

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION JULY 6, 2010

Mayor Ferguson called the work session to order at 5:30 p.m. in the City Hall Conference Room.

Council Present: Council President Greg Chaimov and Councilors Joe Loomis and Susan Stone

Excused: Mayor Ferguson and Councilor Barnes

Staff Present: City Manager Pro Tem Pat DuVal, Community Services Director JoAnn Herrigel, Operations Director Paul Shirey, and Civil Engineer Brad Albert

Update on Riverfront Park Design

Ms. Herrigel and **Gary Klein**, Riverfront Board Vice-chair, provided an update. Over the last year a water line at the riverfront had been moved in preparation for future work. They received approval from the Design and Landmarks Committee (DLC) and the Planning Commission with conditions. She provided a map of the Plan featuring key elements. On the south end there would be an overlook, moorage dock, pedestrian bridge, boat ramp, parking, bathrooms and a plaza with a fountain. They were also looking for a pullout area for non-motorized boats. The northern portion of the Park included a 180-seat amphitheater with a small path that lead to natural area called Klein Point. It gave a nice view of Johnson Creek as it flowed into the Willamette River. Klein Point would include interpretive signage. She showed the types of rock they are considering using for the plaza and fountain. She also showed a slide of restroom types and materials. Lighting elements would illuminate the walkways, and the planting pallet would include a variety of dogwood trees and shrubs.

The project was still waiting on Corps of Engineers permitting. The major issues were closing access at Jefferson and Washington Streets and putting one entrance to the south for boaters, park users, and people accessing the Treatment Plant. There would be an estimated 30-50 car accessing the area per day, and ODOT required 75 vehicles before they will install a traffic light. There was an issue with trucks safely accessing the Treatment Plant. A dedicated left turn lane was being proposed. They also talked about an additional harbor on Hwy 99E. The Corps of Engineers and other environmental groups have said they do not like the transient dock and boat dock at the mouth of Kellogg Creek because of the amount of activity near a fish passage; however, there was no formal written opinion on that so far. The backup plan would be to move or adjust the transient dock or as a last resort get rid of it. The pedestrian bridge was expensive to design and build, and the regulators were concerned but nobody was sure why at this time. They removed the pedestrian bridge from the Plan that was approved by the Planning Commission and would come back with a design build. The cost of designing the bridge would make it the last thing to be built, and there were ways to get to all points of the Park without it. The boat launch location had been called into question because of fish access. So far she had provided a lot of information to regulators about alternatives which seemed

adequate to them, but it has been an 8-year long discussion. If the boat launch were moved, it would modify the project a great deal.

Councilor Stone asked how this would integrate with the Kellogg Treatment Plant.

Ms. Herrigel replied everyone assumed the Plant would be there for a long time, and all parties would have to work together. There are 2 places in which the Park encroaches on County property, so the City cannot apply for the new access before they County agrees. She assumed Clackamas County would work with the City.

Ms. Herrigel went over the next steps including the water line and utility pole relocations and completing the design phase which was still at 70% pending comments from all interest groups. She hoped to make grant applications in April 2011 to Metro, the Oregon Marine Board, and Oregon Parks and Recreation. A flyer was being produced that outlined the key elements of the Plan.

Councilor Loomis asked what the cost of the project was.

Ms. Herrigel replied if the project were done today it would cost \$9 million. She was hoping to do it in \$2 million increments with the help of sponsors. The most feasible breakdown would be to construct the north first followed by the plaza and then, depending on access, the boat ramp, parking, and restrooms. The bridge would be the final piece.

Councilor Stone asked if it was feasible to sell rocks or bricks to help fund the project.

Ms. Herrigel replied the plaza needed to be designed in order to know where the rocks were to be placed. The smallest stones in the plaza would be wall seats requiring a donation of \$1,000 or more.

Councilor Stone asked about Oregon Marine Board funding and commitment to the boat ramp.

Ms. Herrigel responded the City Council would have to approve any grant based on its evaluation of the criteria involved.

City Stormwater Utility and Compliance

Mr. Shirey explained the City of Milwaukie started its stormwater utility in 1995 as required by the Clean Water Act and received its first National Pollution Discharge Elimination System (NPDES) permit that year. The system was made up of many miles of pipe, thousands of catch basins, several hundred drywells, and detention ponds. The City collects a rate to support the fund in the amount of \$9.90 per household and a commercial rate calculated on the square footage of impervious area. There was one supervisor and 5.5 full-time equivalent employees in the stormwater division, and the crews used specialized equipment including the TV truck and vactor truck. They clean, inspect, and repair in cycles that take often more than a year to complete. The stormwater permit requires all operators of municipal stormwater systems to focus on the quality of the stormwater. There has been a shift from water quantity to water quality and had been ongoing since 1995, and jurisdictions are required to do their best to clean pollutants from stormwater. Every 5 years the NPDES permit must be renewed and new requirements are frequently put in place.

Mr. Albert discussed requirements to reduce the amount of discharge into receiving waterways. He commented on current permit negotiations and related costs. The City engaged Brown and Caldwell in fiscal year 2009/2010 to continue permit negotiations with DEQ and amended its contract with the consultant for an additional \$25,000 in fiscal year 2010/2011 to finish the permit negotiations and secure an NPDES MS4 permit from DEQ. Starting in November the City was anticipating more monitoring and additional clean-up plans if a spill occurred. The current rate of \$9.90 per ESU was topped out and was at the end of the scheduled rate increases. When the rates were adopted by Council in 1995 they were adopted at a lower rate than the staff recommendation. With the current stormwater revenue they were able to fund staff, but there was no capital project component to use for capital improvement projects in the master plan. They would be looking at a revised rate study in the future. He reviewed the current capital projects in the master plan. The direction the permit was taking them was for low impact development of which Logus Road was an example.

Councilor Stone asked how Milwaukie's rates compared with other jurisdictions and asked if they were able to do capital projects.

Mr. Albert responded he was not sure if other cities were able to do capital improvement projects based on their current rates.

Councilor Stone asked about decommissioning drywells.

Mr. Shirey replied the City was required to decommission drywells that were within 10 feet of the ground water table. The City was decommissioning 15 drywells over 10 years. DEQ now wanted treatment to occur before anything went into the pipe which was a change of philosophy.

Council President Chaimov said one of the Council's main interests was to get a more comprehensive look at capital project needs. They understood the City was behind the curve but wanted to make sure public assets were as secure as they needed to be. This issue will be high on Council's list to deal with when a new City Manager is hired.

Council President Chaimov adjourned the work session at 6:15 p.m.



Pat DuVal, City Recorder

WORK SESSION

AGENDA

WORK SESSION MILWAUKIE CITY COUNCIL JULY 6, 2010

MILWAUKIE CITY HALL

Second Floor Conference Room
10722 SE Main Street

A light dinner will be served

WORK SESSION – 6:00 p.m.

Discussion Items:

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>	<u>Page #</u>
1.	6:00 p.m.	Update on Riverfront Park Design	JoAnn Herrigel	
2.	6:20 p.m.	City Stormwater Utility and Compliance	Gary Parkin & Brad Albert	1
3.	6:45 p.m.	Adjourn		

Information

Executive Session: All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

Public Notice

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



To: Mayor and City Council

Through: Pat DuVal, Interim City Manager
Kenneth Asher, Director of Community Development & Public Works
Gary Parkin, Engineering Director

From: Brad Albert, Civil Engineer

Subject: City Stormwater Utility and Compliance

Date: June 25th for the July 6, 2010 Work Session

Action Requested

Informational report on the City's stormwater utility functions and stormwater utility permitting.

History of Prior Actions and Discussions

December 2009: The City Council awarded a contract to Brown and Caldwell to assist with the National Pollution Discharge Elimination System (NPDES) permit renewal.

July 2008: The City enters into an agreement with Clackamas County to share costs for the NPDES permit renewal.

December 2005: The City Council awarded a contract to URS Corporation to assist with the NPDES Interim Evaluation Report, as required under the permit. The interim evaluation report included a gap analysis and update to the City's Stormwater Management Plan. This report was approved by the Department of Environmental Quality (DEQ) in 2006.

July 1995: The City received their first NPDES Municipal Separate Storm Sewer System (MS4) permit issued by DEQ.

Background

The City of Milwaukie started its stormwater utility in the early 1990's when the City was required by federal law (under the Clean Water Act) to have an approved stormwater permit and implementation plan for the municipal storm sewer system. These regulations were adopted to minimize and monitor pollutants such as bacteria, metals, and suspended solids in stormwater discharges. The City first obtained an NPDES permit in 1995. That permit was extended several times, most recently in July 2005. It expired, however, in February 2009. The City must now renew its NPDES permit with DEQ and then update the Stormwater Management Plan (SWMP) to incorporate changes under the new permit.

The Stormwater Utility is funded by a rate of \$9.90 per month per equivalent storm unit (ESU).¹ The rate provides funding for 4.5 FTE's and equipment to meet permit requirements to clean, inspect and repair the City's existing stormwater system. One of the most important pieces of equipment is the Vactor truck which is used to clean the system with a high pressure hose and a vacuum. City stormwater utility crews remove debris from catch basins, sedimentation manholes, and drywells. The City's 1408 catch basins and 62 sedimentation manholes are cleaned on a semi-annual basis, and the 37 miles of storm main lines are cleaned once every five years. In addition, the Stormwater crew maintains 7 miles of ditch, 5 detention ponds, 2 water quality vaults and 22 rain gardens annually.

As part of the NPDES MS4 permit renewal package, the Stormwater department is required to have an approved Stormwater Management Plan (SWMP). The primary component of the SWMP is a management program comprised of Best Management Practices (BMPs) developed to address Clean Water Act (CWA) requirements under the MS4 permit. These describe actions the City must take to minimize pollutant discharge into surface waters to protect water quality.

The SWMP also provides BMPs to prevent stormwater runoff or erosion from construction sites. The City's Utility Specialist in the Stormwater Department provides erosion prevention plan review, on-site inspections and enforcement. The Specialist is also responsible for stormwater spill and illicit discharge response, and mandated stormwater sampling.

All maintenance and inspection activity reports are kept in an electronic database and compiled in the NPDES MS4 annual report. By completing the required maintenance, inspection, enforcement and stormwater sampling, the City has consistently maintained compliance with the conditions of the MS4 permit.

¹An equivalent storm unit (ESU) is calculated at 2,706 square feet, which is the average impervious surface area of a single family home. Commercial accounts are calculated by converting total site impervious area to ESUs.

In the past, the City partnered with Clackamas County and other municipalities on a combined permit, collectively engaging URS Corporation to assist with the permit renewal.² This work included updates to the City's Stormwater Management Plan, development of a pollutant loads model to assess the City's stormwater discharges, updates to the City's monitoring and sampling plan, and drafting an illicit discharge detection and elimination plan. The monitoring and reporting requirements are addressed within a specialized area of environmental engineering and the City necessarily relies on consultants to guide staff through the regulatory process, which is in a continued state of change. The specific individuals that worked for URS under the collective contract are now employed with Brown and Caldwell.

In December 2009, the City individually contracted with Brown and Caldwell for the permit renewal. The City was able to cost share with other co-permittees that contracted with Brown and Caldwell. Given the political climate between the City and Clackamas County at the time, the City decided to contract individually.

The City is currently amending its contract with Brown and Caldwell to finish the permit renewal process. City staff is reviewing permit templates and providing input to the consultant on permit language. City staff is also attending co-permittee meetings to discuss the challenges of proposed permit language and possible fiscal impacts to the City related to ongoing permit compliance. For example, the new permit language will require the City to perform additional monitoring and sampling of stormwater runoff, which will increase expenses in the Stormwater Fund. A rate study will be necessary to evaluate the increase in Milwaukie stormwater rates that will be required to meet increased permit requirements.

The City's Stormwater Master Plan is also in need of updating. The current master plan was adopted in September 2004, making it at least one year overdue for an update. The top priorities in the master plan include the decommissioning of drywells, under the guidance of DEQ at the time. Over the past 6 years however, DEQ has changed its view on the decommissioning of drywells. Now the general focus of DEQ is stormwater runoff water quality. The master plan needs to be updated to reflect this change in philosophy, and others. The master plan is scheduled to be updated in the 2011/12 fiscal year.

Concurrence

The City has learned a great deal about the impacts of stormwater runoff through the NPDES permit process. The City has implemented low-impact development practices to mitigate and clean stormwater runoff before it could potentially enter the drinking water supply. The City has partnered with the Johnson Creek Watershed Council and North Clackamas Urban Watersheds Council for restoration projects that enhance creeks and to educate the public about the importance of clean rivers.

² The co-permittees include the cities of Oregon City, Lake Oswego, Gladstone, Wilsonville, and West Linn, as well as unincorporated Clackamas County

The City of Milwaukie is leading a broad-based effort to restore Kellogg Creek, the Kellogg-for-Coho-Initiative (KFCI), which will provide crucially needed habitat for native plants, fish, and wildlife including several Endangered Species Act-listed fish such as Lower Columbia Coho salmon, Spring Chinook salmon, and Steelhead. Drainage of Kellogg Lake would eliminate a known detriment to these salmonid populations and would decrease water temperatures and reduce predation concerns. Managing contaminated sediments would decrease the suspected risks these contaminants pose to fish, wildlife, and people while improving overall water quality.

The NRO project is amending the City's Zoning Ordinance to establish a Natural Resources overlay. The new overlay would combine the existing Water Quality Resources regulations of Milwaukie Municipal Code (MMC) Section 19.322 with new protections for important habitat areas established by Metro's Title 13 (Nature in Neighborhoods). With these protections in place, the City intends to protect the highest quality habitat areas while encouraging low-impact development and volunteer stewardship through increased incentives and education.

The City's growing commitment to clean, healthy rivers is exemplified by both the KFCI and NRO projects. Both projects will provide increased vegetation along creeks and rivers to reduce temperature of the water, filtration of stormwater runoff, and increased water quality. The benefits of both projects help meet the requirements of the NPDES permit, which recognizes creeks and streams as stormwater conveyance systems.

Fiscal Impact

The City's stormwater fee is charged to customers on a bi-monthly basis for maintenance of the system and capital improvement projects. The cost to maintain, replace, and upsize the storm infrastructure is ever increasing. The cost to renew and follow the provisions of the stormwater permits the City receives from DEQ is also increasing yearly. The current state of the Stormwater Fund is that the revenue matches the expenditures with little to save for capital projects. In the past 5 years, the City has not completed an entire Capital Improvement Project (CIP) as listed in the Master Plan. The City has only been able to complete phases of the Brookside storm system and one small phase of the Meek Street storm system. The City has proposed to complete both CIP's in the yearly Capital Improvement Plan but has not had the funds to construct them.

The City spent \$19,000 in fiscal year 2008/09 for its share of the permit renewal process, based on an agreement with Clackamas County to cost-share consultant fees. The hired consultant for the initial permit renewal was URS. In fiscal year 2009/10, the City engaged Brown and Caldwell \$15,000 for continued permit negotiations with DEQ. The City has amended the contract with Brown and Caldwell for an additional \$25,000 for fiscal year 2010/11 to finish permit negotiations and secure a NPDES MS4 permit from DEQ.

The NPDES MS4 permit renewal process has also been cost-intensive. To date the City has spent \$34,000 for consultants to assist in the permit renewal. The City will spend an additional \$25,000 in the next fiscal year to finish the permit renewal process. The additional expenditure was not foreseen until recently because of increased permit requirements placed on the City by DEQ. The additional funds will be spent from the permit renewal line item in the Stormwater Fund and any shortfall will be spent from the cap and reserve account. The City has started a reserve account in the Stormwater Fund for permit renewal. The Fund will set aside \$15,000 for the next five years for a total of \$75,000, which is the anticipated cost for the next permit renewal.

The City conducted a stormwater rate study in concurrence with the Stormwater Master Plan in 2004 for the hiring of 2 FTEs in the Stormwater Department, decommissioning of 15 drywells in 10 years, and capital improvement projects. The recommendation to City Council in March 2005 was to adopt a rate starting at \$6.00 per ESU in fiscal year 2004/05 and increasing to a rate of \$15.00 per ESU in fiscal year 2009/2010. City Council adopted a rate starting at \$6.00 per ESU in fiscal year 2004/05 and increasing to a rate of \$9.90 per ESU in fiscal year 2009/10. The current stormwater rate does not provide sufficient funding to construct capital improvement projects.

Work Load Impacts

This work increases the work loads of the Engineering and Operations Departments. Both departments share the work of annual permit updates, monthly meetings with co-permittees, review of permit language and permit templates, and directing the consultant for permit renewal. The Stormwater Department maintains and cleans the storm system on a constant basis in compliance with the permit.

Alternatives

Not applicable at this time.

Attachments

None.