappointment.”

Council directed that the appropriate steps be taken to prohibit two or more individuals from the same household serving on either the Planning Commission or Budget Committee. Separate ordinances have been developed to modify chapters 2.14 and 2.16 to accomplish this.

Fiscal Impact

Changing some terms of office to two years and limiting reappointment opportunities will have a fiscal impact and create additional work for staff assigned to advertise for applicants, process applications, orient new members, and update rosters of boards, commissions, and committees.

Work Load Impacts

Changing some terms of office to two years and limiting reappointment opportunities will create additional work for staff assigned to advertise for applicants, process applications, orient new members, and update rosters of boards, commissions, and committees.

Alternatives

1. Adopt the attached ordinances and resolution implementing the direction given by City Council to modify the appointment and reappointment regulations that apply to individuals applying for and serving on boards, commissions, and committees.
2. Adopt one or more modified ordinances and/or resolution.
3. Direct staff to research the issue further and schedule a later Council discussion to discuss additional alternatives.
4. Take no action.

Attachments

1. Term Limitation Ordinance
2. DLC Term Limitation Ordinance
3. Planning Commission Limitation Ordinance
4. Budget Committee Limitation Ordinance
5. Resolution Clarifying Terms of Office

Attachment 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.10 TO MODIFY THE LIMITATIONS ON REAPPOINTMENT FOR PERSONS APPOINTED TO VARIOUS CITY BOARDS, COMMISSIONS, AND COMMITTEES.

WHEREAS, Milwaukie Municipal Code Chapter 2.10.030 D. restricts reappointment of an individual serving on a board, commission, or committee to serving no more than two successive terms on any board, commission, or committee unless there is an interval of at least one term prior to the reappointment provided that Council may waive the limitation if it is in the public interest to do so, and

WHEREAS, the Council has determined that term limits should be strictly enforced rather than the past practice of routinely waiving the limits, and

WHEREAS, the Council has determined that since the terms of Planning Commissioners and Budget Committee members are longer than other City board, commissions, and committees, individuals appointed to the Planning Commission and Budget Committee should be entitled to consideration to serve for up to two successive terms, and

WHEREAS, the Council has determined that individuals appointed to boards, commissions, and committees having two year terms should be entitled to serve up to three terms.

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1.

Chapter 2.10.030 D. of the Milwaukie Municipal Code is amended to read:

Reappointment to a board, commission, or committee shall be considered in accordance with the guidelines listed in this section, together with the type of service the individual has already given to the board, commission, or committee and his or her stated willingness to continue. No person may serve more than:

1. Two (2) successive terms on the Budget Committee or Planning Commission unless there is an interval of at least one (1) term prior to the reappointment.
2. Three (3) successive terms on any other board, commission, or committee unless there is an interval of at least one (1) term prior to the reappointment.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Attachment 2

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.14 TO MODIFY THE TERMS OF MEMBERS OF THE DESIGN AND LANDMARKS COMMITTEE.

WHEREAS, Milwaukie Municipal Code Chapter 2.18.010 B. specifies the terms for individuals appointed to serve as citizen members of the design and landmarks committee, and

WHEREAS, the Council has determined that the terms of individuals serving on the committee be modified to assist in the recruitment of committee members, and

WHEREAS, the Council has determined that by establishing two year terms rather than three year terms should assist in recruitment efforts, and

WHEREAS, the Council desires to encourage citizen participation on city boards, commissions, and committees from throughout the city.

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1.

Chapter 2.18.010 B. of the Milwaukie Municipal Code is amended to read:

The Design and Landmarks Committee shall have five (5) members appointed by the City Council for two (2) year terms. The Council shall have discretion to reappoint or remove Committee members. One (1) Committee member shall have demonstrated special interest, experience, training, or knowledge in the field of historic preservation or history. One (1) Committee member shall have demonstrated special interest, experience, training, or knowledge in the field of architecture, planning, landscape design, or similar field.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:

Ordinance No. _____ - Page 1

Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Attachment 3

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.16 TO ESTABLISH A LIMITATION OF THE NUMBER OF INDIVIDUALS FROM A HOUSEHOLD APPOINTED TO THE PLANNING COMMISSION.

WHEREAS, Milwaukie Municipal Code Chapter 2.16.020 specifies membership qualifications for individuals appointed to serve as citizen members of the planning commission, and

WHEREAS, the Council has determined that it is important to have the planning commission comprised of individuals that represent the interests of the entire community, and

WHEREAS, the Council has determined that allowing more than one individual from a house hold to serve on the planning commission could restrict the opportunity to maximize geographic and socio-economic diversity on the committee, and

WHEREAS, the Council desires to encourage citizen participation on city boards, commissions, and committees from throughout the city.

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1.

Chapter 2.16.020. A. of the Milwaukie Municipal Code is amended to read:

The Commission shall consist of seven (7) members appointed by the Council, no more than two (2) of whom may be nonresidents. No more than two (2) members shall be engaged in the same kind of occupation, business, trade, or profession. No more than one individual from a household may be appointed to serve on the committee at one time.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Attachment 4

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.14 TO ESTABLISH A LIMITATION OF THE NUMBER OF INDIVIDUALS FROM A HOUSEHOLD APPOINTED TO THE BUDGET COMMITTEE.

WHEREAS, Milwaukie Municipal Code Chapter 2.14.020 specifies membership qualifications for individuals appointed to serve as citizen members of the budget committee, and

WHEREAS, the Council has determined that it is important to have the budget committee comprised of individuals that represent the interests of the entire community, and

WHEREAS, the Council has determined that allowing more than one individual from a house hold to serve on the budget committee could restrict the opportunity to maximize geographic and socio-economic diversity on the committee, and

WHEREAS, the Council desires to encourage citizen participation on city boards, commissions, and committees from throughout the city.

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1.

Chapter 2.14.020. of the Milwaukie Municipal Code is amended to read:

The Committee shall consist of the members of the governing body and an equal number of members appointed from the electors of the municipal corporation. No more than one individual from a household may be appointed to serve on the committee at one time. The appointed members shall be appointed for terms of three (3) years. Appointments will expire the last day of June.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Attachment 5

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CLARIFYING THE TERMS OF OFFICE FOR CERTAIN BOARD, COMMISSION, AND COMMITTEE MEMBERS UNDER MILWAUKIE MUNICIPAL CODE SECTION 2.10.030 G.

WHEREAS, the City of Milwaukie Municipal Code (MMC) Chapter 2.10 provides direction concerning the City's boards, commissions, and committees, and

WHEREAS, the City Council has historically interpreted certain language of MMC Section 2.10.030 G. that allows committee appointments to be made for terms not to exceed four (4) years to be applied routinely as four years, and

WHEREAS, the City Council has determined that certain boards, commission, and committees should have terms that are less than four years, and

WHEREAS, the City Council has determined that the terms of those boards, commissions, and committees that are not mandated by State statute or by the City ordinance that established the board, commission, or committee should be established by formal Council action.

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

Section 1. The terms of City boards, commissions and committees are as follows:

1. Citizens Utility Advisory Board – two years
2. Park and Recreation Board – two years
3. Planning Commission – four year
4. Milwaukie Arts Committee – two years
5. Riverfront Board – two years
6. Library Board – two years

Section 2. The terms established by this resolution shall apply to all appointments and reappointments made after this date.

Section 3. This resolution is effective immediately.

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

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Document1 (Last revised 09/18/07)