

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
NOVEMBER 2, 2010**

**CALL TO ORDER**

**Council President Chaimov** called the 2089<sup>th</sup> meeting of the Milwaukie City Council to order at 5:30 p.m. in the City Hall Council Chambers.

Present: Mayor Ferguson, Council President Greg Chaimov and Councilors Deborah Barnes and Joe Loomis

Excused: Councilor Susan Stone

Staff present: City Manager Bill Monahan, City Recorder Pat DuVal, Community Development and Public Works Director Kenny Asher, and Associate Planner Ryan Marquardt

**PLEDGE OF ALLEGIANCE**

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

**CONSENT AGENDA**

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

- A. City Council minutes of the July 20, 2010 regular session; and
- B. City Council minutes of the August 3, 2010 regular session.

Motion passed with the following vote: Councilors Chaimov, Loomis, and Barnes, and Mayor Ferguson voting "aye." [4:0]

**AUDIENCE PARTICIPATION**

None.

**PUBLIC HEARING**

None scheduled.

**OTHER BUSINESS**

**A. Expedited Annexation of 9770 SE Stanley Avenue and 5710 SE Hazel Place – Ordinance**

**Mr. Marquardt** provided the staff report in which the City Council was requested to approve an expedited annexation petition for property located in the NE Sewer Extension Project area. The current County zoning was R-10 which would remain upon annexation to Milwaukie. The property owner petitioned the City in order to receive sewer services. One of the subject properties had a long-standing commercial use so was not included in the earlier annexation considered by the City Council in October. Required notifications had been done, and there were no objections. Staff recommended adopting the proposed ordinance annexing the two properties and remove them from the service districts.

**CITY COUNCIL REGULAR SESSION – NOVEMBER 2, 2010**

**APPROVED MINUTES**

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**Councilor Barnes** asked what the business on the property was.

**Mr. Marquardt** replied he understood it was an electronic surplus store for ham radio operators. The property owner was in the audience and responded to Councilor Barnes's questions, but his comments were not audible.

**It was moved by Councilor Chaimov and seconded by Councilor Barnes for the first and second readings by title only and adoption of the ordinance annexing a tract of land identified as 9770 SE Stanley Avenue and 5710 SE Hazel Place into the City limits of the City of Milwaukie and withdrawing the tract from several service districts. Motion passed with the following vote: Councilors Chaimov, Loomis, and Barnes and Mayor Ferguson voting "aye." [4:0]**

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

**Ms. DuVal polled the City Council: Councilors Chaimov, Loomis, and Barnes and Mayor Ferguson voting "aye." [4:0]**

**ORDINANCE NO. 2020:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A TRACT OF LAND IDENTIFIED AS 9770 SE STANLEY AVENUE AND 5710 SE HAZEL PLACE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS (FILE #A-10-03)**

**B. City Manager Report**

**Mr. Monahan** reported there would be several items carried over from tonight's agenda. Once the election results were known he would schedule an orientation session and invite other members of the City Council. Goal setting would be scheduled in the next 3-4 weeks.

**C. Council Reports**

**Mayor Ferguson** announced upcoming community events and reported on the Neighborhood District Association (NDA) leadership meeting where he felt some positive strides were made.

**ADJOURNMENT**

**It was moved by Councilor Loomis and seconded by Councilor Barnes to adjourn the meeting. Motion passed with the following vote: Councilors Chaimov, Loomis, and Barnes and Mayor Ferguson voting "aye." [4:0]**

**Mayor Ferguson** adjourned the regular session at 5:42 p.m.

Respectfully submitted,



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Pat DuVal, Recorder

# REGULAR SESSION

# REVISED AGENDA

## MILWAUKIE CITY COUNCIL NOVEMBER 2, 2010

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**2089<sup>th</sup> MEETING**

### REGULAR SESSION – 5:30 p.m.

1. **CALL TO ORDER**  
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
3. **CONSENT AGENDA** *(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.)*
  - A. **City Council Regular Session Minutes of July 20, 2010**
  - B. **City Council Regular Session Minutes of August 3, 2010**
4. **AUDIENCE PARTICIPATION** *(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.)*
5. **PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*
  - 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.)*

- A. Expedited Annexation of 9770 SE Stanley Avenue and 5710 SE Hazel Place – Ordinance  
Staff: Ryan Marquardt, Associate Planner**
- B. City Manager’s Report**
- C. Council Reports**

**7. INFORMATION**

**8. ADJOURNMENT**

**Public Information**

- Executive Session: The Milwaukie City Council may meet in executive pursuant to ORS 192.660(2).
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- 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](mailto:ocr@ci.milwaukie.or.us) at least 48 hours prior to the meeting.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

3.

# CONSENT AGENDA

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
JULY 20, 2010**

3 . A .

**CALL TO ORDER**

**Mayor Ferguson** called the 2082<sup>nd</sup> meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Mayor Jeremy Ferguson, Council President Greg Chaimov, and Councilor Deborah Barnes, Joe Loomis, and Susan Stone

Staff present: City Manager Pro Tem Pat DuVal, City Attorney Bill Monahan, Community Services Director JoAnn Herrigel, Building Official Tom Larsen, Resource and Economic Development Specialist Alex Campbell, and Community Development Coordinator Nicole West

**PLEDGE OF ALLEGIANCE**

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

**Mayor Ferguson** read a proclamation naming July 26, 2010, as a day of commemoration of the *Americans with Disabilities Act*.

**CONSENT AGENDA**

**Mayor Ferguson** removed item C as no *National Night Out* activities were planned in the City.

It was moved by Councilor Chaimov and seconded by Councilor Barnes to approve the consent agenda as presented.

A. The City Council minutes of the March 16, 2010 regular session;

B. The City Council minutes of the April 6, 2010 work session;

~~C. Resolution No. 60-2010: A Resolution of the City Council of the City of Milwaukie, Oregon, Determining the First Regular Session of August Will Be Held on August 3, 2010, Beginning at 7:30 p.m. and Further Cancelling the Work Session in Order that the City Council May Join the Neighborhood District Associations in Their National Night Out Events;~~

D. Resolution No. 60-2010: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City Manger to Execute a One-Year Intergovernmental Agreement with Clackamas Fire District #1 to Provide Apparatus and Vehicle Maintenance Services to the District;

E. Resolution No. 61-2010: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City Manager to Execute a Contract for Slurry Sealing Local Streets in the Amount of \$31,500; and

F. An OLCC application for Libbie's Restaurant, 11056 SE Main Street, change of ownership.

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

## AUDIENCE PARTICIPATION

**Willie Miller**, AFSCME 350-5 Local President, reported the Union and City did not have an agreement on a new contract although negotiations began on March 1. He noted the City had made little movement while the Union made proposals showing substantial movement. The Union understood the financial issues and was willing to share in the solution but was not willing to be the entire solution to the financial problems. He urged the Mayor and City Council to work with its negotiation team to come up with a proposal that worked toward the Union's proposal. The Union members were interested in getting to a fair contract.

**Mayor Ferguson** had met with Mr. Miller and shared his notes with the negotiating team.

## PUBLIC HEARING

### A. Solid Waste Rate Increases – Resolutions

**Mayor Ferguson** announced the public hearing on the proposed garbage rate had been continued from the July 6, 2010, regular session. The purpose of the hearing was to consider public comment on the proposed increase.

**Ms. Herrigel** provided the staff report in which the City Council was requested to adopt a resolution increasing residential and commercial garbage rates to reflect increases in disposal costs, a downturn in recycling markets, an increase in drop box rates, and achieving parity with Clackamas County rates. Milwaukie Municipal Code (MMC) Chapter 13.24 states that rates should be adequate to provide a return on revenues (ROR) of approximately 10% of the composite gross revenue. Given the current economic conditions, staff proposed a rate adjustment that would allow for an 8.6% ROR for the coming year. Without a rate adjustment the ROR would be 7.53% which is at lower end of the acceptable range identified in the Code. The proposed rates would incorporate Metro's \$5.10 tip fee increase plus fuel, labor, and insurance increases and would be the same as those adopted by Clackamas County. She reported she had done a comparison of rates in the region which showed Milwaukie's rates a bit higher in some cases than Portland and a bit lower than Gresham's. Ms. Herrigel addressed questions from the public about the ROR which allowed the haulers to make equipment investments actually required by the jurisdictions they served. She was aware of a request from Leslie Schockner to look into consistency in services and rates between haulers. She described the on-call and monthly programs. Ms. Herrigel would like to speak with the haulers to discuss acceptability of the modifications and will return to City Council if its approval were necessary. She reviewed examples of proposed and existing residential and commercial rates.

No correspondence had been received on the matter.

Audience Testimony: **Dave White**, Regional Representative for the Oregon Refuse and Recycling Association, and Kevin Gienger, CPA, from Boldt Carlisle & Smith LLC, worked with the haulers in the rate review process. Staff and the consultant determined the ROR would be less than 8%. About 1/3 of the average bill was for disposal, so the tip fee increase had a significant impact on the customers' bills. He discussed the costs resulting from reduced recycling revenues along with fuel, health benefits, and labor costs. If the City Council adopted the proposed rates the ROR would be 8.6%. The haulers came to the table asked for this level of increase to help meet costs beyond their control. In these economic times, Mr. White assured City Council the haulers were

doing what they could to reduce costs while providing customer service and maintain safety.

**Councilor Barnes** referred to the staff report and noted commercial rates were lower than residential rates for the same container sizes.

**Ms. Herrigel** responded commercial customers did not have yard debris pick up.

**Councilor Barnes** asked how many haulers were involved in annual citywide cleanup.

**Ms. Herrigel** replied all 7 haulers participated.

**Councilor Barnes** suggested negotiating an additional recycling event or an additional venue each year.

**Ms. Herrigel** responded in the past it had been difficult to coordinate the staff needed to have multiple recycling sites but was open to looking into what could be done.

**Councilor Barnes** asked for the specific code language.

**Ms. Herrigel** read the code language into the record:

13.24.160 RATES UNDER THIS CHAPTER

A. The City Council shall review and set rates on an annual basis by Council resolution that considers the following goals:

1. Rates shall be established to the greatest extent practicable on a cost of service basis.
2. Rates shall be adequate to provide an expected operating margin for the subsequent rate year equal to ten percent (10%) of composite franchise-wide gross revenues; however, the City shall not be required to change rates if the expected operating margin in the current year falls between eight (8%) and twelve percent (12%) of gross revenues. The ten percent (10%) target, and the eight (8%) to twelve percent (12%) range of return on gross revenues is considered sufficient to reflect the level of business risk assumed by the franchisee, to allow investment in equipment, and to ensure quality collection service.

**Councilor Chaimov** asked if the interim finance director had reviewed the proposed rate change.

**Ms. Herrigel** replied Mr. Parks had read the staff report and proposed increases. He felt it was in order but suggested the City review the code language in the near future.

**Councilor Stone** commented on the number of times the rates had been increased and understood a certain ROR needed to be maintained. She wanted to know what the haulers had done to keep their costs down and suggested additional help with recycling difficult items such as Styrofoam in order to be more eco-friendly.

**Ms. Herrigel** had also looked at the history of prior actions and the relationship between Metro's tip fee increases and rates. In addition the economy is worse than it had been in the past. Regarding the question about additional recycling she had observed the market for 16 years and one did not add a material to recycling for which there was no market which resulted in extra work for the haulers.

**Councilor Stone** understood the economy was bad but was frustrated by rate increases.

**Ms. Herrigel** said there may be an opportunity to work with non-profits to offer more services, such as Styrofoam recycling, to the public.

**Councilor Loomis** was pleased with his garbage and recycling service; however, the increases were difficult to understand. He suggested a future work session on how rate

reviews were done and agreed with Ms. Schockner's comments on consistency of services between haulers.

**Councilor Stone** hoped there could be some flexibility for those on fixed incomes and that the public had a good understanding of the options available and why rates had gone up.

**Ms. Herrigel** would use the new website as a tool to better inform the public.

**Councilor Loomis** suggested the haulers send out an annual reminder of rates and service level options.

**Mr. White** discussed actions taken to keep costs down. When polled, the haulers present at this meeting agreed to an enhanced cleanup service. He agreed a work session on rate setting would be beneficial. The haulers provide revenue and expense reports annually, and the City's and haulers' consultants analyzed the data. This was not a negotiation process, and the City Code was followed. He knew anecdotally of 2 companies present in this meeting that have frozen management wages but not those of the represented drivers. A number of drivers have been laid off, but a certain level of staffing was needed to provide services. Some haulers have delayed equipment purchases as an attempt to deal with the economy. They did not feel good about the rates going up, but recycling revenues have dropped and Metro tip fees have increased and may continue to do so.

**Mr. Gienger** added there was a revenue drop having to do with commodities. Disposal costs were a major piece of rate setting, and volumes did not tend to change with the economy.

**Mr. White** added he consistently heard that customers liked their service, so it was important to work through these times together.

**Councilor Stone** noted fuel costs went down in 2009 and were projected to go up again in 2010. She asked why that occurred.

The consultant replied fuel prices had gone down and were moving back up.

**Councilor Stone** commented on office line items and professional fees.

**Mayor Ferguson** closed the public testimony portion of the hearing on the proposed garbage rate increases at 7:45 p.m.

**Councilor Barnes** appreciated the service but was philosophically against a 10% increase. She noted the City could not give its employees a cost of living wage this year and agreed there should be a code review. These increases were difficult both for residents and small businesses. She would vote against the proposed increase unless the Council had it in writing that there would be a second cleanup event.

**Councilor Loomis** agreed with Councilor Barnes in some aspects and agreed the code needed to be reviewed and that there should be a work session on how rates were established.

**Councilor Stone** felt there should be a work session before the City Council voted.

**City Attorney Monahan** explained if City Council granted the increase at some point in time it would be retroactive resulting in catch-up billings. Code spoke to the period of time in which decision would be made.

**Ms. Herrigel** cautioned City Council the increased Metro tip fee went into effect on August 1.

**Mr. White** went on record to verbally commit to an additional community cleanup.

**Mayor Ferguson** supported the proposal and discussed what his family had done to downsize their garbage container. He recommended sharing expenses to distribute information on how customers might reduce their costs and to add another recycling event or venue.

**It was moved by Mayor Ferguson and seconded by Councilor Chaimov to adopt the resolution increasing residential and commercial garbage rates to reflect increases in disposal costs, decreases in recycling revenues, and general business expense increases. Motion passed with the following vote: Councilors Stone, Loomis, Barnes, and Chaimov and Mayor Ferguson. [5:0]**

**RESOLUTION NO. 62-2010:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, INCREASING RESIDENTIAL AND COMMERCIAL GARBAGE RATES TO REFLECT INCREASES IN DISPOSAL COSTS, DECREASES IN RECYCLING REVENUES, AND GENERAL BUSINESS EXPENSE INCREASES.**

**OTHER BUSINESS**

**A. Negotiations with CCSD1 Regarding Future Ownership of Two NE Sewer Extension Sewer Lines**

**Mr. Campbell** provided the staff report. Sufficient progress had been made to propose a resolution and intergovernmental agreement (IGA). It was in the best interest of all parties to determine how to share the pipes and protect each jurisdiction's rights. The proposed language made it clear the District was not serving Milwaukie customers, there would be no costs to the City or the customers for connecting to those pipes, and there would be no termination of service if this agreement were to terminate. Project construction has gone quickly, and both parties were acting in good faith to work something out. The best instrument had not yet been identified, but he recommended moving forward with this IGA to protect the City's rights.

**City Attorney Monahan** added the issue was whether to go it alone or have an arrangement with CCSD1. If the City decided to go it alone another construction project would be the result. The decision before the City Council was if the transfer of ownership was acceptable to the City. The District would take over maintenance at no additional charge to Milwaukie customers. They had not negotiated the license or easement. The instrument would say the City had the right to utilize those lines through the useful life of those lines.

**Councilor Barnes** referred to section 1.4 and asked for clarification of the language that the City's prior written permission was necessary for the District to provide retail sewer service in Dual Interest Area A.

**Mr. Campbell** replied the City requested that the District not act as the retail service provider. CCSD asked for the second part of that clause in the event City policy changed at some time in the future.

**City Attorney Monahan** added basically it said Milwaukie was responsible for its customers unless future policy changes were made by the City.

**Councilor Stone** commented section 1.4 said each party had the right to transmit flows collected elsewhere through the lines without making compensation to the other party which sounded nice. However, section 1.5 addressed the need for increased capacity as a result of greater demand. She assumed the source of the flows would be monitored. She wanted to make sure Milwaukie was not paying for growth again.

**Mr. Campbell** responded there was capacity for build out under current land use designations. There would have to be a major change in development patterns to result in the need to increase capacity. Staff felt the proposed language was balanced.

**City Attorney Monahan** added increased capacity would be based on current comprehensive plans and development patterns of both parties. It should be evident which party was responsible for greater demand.

**Councilor Barnes** hoped for something more concrete than an IGA.

**Mr. Campbell** responded that was the additional instrument referenced in the IGA and provide an additional recording of that agreement.

**It was moved by Councilor Chaimov and seconded by Councilor Stone to adopt the resolution authorizing the Mayor to sign an intergovernmental agreement with CCSD1 regarding construction costs and future ownership and maintenance of 2 sanitary sewer lines in the NE Sewer Extension Project. Motion passed with the following vote: Councilors Stone, Loomis, Barnes, and Chaimov and Mayor Ferguson voting “aye.” [5:0]**

**RESOLUTION NO. 63-2010:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ESTABLISHING AUTHORITY TO ENTER INTO AN AGREEMENT WITH CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 (DISTRICT) REGARDING CONSTRUCTION COSTS AND FUTURE OWNERSHIP AND MAINTENANCE OF TWO SANITARY SEWER LINES THAT ARE ELEMENTS OF THE NE SEWER EXTENSION PROJECT.**

**B. Amendments to Milwaukie Municipal Code Section 15.04.170 – Various Specialty Codes and Standards Adopted – Ordinance**

**Mr. Larsen** provided the staff report and background on the State building code. He briefly reviewed the key provisions of the 2010 Oregon Energy Efficiency and Oregon Solar Installation Specialty Codes.

**It was moved by Councilor Barnes and seconded by Councilor Stone for the first and second readings by title only and adoption of the ordinance amending Milwaukie Municipal Code Section 15.04.170 to provide for local adoption of 2 new specialty codes. Motion passed with the following vote: Councilors Stone, Loomis, Barnes, and Chaimov and Mayor Ferguson voting “aye.” [5:0]**

**City Attorney Monahan** read the ordinance two times by title only.

**Ms. DuVal** polled the Council: Councilors Stone, Loomis, Barnes, and Chaimov and Mayor Ferguson voting “aye.”

**ORDINANCE NO. 2018:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING SECTION 15.04.170 OF THE MILWAUKIE MUNICIPAL CODE TO PROVIDE FOR THE LOCAL ADOPTION OF TWO NEW SPECIALTY CODES AS ADOPTED BY THE STATE OF OREGON.**

**C. IGA with the Department of Consumer and Business Services (DCBS) for the Implementation of a Full-Service Electronic Permitting System – Resolution**

**Mr. Larsen** provided the staff report. The program was paid for by a State surcharge levied on all building and related permits and is used to fund Building Code Division

(BCD) activities throughout Oregon. The program is free to all jurisdictions wishing to participate. He discussed the City's current system and described how the new system would benefit the end users and create a very usable archive system. This would expand the City's permitting system, and users can deal with projects entirely online.

**It was moved by Councilor Stone and seconded by Councilor Barnes to adopt the resolution authorizing the City Manager to enter into an IGA with the State of Oregon Department of Consumer and Business Services for the implementation of a full-service electronic permitting system. Motion passed with the following vote: Councilors Stone, Loomis, Barnes, and Chaimov and Mayor Ferguson voting "aye." [5:0]**

**RESOLUTION 65-2010:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON DEPARTMENT OF CONSUMER AND BUSINESS SERVICES FOR THE IMPLEMENTATION OF A FULL SERVICE ELECTRONIC PERMITTING SYSTEM.**

**D. Walk Safely Milwaukie Program – Resolution**

**Mr. Campbell** and **Ms. West** provided the staff report. The purpose of this pilot program was to increase walkability and livability in the City of Milwaukie and empower neighborhood to identify priority projects and programs. He described the first year of the program in some detail and confirmed that the anticipated revenues from HB2001 were indeed accurate. The revenues would help meet some of the challenges faced by the Milwaukie's neighborhood.

**Ms. West** reviewed the 2010 – 2011 pilot program implementation timelines that included significant public involvement and education.

**Mr. Campbell** added some funding would go toward Walk to School event in October to help get the word out about this new program.

**Councilor Barnes** asked if staff had considered going back to the 1997 School Trip Safety Program to pick up some of the projects that had not been funded.

**Ms. West** replied a number of those projects not funded found their way into the Transportation System Plan (TSP) and could be looked at more closely.

**Councilor Barnes** hoped each neighborhood district associations would sponsor a Walk to School Day. She was concerned about taking 9 months to figure out how to spend the funds and recommended using Councilor Stone as a resource based on her experience on the Traffic Safety Commission.

**Councilor Chaimov** noted the neighborhoods were highly enthusiastic about the program.

**Councilor Stone** was interested in seeing the 1997 list of projects. She was a firm believer in making the City safer and more walkable by implementing the most appropriate projects. She suggested the Public Safety Advisory Committee (PSAC) take the project lead since the members represented each neighborhood. She felt this program would fit into the Committee's work plan.

**Mr. Campbell** clarified the NDAs would be the proposers, and PSAC would be the review body along with City staff. Training would be available for interested parties.

**Councilor Stone** commented about the benchmarks one referred to a sense of safety, but she was concerned about creating a false sense of safety. She would talk with staff more about the program and ideas for traffic calming.

**Mayor Ferguson** liked the idea of building something safe but also liked to idea of building a sense of safety for bicyclists and pedestrians.

**Councilor Loomis** encouraged a system that made for greater continuity in the walking system.

**Councilor Stone** echoed Councilor Barnes's concern about spending \$47,000 to walk kids to school. It was just a matter of getting people organized and should cost very little.

**It was moved by Councilor Chaimov and seconded by Councilor Barnes to approve the resolution adopting a 3-year pilot of the Walk Safely Milwaukie Program. Motion passed with the following vote: Councilors Stone, Loomis, Barnes, and Chaimov and Mayor Ferguson voting "aye." [5:0]**

**RESOLUTION NO. 66-2010:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING A THREE YEAR PILOT OF THE WALK SAFELY MILWAUKIE PROGRAM TO IMPROVE PEDESTRIAN SAFETY AND LIVABILITY IN MILWAUKIE NEIGHBORHOODS.**

**Council Reports**

Mayor Ferguson and Councilors announced upcoming events in the community.

**ADJOURNMENT**

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

**Mayor Ferguson** adjourned the regular session at 8:40 p.m.

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
AUGUST 3, 2010**

**CALL TO ORDER**

**Mayor Ferguson** called the 2083<sup>rd</sup> meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Mayor Jeremy Ferguson, Council President Greg Chaimov and Councilors Joe Loomis and Susan Stone

Excused: Deborah Barnes

Staff present: City Manager Pro Tem Pat DuVal, City Attorney Bill Monahan, Resource and Economic Development Specialist Alex Campbell, and Police Capt. Dave Rash

**PLEDGE OF ALLEGIANCE****PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**

**Mayor Ferguson** presented Citizenship Awards to Michael Howell and Joseph Johnson. The young men found a large amount of cash in the Milwaukie MarketPlace Rite-Aid parking lot and turned the money over to the Milwaukie Police Department as found property.

**CONSENT AGENDA**

It was moved by Councilor Stone and seconded by Councilor Chaimov to approve the consent agenda as presented.

- A. The City Council minutes of the April 6, 2010 regular session;
- B. The City Council minutes of the April 20, 2010 work session;
- C. Resolution 66-2010: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the Mayor to Enter into an Intergovernmental Agreement with Clackamas County Regarding the Establishment of a Strategic Investment Zone;
- D. Resolution 67-2010: A Resolution of the City Council of the City of Milwaukie, Acting as the Local Contract Review Board, Authorizing the City Manager Pro-Tem to Execute Contracts Related to Insurance Coverage and Professional Services; and
- E. An OLCC application for the Golden Nugget, 11032 SE Main Street, change of ownership.

Motion passed with the following vote: Councilors Loomis, Chaimov, and Stone and Mayor Ferguson voting "aye." [4:0]

**AUDIENCE PARTICIPATION**

**Charles Maes**, Milwaukie business owner, discussed his problem with the City of Milwaukie and installation and cleaning of the grease trap in his restaurant. He reviewed the history of his business in Milwaukie. An inspector approved the

CITY COUNCIL REGULAR SESSION – AUGUST 3, 2010

DRAFT MINUTES

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installation in November 2007, and the concrete was poured over it. Three years later a new inspector from the City, Mr. Livingstone, told him the grease trap was installed backwards. He was confused as he understood the City had qualified inspectors. He would comply but did not feel his business should be held responsible for a licensed inspector's decision. He sought the City Council's help in reaching an agreement and mentioned he was looking forward to opening his convenience store on Main Street.

## **PUBLIC HEARING**

None scheduled.

## **OTHER BUSINESS**

### **A. City/TriMet Pursuit of Grant Funding for Kellogg Lake Crossing**

**Mr. Campbell** provided the staff report. He requested that the City Council authorize Mayor Ferguson to sign a letter of support for a TriMet TIGERII application for funds to construct a bicycle and pedestrian deck on the light rail bridge and a Transportation Enhancement (TE) joint application for that project. The grades worked well from Lake Road to Robert Kronberg Park to the existing sidewalks on River Road and the pedestrian-activated crossing. The intent of the project was to improve pedestrian and bike connectivity between downtown and the Island Station Neighborhood. There was a clear indication of the need based on the number of people who are now illegally using the railroad trestle to cross McLoughlin Boulevard. He discussed the funding options: 1) proposal for TIGER II funds that included related elements to the light rail project; or 2) focus on this one project for TE dollars. The local match of approximately \$108,000 would come from fees in lieu of largely made up of from the Milwaukie High School improvements and development in the Island Station Neighborhood.

**Councilor Chaimov** reported his neighborhood, Island Station, supported this project.

**Councilor Stone** asked if this would require a change in overall height of the light rail bridge.

**Mr. Campbell** replied the height did not change with this design. The height was driven by the clearance over Lake Road and McLoughlin Boulevard. The total cost of this project was approximately \$1.5 million, and he discussed possible local match amounts.

**It was moved by Councilor Chaimov and seconded by Councilor Stone to adopt the resolution authorizing the Mayor to sign a joint application with TriMet for Transportation Enhancement funds to construct a Kellogg Lake pedestrian and bicycle bridge and related multi-use path. Motion passed with the following vote: Councilors Loomis, Chaimov, and Stone and Mayor Ferguson voting "aye." [4:0]**

#### **RESOLUTION NO. 68-2010:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR TO SIGN A JOINT APPLICATION WITH TRIMET FOR TRANSPORTATION ENHANCEMENT (TE) FUNDS TO CONSTRUCT A KELLOGG LAKE PEDESTRIAN AND BICYCLE BRIDGE AND RELATED MULTI-USE PATH.**

### **B. Council Reports**

The Mayor and City Council updated the public on upcoming community events.

## **ADJOURNMENT**

**It was moved by Councilor Stone and seconded by Councilor Chaimov to adjourn the meeting. Motion passed with the following vote: Councilors Loomis, Chaimov, and Stone and Mayor Ferguson voting “aye.” [4:0]**

**Mayor Ferguson** adjourned the regular session at 7:26 p.m.

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Pat DuVal, Recorder

6.  
OTHER BUSINESS



6 . A .

**To: Mayor and City Council**

**Through: Bill Monahan, City Manager  
Kenneth Asher, Community Development and Public Works Director  
Katie Mangle, Planning Director**

**From: Ryan Marquardt, Associate Planner**

**Subject: File # A-10-03 - Expedited Annexation of 9770 SE Stanley Ave and  
5710 SE Hazel Place**

**Date: October 26, 2010 for November 2, 2010 Regular Session**

### **Action Requested**

Approve application A-10-03, an expedited annexation petition, and adopt the attached ordinance and associated findings in support of approval (Attachment 1). Approval of this application would result in the following actions:

- Annexation of the properties at 9770 SE Stanley Ave and 5710 SE Hazel Ave (“Annexation Properties”) into the City of Milwaukie. (See Attachment 2)
- Application of City land use and zoning designations to the Annexation Properties.
- Amendments to the City’s Land Use Map and Zoning Map to reflect the City’s new boundary and land use and zoning designations.
- Withdrawal of the Annexation Properties from the following urban service providers and districts:
  - Clackamas County Service District for Enhanced Law Enforcement
  - Clackamas County Service District No. 5 for Street Lights

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

**January 2010:** Council annexed the rights-of-way in the Northeast Sewer Extension (NESE) Project Area making all properties in this area contiguous to the City limits and eligible for annexation (Ordinance 2010).

**September 2009:** Council initiated annexation of the rights-of-way in the NESE Project Area by resolution (Resolution No. 58-2009).

**August 2009:** Staff briefed Council on the status of the NESE Project and the need to annex the rights-of-way in this area.

**July 1990:** Clackamas County Order No 90-726 established an Urban Growth Management Agreement (UGMA) in which the City and County agreed to coordinate the future delivery of services to the unincorporated areas of North Clackamas County. With respect to Dual Interest Area “A”, the agreement states: *“The City shall assume a lead role in providing urbanizing services.”*

## **Background**

### **Site and Vicinity**

The Annexation Properties are contiguous to the existing city limits. The Annexation Properties are also within the City’s urban growth management area (UGMA), and the NESE Project Area.

Both properties are owned by Michael Flynn. The property at 5710 SE Hazel Pl is a single family residence with one registered voter residing at that address. The property at 9770 SE Stanley Ave has a residence and a commercial space. Two registered voters reside on this property, and the owner indicates that the commercial use is operated by the residents. The commercial space is non-conforming with respect to current zoning. It has been a commercial building since 1927, and predates Clackamas County zoning which came into effect in 1959. Its current use is an electronics surplus store, which has been at the site for approximately 10 years.

The commercial use would be subject to the City’s regulations regarding non-conforming uses upon annexation. The non-conforming use provisions would allow the use to continue operating at the site. The Planning Commission would need to review alterations to the non-conforming use, such as expansions of the use on site or changes from one non-conforming use to another.

The structures on both sites likely do not conform to all of the City’s R7 development standards, such as setbacks and lot coverage. The structures are allowed to be maintained in their current state; however alterations to the structures may require additional land use review to the impacts of any changes.

### **Annexation Petition**

This is a regular expedited annexation petition (see Attachment 3), and is similar to other typical expedited annexations approved by City Council in the past two years. Any property that is within the UGMA and contiguous to the city limit may apply for an expedited annexation so long as all property owners of the area to be annexed and at least 50% of registered voters within the area to be annexed consent to the annexation. The expedited annexation process automatically assigns City land use and zoning

designations to the annexed property based on the existing Clackamas County land use and zoning designations. For the Annexation Properties, the County land use and zoning designation are Low Density Residential (LDR) and Residential R10, respectively, and the City land use and zoning designations would be Low Density (LD) and Residential zone R-10.

The annexation request was not part of the recent Assisted Annexation program due to the non-conforming use at 9770 SE Stanley Ave. Having a conforming use on the property to be annexed is one of the three criteria that a property must meet to be eligible for the Assisted Annexation program. Non-conforming uses have the potential to have been illegally established and may be problematic for the City to serve. The criterion in the Assisted Annexation program is in place to allow the City to quickly process a large number of annexation requests. Properties with non-conforming uses were excluded from this program because they require more evaluation by staff, and would slow the annexation process for the Assisted Annexation program. The City has made it clear, however, that property owners who are not eligible to participate in the Assisted Annexation program may still petition for annexation on an individual basis.

The non-conforming use that is present on the site does not raise any concerns for City staff. County Assessor records indicate that the structure was built in 1927. The design of the structure indicates that it was likely built for commercial use. It is a legal, non-conforming use and its presence in the area pre-dates over 75% of the primary structures on properties within the 400 ft notice buffer. Staff does not have concerns regarding the provision of utilities or City services to the commercial use.

Pursuant to City, Metro, and State regulations on expedited annexations, all necessary parties, interested persons, and residents and property owners within 400 feet of the Annexation Properties were notified of these proceedings. A public hearing is not required for an expedited annexation; however, Council must adopt an ordinance to implement the annexation.

Annexation is a multi-step process. It requires approval by City Council, processing by Metro, and then filing by the Secretary of State. Annexations become effective the date they are filed by the Secretary of State, which occurs approximately four to eight weeks after City Council approval.

#### **Expedited Annexation Approval Criteria**

Expedited annexations must meet the approval criteria of Milwaukie Municipal Code Section 19.1502.3. Compliance with the applicable criteria is detailed in Attachment 1 Exhibit A.

#### **Utilities, Service Providers, and Service Districts**

The City is authorized by ORS Section 222.120 (5) to withdraw the Annexation Properties from non-City service providers and districts upon annexation of the property to the City. This allows for a more unified and efficient delivery of urban services to

newly annexed properties and is in keeping with the City's Comprehensive Plan policies relating to annexation.

Wastewater: The Annexation Properties are within the City's sewer service area pursuant to the 1990 City-County Urban Growth Management Agreement and will be served by the City's new sewer system once it is completed later this year.

Water: Annexation Properties are currently served by Clackamas River Water (CRW). Annexation Properties are to remain in the CRW district boundary and will continue to be served by CRW until such time as the City's IGA with CRW is amended or renegotiated.

Storm: The Annexation Properties are not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

Fire: The Annexation Properties are currently served by Clackamas County Fire District No. 1 and will continue to be served by this fire district upon annexation since the entire City and surrounding area is within this district.

Police: The Annexation Properties are currently served by the Clackamas County Sheriff's Department and are within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the Annexation Properties. In order to avoid duplication of services, the properties should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation.

Street Lights: The Annexation Properties are currently within Clackamas County Service District No. 5 for Street Lights (the "District"). The City recently took jurisdiction of the streets in the NESE Project Area but not the lights since none of the properties were in the city at this time. This, however, is expected to change as this and other annexations occur in this area. In anticipation of these changes, City and District staff are working on an IGA that would: (1) transfer the street lights in this area to the City, and (2) transfer the street light payments that will continue to be collected in this area by the District to the City.

It has been the City's practice to remove properties from the District upon annexation, as the City provides street lighting for properties within Milwaukie as part of its package of City services. Staff believes that it is timely and appropriate to remove the Annexation Properties from the District at this time. Even though the street lights in this area are currently operated by the District, the District supports the City's removal of the Annexation Properties from the District with the understanding that a future IGA will resolve the transference of the street lights and payments in this area to the City.

**Other Services:** Planning, Building, Engineering, Code Enforcement, and other municipal services are available through the City and will be available to serve these properties upon annexation. The Annexation Properties will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, etc.

**Concurrence**

All City departments, necessary parties, interested persons, and residents and property owners within 400 feet of the site were notified of these annexation proceedings as required by City, Metro, and State regulations. The Lewelling Neighborhood District Association and the Southgate Planning Association also received notice of the annexation petition and meeting. The City did not receive any objection to the proposed annexation by any necessary party.

The Engineering and Operations Directors agree with the approach currently under discussion with Clackamas County Service District No. 5 for Street Lights regarding the transference of the street lights in this area to the City.

**Fiscal Impact**

The annexation will have minimal fiscal impact on the City. Costs of providing governmental services will likely be off-set by the collection of property taxes. The total assessed value of 9770 SE Stanley Ave is currently \$58,648 and the total assessed value for 5710 SE Hazel PI is currently \$150,425.

**Work Load Impacts**

Workload impacts will be minimal and will likely include, but are not limited to, the following: utility billing, provision of general governmental services, and the setting up and maintenance of property records.

**Alternatives**

The application is subject to Milwaukie Comprehensive Plan Chapter 6 City Growth and Governmental Relationships, Oregon Revised Statutes Chapter 222 City Boundary Changes, Metro Code Chapter 3.09 Local Government Boundary Changes, and MMC Chapter 19.1500 Boundary Changes.

The City Council has two decision-making options:

1. Approve the application and adopt the ordinance and findings in support of approval.
2. Deny the application and adopt findings in support of denial.

**Attachments**

1. Annexation Ordinance
  - Exhibit A. Findings in Support of Approval
  - Exhibit B. Legal Description and Tax Maps
2. Annexation Site Map
3. Applicant's Annexation Petition

**ATTACHMENT 1**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A TRACT OF LAND IDENTIFIED AS 9770 SE STANLEY AVENUE AND 5710 SE HAZEL PLACE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. **(FILE #A-10-03)**.

**WHEREAS**, the territory proposed for annexation is contiguous to the City's boundary and is within the City's urban growth management area; and

**WHEREAS**, the requirements of the Oregon Revised Statutes for initiation of the annexation were met by providing written consent from a majority of electors and all owners of land in the territory proposed for annexation; and

**WHEREAS**, the territory proposed for annexation lies within the territory of Clackamas County Service District No. 5 for Street Lights and Clackamas County Service District for Enhanced Law Enforcement; and

**WHEREAS**, the annexation and withdrawals are not contested by any necessary party; and

**WHEREAS**, the annexation will promote the timely, orderly, and economic provision of public facilities and services; and

**WHEREAS**, Table 19.1504.1.E of the Milwaukie Municipal Code provides for the automatic application of City zoning and Comprehensive Plan land use designations; and

**WHEREAS**, the City conducted a public meeting and mailed notice of the public meeting as required by law; and

**WHEREAS**, the City prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the tract of land and withdrawal from all applicable districts based on findings and conclusions attached hereto as Exhibit A;

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

Section 1. The Findings in Support of Approval and attached as Exhibit A are hereby adopted.

Section 2. The tract of land described and depicted in Exhibit B is hereby annexed to the City of Milwaukie.

Section 3. The tract of land annexed by this ordinance and described in Section 2 is hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.

Section 4. The tract of land annexed by this ordinance and described in Section 2 is hereby assigned a Comprehensive Plan land use designation of Low Density Residential and a Municipal Code zoning designation of Residential zone R-10.

Section 5. The City shall immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030 and ORS 222.005 and 222.177. The annexation and withdrawals shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

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 Schrader Ramis PC

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

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

Document1 (Last revised 09/18/07)

**ATTACHMENT 1**  
**Exhibit A**

**FINDINGS IN SUPPORT OF APPROVAL**

Based on the expedited annexation staff report for 9770 SE Stanley Avenue and 5710 SE Hazel Place (the annexation properties), the Milwaukie City Council finds:

1. The annexation properties consist of two tax lots comprising 0.26 acres (Tax Map 1S2E30DA Tax Lots 05700 and 05800). They are contiguous to the existing city limits via the southern border of 5710 SE Hazel Place, Stanley Avenue, and Hazel Place. The site is also within the City's urban growth management area (UGMA).

The property at 9770 SE Stanley Avenue has a commercial storefront and a dwelling unit attached to the storefront structure. The property at 5710 SE Hazel Place has a single family dwelling unit on the property. The surrounding area consists primarily of single-family dwellings.

2. The property owner seeks annexation to the City to access City services, namely sewer service, to eliminate the use of failing septic systems on the properties.
3. The annexation petition was initiated by Consent of All Owners of Land on August 4, 2010. It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1502.2.A.1.
4. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC Section 19.1504.
5. The annexation petition is being processed as an expedited annexation at the request of the property owner. It meets the expedited annexation procedural requirements set forth in MMC Section 19.1504.
6. The expedited annexation process provides for automatic application of City land use and zoning designations to the site based on the site's existing zoning designation in the County. The site's existing zoning designation in the County is Residential R10. Pursuant to MMC Table 19.1504.1.E, the automatic City zoning and Comprehensive Plan land use designations for this site are Residential zone R-10 and Low Density Residential, respectively.
7. The applicable City approval criteria for expedited annexations are contained in MMC 19.1502.3. They are listed below with findings in italics.

- A. The subject site must be located within the City's urban growth management area (UGMA);

*The site is within the City's UGMA.*

- B. The subject site must be contiguous to the existing city limits;  
*The site is contiguous to the existing city limits along the southern border of 5710 SE Hazel Place and the Stanley Avenue and Hazel Place rights of way.*
- C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;  
*The annexation properties are both owned by Michael Flynn, who has initiated the annexation petition. The property at 5710 SE Hazel Place has one registered voter, Harmony Eunis, who consented to the annexation by signing the petition. The property at 9770 SE Stanley Avenue has two registered voters, Robert Lee and Diane Lee, who both consented to the annexation by signing the petition. As submitted, the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors residing at the site.*
- D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies;  
*Chapter 6 of the Comprehensive Plan contains the City's annexation policies. Applicable annexation policies include: (1) delivery of City services to annexing areas where the City has adequate services, and (2) requiring annexation in order to receive a City service. The proposed annexation is in anticipation of the completion of the City's NE Sewer Extension Project and the requirement for properties to annex to the City in order to connect to the City's new sewer line. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.*
- E. The proposal must comply with the criteria of Metro code Sections 3.09.050 (d) and, if applicable, (e).  
*The annexation proposal is consistent with applicable Metro Code sections for expedited annexations as described below.*
8. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045 of the Metro Code. They are listed below with findings in italics.
- (1) Find that the change is consistent with expressly applicable provisions in:
- (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;

*There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the proposed annexation. The City, however, has an UGMA agreement with Clackamas County that states that the City will take the lead in providing urban services in the area of the proposed annexation. Pursuant to this agreement, the City is in the process of extending City sewer service to this area. The proposed annexation is in anticipation of the completion of this sewer project and the requirement for properties to annex to the City in order to connect to the City's new sewer line.*

(B) Any applicable annexation plan adopted pursuant to ORS 195.205;  
*There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.*

(C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;  
*There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.*

(D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;  
*Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The City subsequently adopted this plan as an ancillary Comprehensive Plan document. The plan contains four elements:*

- *Sanitary Sewerage Services*
- *Storm Drainage*
- *Transportation Element*
- *Water Systems*

*The proposed annexation is consistent with the four elements of this plan as follows:*

*Sewer: The City is the identified sewer service provider in the area of the proposed annexation and is in the process of constructing a public sewer system that can adequately serve this site.*

*Storm Drainage: The City will require on-site management of storm water runoff at the time of development and will regulate direct storm water discharge to Johnson Creek.*

*Transportation: The City will require public street improvements along the site's frontage at the time of development.*

*Water: Clackamas River Water (CRW) is the identified water service provider in this plan. However, the City's more recent UGMA agreement with the County identifies the City as the lead urban service provider in the area of the proposed annexation. The City is in the process of developing a water service master plan for all of the territory within its UGMA and discussing possible service provision changes with CRW. In the meantime, CRW will continue to provide water service to this site.*

- (E) Any applicable comprehensive plan.

*The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous page. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. It does, however, contain the City-County UGMA agreement, which identifies the area of the proposed annexation as being within the City's UGMA. The UGMA agreement requires that the City notify the County of proposed annexations, which the City has done. The agreement also calls for City assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The City has already annexed and taken jurisdiction of Stanley Avenue and Hazel Place, which are adjacent to the proposed annexation properties..*

- (2) Consider whether the boundary change would:

- (A) Promote the timely, orderly and economic provision of public facilities and services;

*The City is the identified urban service provider in the area of the proposed annexation, and the proposed annexation will facilitate the timely, orderly, and economic provision of urban services to this site.*

*The area does not currently contain a public sewer system; however, the City is in the process of extending City sewer service into this area. The proposed annexation is in anticipation of the completion of this sewer project and the requirement for properties to annex to the City in order to connect to the City's new sewer system.*

*The area is currently served by CRW, and the City does not propose to duplicate CRW's water system in order to serve this site.*

(B) Affect the quality and quantity of urban services; and  
*Annexation of the site, a single undeveloped tax lot, is not expected to affect the quality or quantity of urban services in this area given the surrounding level of urban development and the existing level of urban service provision in this area.*

(C) Eliminate or avoid unnecessary duplication of facilities and services.

*The site will be served by the Milwaukie Police Department upon annexation. In order to avoid duplication of law enforcement services, the site will be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement.*

*CRW is the current water service provider in the area of the proposed annexation. Until such time as the existing IGA between the City and CRW is renegotiated, the City does not intend to duplicate CRW's existing water supply system or withdraw private properties being served by CRW from the CRW district. CRW will continue to be the water service provider in this area.*

9. The City is authorized by ORS Section 222.120 (5) to withdraw annexed territory from non-City service providers and districts upon annexation of the territory to the City. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the City's Comprehensive Plan policies relating to annexation.

Wastewater: The site is within the City's sewer service area and will be served by the City's new sewer lines in the northeast sewer extension area once the project is completed.

Water: The site is currently served by CRW through a CRW water line. Pursuant to the City's IGA with CRW, the site should not be withdrawn from this district at this time.

Storm: The site is not currently developed or connected to a public storm water system. Treatment and management of on-site storm water will be required at the time of development.

Fire: The site is currently served by Clackamas County Fire District No. 1 and will continue to be served by this fire district upon annexation since the entire City is within this district.

Police: The site is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The

City has its own police department, and this department can adequately serve the site. In order to avoid duplication of services, the site should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.

Street Lights: All properties in unincorporated Clackamas County are in Clackamas County Service District No. 5 for Street Lights. The site should be withdrawn from this district upon annexation to the City. The City does not levy a separate tax or assess individual properties for street lighting.

Other Services: Planning, Building, Engineering, Code Enforcement, and other municipal services are available through the City and will be available to the site upon annexation. The site will continue to receive services and remain within the boundaries of certain regional and county service providers, such as Tri-Met, North Clackamas School District, Vector Control District, etc.

ATTACHMENT 1  
Exhibit B1

Annexation to the City Of Milwaukie  
LEGAL DESCRIPTION

Milwaukie Annexation File No. A-10-03

Property Address: 9770 SE Stanley Avenue, Milwaukie, OR 97222  
Tax Lot: 1S2E30DA05800  
Legal Description: The north 50 feet of Lot 1, Block 5, HOLLYWOOD PARK  
(Clackamas County Plat # 378)  
County: Clackamas

Property Address: 5710 SE Hazel Place, Milwaukie, OR 97222  
Tax Lot: 1S2E30DA05700  
Legal Description: Lot 2, Block 5, HOLLYWOOD PARK (Clackamas County Plat #  
378)  
County: Clackamas



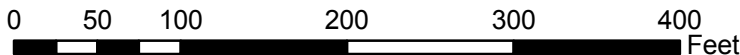
# ATTACHMENT 2



**Site Map**  
**9770 SE Stanley Ave and 5710 SE Hazel Pl**  
**(1S 2E 30DA 5700 and 5800)**  
**File# A-10-03**

**Legend**

- NE Sewer Extension Project Boundary
- A-10-03 Site
- Tax Lots
- City Limit





**PLANNING DEPARTMENT**  
 6101 SE Johnson Creek Blvd  
 Milwaukie OR 97206

PHONE: 503-786-7630  
 FAX: 503-774-8236  
 E-MAIL: [planning@ci.milwaukie.or.us](mailto:planning@ci.milwaukie.or.us)  
 WEB: [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

# Expedited Annexation Application

**RESPONSIBLE PARTIES:** (Please print or type, add additional sheets if needed)

<b>APPLICANT(S):</b> Michael Flynn	E-mail: stanleyavehub@yahoo.com	
Mailing address: P.O. Box 2707 Oregon City	Zip: 97046	Phone: 503-771-8821
<b>PROPERTY OWNER(S):</b> S Anne	E-mail:	
Mailing address:	Zip:	Phone:
<b>PROPERTY OWNER(S):</b> SAME	E-mail:	
Mailing address:	Zip:	Phone:
<b>PROPERTY OWNER(S):</b>	E-mail:	
Mailing address:	Zip:	Phone:

**SITE INFORMATION:**

Address(es): 5710 SE HAZEL PL 9770 SE STANLEY AVE	Map & Tax Lot(s): 152E 30DA 57UD/18D	Property size: 7100 SQ FT 2500 SQ FT
Existing County zoning: R-10 / Limited Commercial	Proposed City zoning: Same	
Existing County land use designation:	Proposed City land use designation:	

**PROPOSAL (describe briefly):**

Annex for sewer connection

**ATTEST:** I am the property owner or I have attached all owners' and voters' authorizations to submit this application. I understand that uses or structures that were not legally established in the County are not made legal upon annexation to the City. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: [Signature] Date: 8/4/10

**THIS SECTION FOR OFFICE USE ONLY:**

File #: A-10-03	Fee: \$ 150	Rcd. by: [Signature]	Date stamp:
Notes: Rct # 377698			RECEIVED  AUG 04 2010  CITY OF MILWAUKIE PLANNING DEPARTMENT

City of Milwaukie - JCB

\*\*\*\*\* R E P R I N T R E C E I P T\*\*\*\*\*

REC#: 00377698      8/04/2010      2:55 PM  
OPER: hamle TERM: 301  
REF#: 1007

TRAN: 110.0005      ANNEXATION  
A-10-03 FOR MICHAEL FLYNN  
18079 S RIDGE RUNNER RD, OC  
COMM DEV APPLICATIO      150.00CR

TENDERED:            150.00      CHECK  
APPLIED:             150.00-

CHANGE:                             0.00

NE 1/4 SE 1/4 SEC. 30 T.1S. R.2E. W.M.  
CLACKAMAS COUNTY

D. L. C.  
HECTOR CAMPBELL NO. 41

1 2E 30DA

This map was prepared for  
assessment purpose only.

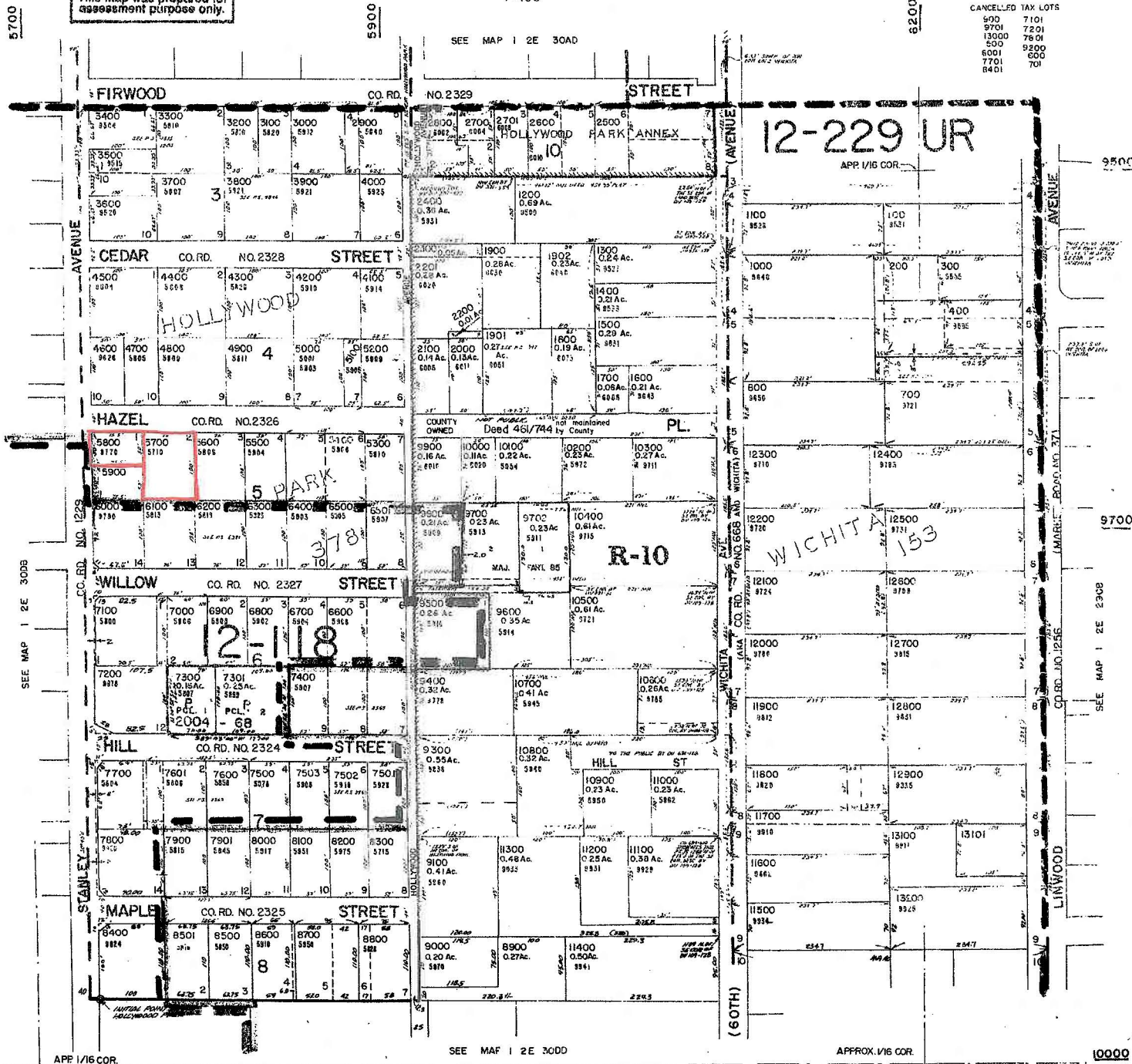
1"=100'

SEE MAP 1 2E 30AD

6200

CANCELLED TAX LOTS  
500 710  
9701 7201  
13000 7601  
500 9200  
6001 9200  
7701 701  
8401

Cancelled  
TL 600  
701



SEE MAP 1 2E 30DB

APP 1/16 COR.

SEE MAP 1 2E 30DD

APPROX. 1/16 COR.

10000

1 2E 30DA  
BOOK 3

Taxlot Map



© Clackamas County 2006

Address

5710 SE HAZEL PL  
MILWAUKIE, OR. 97222

Jurisdiction Information

City UNINCORPORATED  
Urban Growth Boundary IN

Building Characteristics

Sq Ft	3318
Bedrooms	3
Baths	1
Built	1920
Zoning	R10

Last Sale

1993-12-01 95000.00

Map Number (TLNO)	12E30DA05700
Parcel Number	00081093
View tax map	<a href="#">view tax map</a>
Est. Market Building Value	178580.00
Est. Market Land Value	107966.00
Est. Market Total Value	286546.00
Current Year Assessed Value	150425.00
Tax Code	012-229
Est. Acres	0.17 **
Elementary School Attendance	Lewelling Elementary
Middle School Attendance	Rowe Middle
High School Attendance	Milwaukie High

For owner information contact:  
Assessment and Taxation

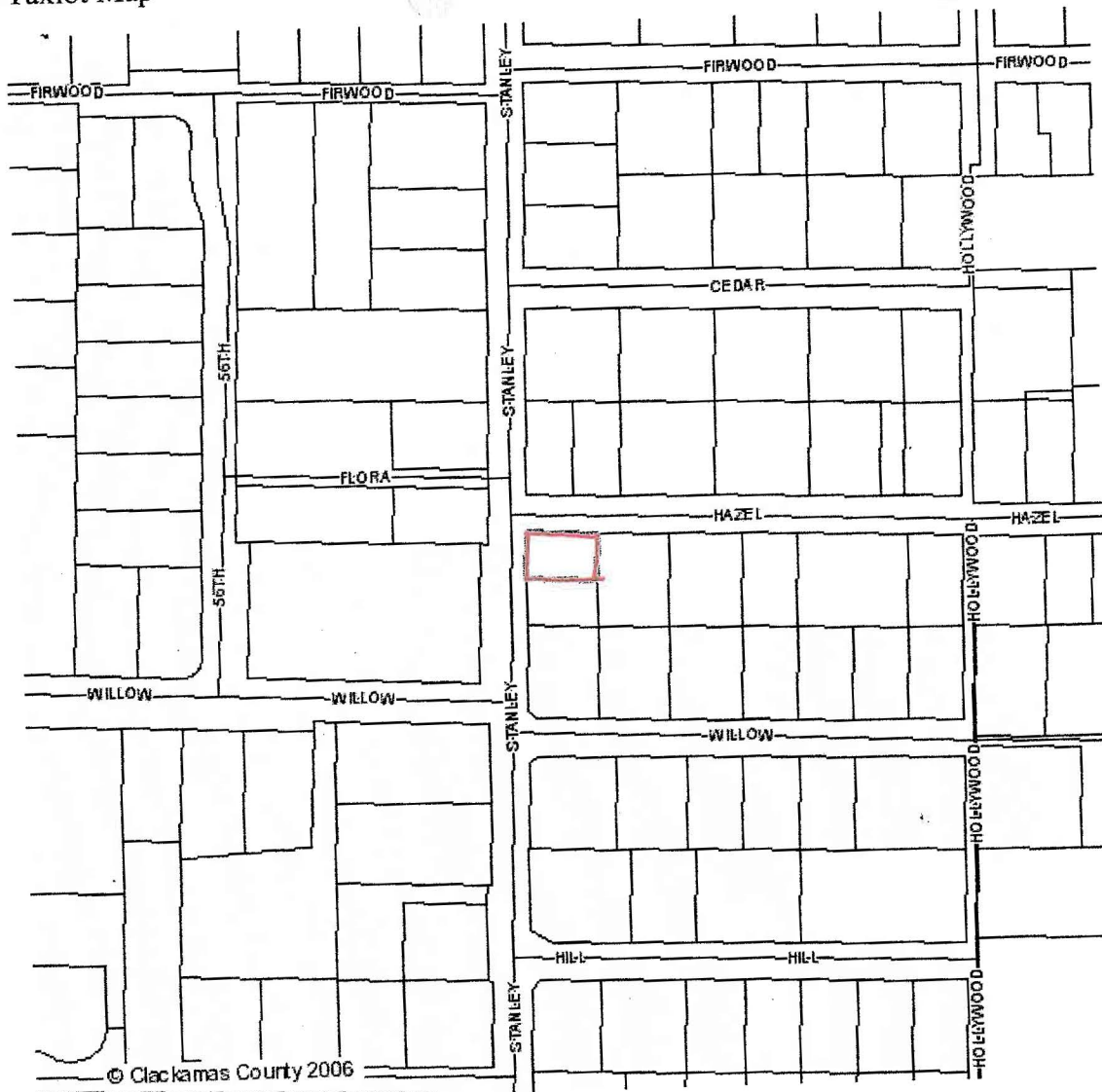
Services Provided	
Cable Provider	Comcast of Oregon, II, Inc.
Community Planning Organization	Southgate
School District	SCH 12 N CLACKAMAS
Garbage Hauler	M Deines Sanitary
State House District	41
State Senate District	21
Voting Precinct	478
Congressional District	3
Sewer District	UNKNOWN
Fire District	Clackamas RFPD #1
Water District	CLACKAMAS RIVER

Natural Hazard Information	
Earthquake	You may be at a lower risk.
Flood	Likely not in a flood zone
Elevation Range	101 - 150
Wildfire	Your risk may be the lowest.
Soil Type	SALEM SILT LOAM, 0 TO 7 PERCENT SLOPES

Census Data  
Tract Block Group 0210001

The information used in this application was derived from digital databases from Clackamas County's GIS. Although we strive to provide the best data we can, we sometimes use data developed by jurisdictions outside Clackamas County. Therefore, Clackamas County cannot accept any responsibility for any errors, omissions, or positional accuracy, and therefore, there are no warranties which accompany this product. Although information

Taxlot Map



© Clackamas County 2006

Address

9770 SE STANLEY AVE  
MILWAUKIE, OR. 97222

Jurisdiction Information

City UNINCORPORATED  
Urban Growth Boundary IN

Building Characteristics

Sq Ft  
Bedrooms  
Baths  
Built 0  
Zoning R10

Last Sale

0.00

## Tax Information

Map Number (TLNO)	12E30DA05800
Parcel Number	00081100
View tax map	<a href="#">view tax map</a>
Est. Market Building Value	45920.00
Est. Market Land Value	49045.00
Est. Market Total Value	94965.00
Current Year Assessed Value	58648.00
Tax Code	012-229
Est. Acres	0.09 **
Elementary School Attendance	Lewelling Elementary
Middle School Attendance	Rowe Middle
High School Attendance	Milwaukie High

## For owner information contact:

[Assessment and Taxation](#)

## Services Provided

Cable Provider	Comcast of Oregon, II, Inc.
Community Planning Organization	Southgate
School District	SCH 12 N CLACKAMAS
Garbage Hauler	M Deines Sanitary
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## Census Data

Tract Block Group 0210001

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**RS PAGE 37**

**CERTIFICATION OF PROPERTY OWNERSHIP OF  
100% OF LAND AREA**

I hereby certify that the attached petition contains the names of the owners<sup>1</sup> (as shown on the last available complete assessment roll) of 100% of the land area of the territory proposed for annexation as described in the attached petition.

Name JJ. Spain  
Title CARTOGRAPHER 2  
Department Assessment & TAX  
County of Clatsop  
Date 4-29-10



<sup>1</sup> Owner means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If a parcel of land has multiple owners, each consenting owner shall be counted as a percentage of their ownership interest in the land. That same percentage shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.

## CERTIFICATION OF LEGAL DESCRIPTION AND MAP

I hereby certify that the description of the territory included within the attached petition (located on Assessor's Map 12E30DA 05700, 05800) has been checked by me. It is a true and exact description of the territory under consideration and corresponds to the attached map indicating the territory under consideration.

Name DS Storn  
Title CARTOGRAPHER 2  
Department Assessment & Tax  
County of Chickamauga  
Date 4-29-10



EXHIBIT A

Lot 2, Block 5, HOLLYWOOD PARK, in the County of Clackamas and State of Oregon.


1  
E  
1


The North 50 feet of Lot 1, Block 5,  
HOLLYWOOD PARK, in Clackamas County, Oregon.

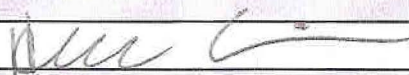


# PETITION SIGNERS

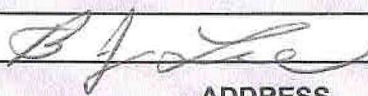
**NOTE:** This petition may be signed by qualified persons even though they may not know their property description or voter precinct number.

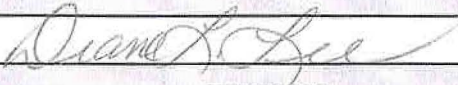
SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	Michael Flynn	X		X	4-29-10
ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
P.O. Box 2707 Oregon City 57045	15	2E	30DA	5800	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	Michael W Flynn	X		X	4-29-10
ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
P.O. Box 2707 Oregon City OR 97045	15	2E	30DA	5700	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	Harmony Emis		X		4-29-10
ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
5710 SE Hazel Place Milwaukie OR 97222					

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	ROBERT J. LEE		X		4-29-10
ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
9770 SE STANLEY AVE Milwaukie OR					

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	Diane Lee		X		4-29-10
ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
9770 SE Stanley Ave. Milwaukie OR 97222					

\*PO = Property Owner    RV = Registered Voter    OV = Owner and Registered Voter

## CERTIFICATION OF REGISTERED VOTERS

I hereby certify that the attached petition contains the names of at least a majority of the electors registered in the territory proposed for annexation as described in the attached petition.

Name Paul Hanes  
PAUL HANES  
Title DEPUTY CLERK  
Department ELECTIONS  
County of CLACKAMAS  
Date 5/12/10



CLACKAMAS COUNTY ELECTIONS  
1710 RED SOILS CT, SUITE 100  
OREGON CITY, OR 97045

**PETITION OF OWNERS OF 100% OF LAND AREA  
AND PETITION OF A MAJORITY OF REGISTERED VOTERS**

**TO: The Council of the City of Milwaukie, Oregon**

**RE: Petition for Annexation to the City of Milwaukie, Oregon**

We, the petitioners (listed on reverse), are property owners of and/or registered voters in the territory described below. We hereby petition for, and give our consent to, annexation of this territory to the City of Milwaukie.

The territory to be annexed is described as follows:

*(Insert legal description below OR attach it as Exhibit "A")*

See Exhibit A

**NOTICE LIST**

**(This form is NOT the petition)**

**ALL OWNERS OF PROPERTY AND/OR REGISTERED VOTERS INCLUDED IN THE TERRITORY TO BE ANNEXED.**

	Name of Owner/Voter	Address	Property Description (indicate township, range, ¼ section number, and tax lot)
1	Harmann Emis Voter	5710 SE Hazel Place Milwaukie, OR 97222	
2	ROBERT J. LEE Voter	9770 SE STANLEY AVE MILWAUKIE, OR. 97222	
3	DIANE L. LEE Voter	9770 SE Stanley Mil, OR. 97222	
4			
5	Mike Flynn Voter	P.O. Box 2707 Oregon City, OR 97045	
6			
7			
8			
9			
10			



A

Property Account Summary

Account No.: 00081100 Alternate Property Number: 12E30DA05800

Account Type: Real Property

TCA: 012-229

Situs Address: 9770 SE STANLEY AVE  
MILWAUKIE OR 97222

Legal: 378 HOLLYWOOD PARK NORTH 1/2 LT 1 BLK 5

Parties:

Role	Name & Address
Owner	FLYNN MICHAEL 18079 S RIDGE RUNNER RD OREGON CITY OR 97045
Taxpayer	FLYNN MICHAEL 18079 S RIDGE RUNNER RD OREGON CITY OR 97045

Property Values:

Value Name	2009	2008	2007
AVR Total	\$58,648	\$56,940	\$55,282
TVR Total	\$58,648	\$56,940	\$55,282
Real Mkt Land	\$49,045	\$54,432	\$52,731
Real Mkt Bldg	\$45,920	\$51,060	\$49,450
Real Mkt Total	\$94,965	\$105,492	\$102,181

Property Characteristics:

Tax Year	Characteristic	Value
2009	Neighborhood	20010: Area 01 commercial
	Land Class Category	201: Commercial land improved
	Change property ratio	2XX

Exemptions:

(End of Report)



Clackamas Community College  
19600 Molalla Avenue  
Oregon City, OR 97045

Clackamas ESD  
13455 SE 97<sup>th</sup> Ave.  
Clackamas, OR 97015

North Clackamas School District #12  
4444 SE Lake Road  
Milwaukie, OR 97222

Clackamas River Water  
16770 SE 82<sup>nd</sup> Dr.  
Clackamas, OR 97015

Clackamas County  
Enhanced Law Enforcement District  
12800 SE 82<sup>nd</sup> Avenue  
Clackamas, OR 97015

Clackamas County Finance  
2051 Kaen Road  
Oregon City, OR 97045

Clackamas County Soil Conservation  
District  
221 Molalla Ave, Ste 102  
Oregon City, OR 97045

Clackamas Co. Fire District #1  
11300 SE Fuller Road  
Milwaukie, OR 97222

North Clackamas Parks District  
150 Beaver Creek Rd  
Oregon City, OR 97045

Port of Portland  
121 NW Everett St.  
Portland, OR 97209

Metro Service District  
600 NE Grand Ave.  
Portland, OR 97232

Clackamas County Urban Renewal  
Agency  
150 Beaver Creek Rd  
Oregon City, OR 97045

Vector Control  
1102 Abernathy Road  
Oregon City, OR 97045

TriMet  
4012 SE 17<sup>th</sup> Ave.  
Portland, OR 97202

Clackamas County Service District #5  
For Street Lights  
150 Beaver Creek Rd  
Oregon City, OR 97045

Clackamas County Service District #1  
WES  
150 Beaver Creek Rd  
Oregon City, OR 97045

OSU Extension Services  
200 Warner Milne Road  
Oregon City, OR 97045

Clackamas County Library Information  
Network  
16239 SE McLoughlin Blvd, Suite 208  
Oak Grove, OR 97267

ROBERT & DIANE LEE  
9770 SE STANLEY AVE 97222

N.W. NATURAL (GAS) 503-226-4211  
220 N.W. 2<sup>ND</sup> AVE  
PORTLAND, OR. 97209-3991

PGE (ELECTRIC) 503-228-6322  
121 SW SALMON ST.  
PORTLAND, OR. 97205-1808

CLACKAMAS RIVER (WATER) 503-722-9220  
P.O. BOX 2439  
CLACKAMAS, OR. 97015-2439

QWEST PHONE (2 LINES) 1-800-244-1111  
P.O. BOX 2678  
OMAHA, NE. 68103-2678

COMCAST (CABLE) 1-800-934-6489  
P.O. BOX 34744  
SEATTLE, WA. 98124-1744

DEINES SANITARY (GARBAGE) 503-654-0632  
P.O. BOX 22265  
MILWAUKIE, OR. 97269-2265

# EXPEDITED ANNEXATION CODE EXCERPTS

## MILWAUKIE MUNICIPAL CODE SECTIONS

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### 19.1504.1 Expedited Process

- A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.
5. Approval criteria for annexations are found in subsection 19.1502.3.

**19.1502.3 Annexation Approval Criteria.** The city council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria.

- A. The subject site must be located within the city urban growth boundary;
- B. The subject site must be contiguous to the existing city limits;
- C. The requirements of the Oregon Revised Statutes for initiation of the annexation process must be met;
- D. The proposal must be consistent with Milwaukie comprehensive plan policies;
- E. The proposal must comply with the criteria of Metro Code Sections 3.09.050(d) and, if applicable, (e).

## METRO CODE SECTIONS

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### 3.09.050 Hearing & Decision Requirements for Decisions Other Than Expedited Decisions.

- (d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Section 3.09.045.

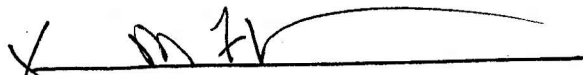
## MILWAUKIE COMPREHENSIVE PLAN

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### Chapter 6: City Growth and Governmental Relationships; City Growth Element

Goal Statement: To identify the City's future planning and service area, establish the respective responsibilities for reviewing and coordinating land use regulations and actions within the area, and determine the most cost-effective means to provide the full range of urban services within the area.

*The proposed annexation meets all of the applicable sections and provisions listed above.*

*X*   
Michael Flynn