

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
NOVEMBER 16, 2010**

**CALL TO ORDER**

**Mayor Ferguson** called the 2090<sup>th</sup> meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

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

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, Community Development and Public Works Director Kenny Asher, Engineering Director Gary Parkin, Planning Director Katie Mangle, Code Compliance Coordinator Tim Salyers, Resource and Economic Development Specialist Alex Campbell, Community Development Coordinator Nicole West

**PLEDGE OF ALLEGIANCE**

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

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

Mayor Ferguson and Council recognized Kyle Adams as the Milwaukie High School Student of the Month.

**B. Recognize Teresa Bresaw for her Service to the Community on the Planning Commission**

Mayor Ferguson, Councilors, and Ms. Mangle recognized Ms. Bresaw for her years of service to the community as a neighborhood leader and Planning Commission member.

**C. Construction Update for Jackson Street Improvement Project**

**Mr. Parkin** stated the purpose of this update was to provide a construction status report and get concurrence from the City Council on the Design and Landmarks Committee's (DLC) bus shelter recommendation. Mr. Parkin showed slides of the public area improvements consistent with the Downtown Plan and similar to the North Main Village streetscape. The objective of the project was to dissolve the existing transit center and to concentrate downtown bus operations as required by the Milwaukie Transportation System Plan (TSP) and the City's 2008 TriMet Umbrella Agreement. He summarized the bus operations and reviewed the amenities that included wide sidewalks, curb extensions, stormwater treatment, undergrounded utilities, the City Hall Sculpture Garden, lighting fixtures, benches, bollards, and landscaping. The final project cost was approximately \$850,000 with the completion date set for November 24.

**Young Park**, TriMet Capital Projects Manager, discussed the bus shelters, decisions that had evolved, and status of the project today. In October 2010 TriMet learned that the TrueForm shelters would not be available, and the DLC selected the TriMet cantilevered shelter as the backup. He showed several renderings and discussed impacts to the project scheduling and pointed out the features including windscreens, lighting, and displays. The shelter foundations would be done by November 30, and bus service would resume December 5 using temporary shelters. The shelters would be fabricated beginning November with installation scheduled by March 2011.

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**Councilor Barnes** liked the lighting and was confident that the DLC had selected the best backup shelter design. She was really able to envision the potential in the downtown area and appreciated the public area improvements.

**Councilor Stone** had questions about the cantilevered design versus TrueForm. To her it looked like a design that should be in Phoenix and did not provide enough protection from inclement weather.

**Mr. Young** explained a row of windscreens would provide protection.

**Councilor Stone** liked the TrueForm surfboard design and connection with the water theme. She understood this was the backup design that already seemed in motion based on input from the Committee. These were expensive features, and she wanted a good design. Were there alternatives more like the original design?

**Ms. Mangle** stated the Design and Landmarks Committee had talked about weather protection and explained the cantilevered design can be site-specific. The windscreen patterns are customizable with a water theme, and the Design and Landmarks Committee will help with the design. This was not a done deal. The foundation had to be poured in order to meet the opening day, but TriMet was willing to go out and look for another option. She noted, however, when they did a broad search for options in the shelter industry, the quality of design in the cantilevered option stood out from the crowd. The Design and Landmarks Committee agreed and recognized it might not be the best use of time and resources to start the search again.

**Councilor Stone** wanted to make sure this was something that would work for transit riders.

**Mr. Park** added TriMet had identified additional seating. The lighting was LED and provided a secure environment for transit riders.

**Councilor Chaimov** observed since abalone was no longer on the menu he was happy to go with the breaded clams.

**Mayor Ferguson** discussed Milwaukie Police Chief Jordan's comments. Law enforcement interests focused on visibility, lighting, and bench seating that accommodated individual seating and deterred vagrancy. Chief Jordan supported the shelter design and transit furniture. Mayor Ferguson asked about parking at City Hall and if there would be angle parking in front of City Hall. How many parking places would be gained as a result of this project?

**Ms. Mangle** understood the City Hall lot would be re-stripped. Angle parking would be added in front of City Hall, and the bus stops on 21<sup>st</sup> Avenue would be converted to parallel on-street parking. She was not sure how many parking spaces would be added, but there was a gain. A new parking inventory would be done once the Jackson Street Project was completed to determine the exact number of spaces and how they were being used.

## **CONSENT AGENDA**

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

- A. City Council minutes of the August 17, 2010 regular session;**
- B. City Council minutes of the September 7, 2010 regular session;**
- C. Resolution 80-2010: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Purchase of City Vehicles That Were Approved for**

Replacement in the Fiscal Year 2010/2011 as Per the City Vehicle Replacement Criteria;

- D. **Resolution 81-2010: A Resolution of the City Council of the City of Milwaukie, Oregon, Granting Consent to Clackamas County to Continue to Administer Its Dog Control and Licensing Ordinance Chapter 5.01 to the Clackamas County Code, As Revised by Ordinance 05-2010, Adopted on July 1, 2010 and Repealing Resolution 28-2001; and**
- E. **Resolution 82-2010: A Resolution of the City Council of the City of Milwaukie, Oregon, Assessing the Costs of Abatement of the Nuisance Located at 9643 SE 38<sup>th</sup> Avenue and Entering the Same on the Docket of City Liens Pursuant to Milwaukie Municipal Code Section 8.04.200(D).**

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

## **AUDIENCE PARTICIPATION**

Mr. Zumwalt, Milwaukie, announced the December 3 *First Friday* combined with the Annual Umbrella Parade, City Hall Tree Lighting, and related events.

## **PUBLIC HEARING**

- A. **Continue Milwaukie Municipal Code Amendments 19.321.7 and 19.321.3 – Ordinance**

Mr. Monahan provided a brief background on the proposed amendments.

It was moved by Councilor Chaimov and seconded by Councilor Stone to continue the proposed Milwaukie Municipal Code amendments 19.321.7 and 19.321.3 to the regular City Council meeting of February 15, 2011. Motion passed with the following vote: Councilors Stone, Loomis, Barnes, and Chaimov and Mayor Ferguson voting 'aye.' [5:0]

## **OTHER BUSINESS**

- A. **Walk Safely Milwaukie Program Launch and Amendments – Resolution**

Mr. Asher and Mr. Campbell reported the program was approved in July, and staff has been working to implement the program and doing outreach since that time. Although there was enthusiasm for the program goal, staff heard some dissatisfaction with program design particularly from Public Safety Advisory Committee (PSAC) and some of the Milwaukie neighborhood leadership. There were three areas of discontent: the level of PSAC's involvement throughout the process, transparency of the project selection process, and what was perceived could be an adversarial approach to project selection. Staff returned to PSAC at the end of October with four amendments related to capital project scoring, awareness and education scoring, project selection, and joint review. The PSAC membership supported those amendments by a vote of 6:0 with the knowledge this was a pilot program to be reviewed after the first year. Staff sought a decision from the City Council given the uncertainty about the program. One of the alternatives provided in the staff report was the alternative for the City Council to be the final decision maker.

Mr. Asher explained the resolution being handed out contained an additional "whereas" clause and was the one staff was asking the City Council to adopt.

**Councilor Chaimov** asked if the City Council wanted to adopt the resolution as written then can the City Council change the language at the bottom of page 12 of the latest handout at this meeting or did it need to go through another process.

**Mr. Ramis** replied the City Council could amend both in one motion.

**Dave Hedges**, Milwaukie, Public Safety Advisory Committee Chair. He discussed the disagreement about how some of the elements of the program should be done. He clarified that the PSAC vote was 6:0 and that he had abstained. The Committee did not care for Plan A, so Plan B was brought to PSAC. The group was told it had to accept Plan B, or it got Plan A. With the original, smaller program decision-making was done at the PSAC level with Gary Parkin and/or Brad Albert. They discussed the projects and arrived at consensus by taking into account technical aspects provided by engineering and the desire of the PSAC membership at the time. There was never any controversy because people agreed, and it worked well. Now there was a new program that had more money. PSAC, however, was removed from the process. He had seen it written by some that PSAC wanted to be the sole arbiter, but it only wanted to work in partnership with City staff. PSAC members and neighborhood leadership members were at this meeting to support that point of view. The old system worked very well. PSAC was a public, open meeting, and he as chair had gladly accepted public comments. Neighborhoods had spent a lot of time formulating their projects, and it was important for them to see how the projects were scored and why the decisions were made. PSAC requested that it be reinstated to its former role of partnering with City staff and making the decisions together. If the City Council did not feel that was appropriate, then the Committee asked that the third alternative be accepted that gave the City Council the final decision-making responsibility at an open meeting.

**Linda Hedges**, Milwaukie, spoke representing Neighborhood District Association (NDA) officers and PSAC representatives and addressed their concerns about the program. On July 20, 2010, the City Council adopted a resolution to fund a 3-year pilot program, Walk Safely Milwaukie. In August, City staff presented the program to PSAC. The fundamental change made by Community Development staff from the earlier Neighborhood Traffic Management Program (NTMP) was to minimize the Committee's role. This raised strong objections from the neighborhoods and the Committee, yet 3 months later those objections were still being ignored. Staff did not bring the program to the NDAs until September when rather than being discussed, the NDAs were told what to do in order to get funding. In reviewing the process details, Neighborhood officers found they would have to put a significant number of hours into getting evidence in support for projects, writing reports, and then preparing proposals for project bids. To clarify, the neighborhoods were grateful as each had 1 or 2 traffic issues for which they would like to spend that money. They recognized the program was to address the larger issues of livability and walkability in Milwaukie. However, it will take millions to address the City's lack of sidewalks and bike lanes and speeding vehicles in the neighborhoods. The increased funding under this program would allow the neighborhoods to at least start addressing some of these issues. They were concerned with staff's lack of respect for the PSAC whose membership was elected by the neighborhoods. They understood that they had oversight of the safety and security of the citizens. However, when they express their opinions, staff tells them they are not intelligent enough to select projects. Further, the NDAs were told about this program after the City Council approved it. The NDAs had to assume the City Council was told the neighborhoods had been consulted already. Once the NDA officers realized the level of involvement, they realized perhaps the City Council did not understand. The fallout from this treatment was one of the reasons people came to City Council last month asking that it listen, give weight to neighborhood voices, and consult with them more frequently. The group felt the grading criteria were too subjective such as

preference given to new leadership and preference for neighborhoods that could provide matching funds which would unfairly penalized those neighborhoods who spend their annual budgets on concerts, movie nights, and other community programs. She requested that the City Council postpone its approval of changes to this program until staff, PSAC, and NDA officers could sit down together and come to an acceptable compromise about project funding decisions and how the projects are scored and by whom. She understood the City Council did not wish further delays, but there was time before projects were selected in April or May. It was not acceptable for staff to refuse to respect elected representatives and try to engineer how the NDAs reached their decisions. Citizen-based decision making was the most important component of how this City should be run. On behalf of the neighborhood leadership and PSAC she urged the City Council to respect this request.

**Councilor Chaimov** responded from his perspective there was no disrespect intended or delivered by City staff. Staff presented the proposal in a work session which City Council subsequently adopted in a regular session. No one came forward at the time to point out any problems with the process, and the City Council now understood there were improvements being suggested. For the City Council to make the kinds of decisions Milwaukie residents wanted it to make, people needed to be fully engaged at the beginning of the process. It was not his intent to be critical of residents, and if anyone let the citizens down it was City Council and not the staff.

**Ms. Hedges** stated citizens needed to know these projects were coming and did not until the ordinance was adopted. Something was lacking in communication.

**Councilor Loomis** added the issue was with the City Council and not staff, so it needed to do a better job. This program moved forward under City Council direction. He felt it was a great program and did not understand what struck the nerve in the community. He would stay open minded and listen though the response was surprising.

**Mayor Ferguson** agreed in that City Council gave staff direction. He realized there was a disconnect with the NDA leaders. He hoped to move toward better communication through the monthly leadership meetings and City Council work session dialogues.

**Councilor Barnes** appreciated Ms. Hedges' perspective although she still needed to understand how a good idea like the WSMP turned into a controversial topic. She hoped to understand specifically what was wrong and was concerned no one had discussed the matter with the Mayor or Councilors. Instead she heard about this via emails rather than someone picking up the phone to talk about their concerns.

**Ms. Hedges** suggested the problem might have been in the implementation, and she recommended that all parties sit down and come up with a compromise. She felt the contention revolved around process and who made the project funding decisions. She did not feel the problems were insurmountable if people were reasonable.

**Councilor Stone** thought that was the purpose of having ranking criteria and asked if those were based on the earlier NTMP document. Each project proposal should be treated the same and ranked against the same criteria. Based on the criteria, the projects ranked themselves to avoid contentiousness between the neighborhoods. She got the feeling there was some of that going on here. Look at the facts and make the ranking as objective as possible.

**Debby Patten**, Milwaukie, Lake Road Neighborhood District Association. Lake Road NDA residents appreciated the opportunity to be involved in the WSMP and to have a voice in what the residents felt was unsafe in their neighborhood. There were many unsafe locations in Milwaukie for pedestrians and bicyclists that needed to be targeted. The NDAs were made up of volunteers who worked fulltime and volunteered for many other programs. They felt the WSMP was unwieldy and overly time consuming for the

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average volunteer. The Lake Road NDA wanted to be involved and welcomed the opportunity. Unfortunately, many volunteers lacked the time and knowledge required to complete the report. She hoped the City Council would reconsider the requirements and perhaps redesign the program to include more involvement by City staff such as surveys and education campaigns. She further urged a citizen group like PSAC be involved in the prioritization and funding of the projects.

**Mr. Klein**, NDA leadership, felt all the questions were valid and thought the disconnect occurred when there was a larger amount of money and the decision making was taken out of PSAC's hands. He understood PSAC could rank and evaluate, but staff would make the decision and take that to the City Council. He understood the City Council needed to make that decision, but it appeared it was being taken away from those trying to make their neighborhoods better places by pointing out what they felt needed to be done. People feel things never get done. Some of these were big projects like Lake Road, but \$250,000 over a 3-year period was just a morsel. More than that was spent on consultants in 1 year for projects that will never happen. Every NDA probably had 10 projects that needed to be done. It took extensive time and effort to go around the neighborhood and take surveys when citizens already had the answers was the disconnect.

**Councilor Barnes** asked how difficult it would be to take a survey via email and who made decisions on the NDA grant program.

**Mr. Klein** replied the Lewelling Neighborhood used a voting process among the membership, but he was not sure how other neighborhoods handled their grant requests. He said the neighborhoods could probably set up some kind of electronic survey.

**Councilor Barnes** said the City Council depended on the NDA leadership for input. A small number of people actually attend the NDA meetings, so she thought a better way might be to gather information by walking around neighborhood. If that was not possible, then an email response might work. She felt this all could be fixed, and she hoped concerned citizens would pick up the phone and call their Mayor and Councilors to keep the lines of communication open.

**Mr. Klein** had often said he represented the 30 or so people whom he considered active members and the 70 or so he considered to have some awareness out of the 4,000 who probably lived in the Lewelling Neighborhood. He could only represent those who plugged into the neighborhood. He started out his last NDA meeting by asking people what they would like to change in the City, and many replied street calming, traffic, and communication. He did not intend to go around his neighborhood where streets were not walkable knocking on doors in November.

**Councilor Loomis** thought \$250,000 was a lot of money that could be put toward doing good projects. He saw needed improvements in his neighborhood that did not cost that much. He went back to the meeting with the NDA leaders; going door to door with this Program was a positive thing to do in the neighborhoods. He understood there was a core group of volunteer, but talking with residents about projects they would like to see done was the way to get people involved. This was an opportunity, and he still did not understand why the program had become an issue.

**Mr. Klein** replied the nerve was poked when as a neighborhood chair he did outreach and was told the Association did not really accomplish anything. He agreed \$250,000 was a lot of money but not enough to fix the problems in the City. This was money spread out over 3 years among 7 neighborhoods, the downtown, and industrial district. The real disconnect was frustration because people had already reached out. It was a matter of putting in a lot of work with someone else having the final say. That has

happened far too often in Milwaukie. People have been asked far too often to come forward and give their time, experience, and comments. Information went through the channels, and people were told they had not really grasped the overall picture. The explanations did not come back to those involved.

**Councilor Stone** explained the WSMP was spawned from the NTMP. She recalled the NTMP had \$30,000 to do a list of 27 projects. To keep this in perspective, those involved with the NTMP went door-to-door to get signatures of those who might potentially be impacted by a project on a nearby street. As Councilor Loomis said, you met people going door-to-door and might get them involved. Only a handful of people in each NDA made it work, and Mr. Klein was a part of that. It did take some footwork, but \$250,000 going toward the WSMP was phenomenal given budget constraints. It would take some work. She did have some concerns about the criteria, but she felt it would play out if people stayed objective.

**Mr. Klein** agreed \$250,000 was a great deal of money, but \$800,000 was spent on Jackson Street which was a 1-block project. \$750,000 was spent on Logus Road which was a 5-block project. If he went out and knocked on doors, then he wanted to be part of the decision making. He understood prioritizing projects, but it was difficult to get buy in from the volunteers in the NDAs because they did not understand how decisions were made and the money spent.

**Councilor Barnes** commented on Ball-Michel Park and Logus Road Project in the Lewelling Neighborhood. She understood his frustration and thought maybe the criteria needed to be clarified.

**Mr. Klein** did not believe this program would pit neighborhood against neighborhood and that everyone understood the program and that everyone had needs. If neighborhood volunteers were being asked to do all this work, however, then it was difficult to buy off on decisions made from above. Look at light rail, for example, and in reality how many decisions could be made on that locally.

**Councilor Chaimov** suggested a motion to amend the resolution with attachment handed out at the beginning of the discussion of the program and then ask the residents who spoke whether, assuming the City Council adopted that, if it would be a sufficient change for staff to work the program for a year and see where it went.

**Councilor Chaimov** moved to adopt the resolution regarding the Walk Safely Milwaukie Program with the following amendment on page 12 in final paragraph in line 2 after PSAC insert a period; the last paragraph on page 12. After "PSAC" insert a period, delete the rest of the line, delete line 3, delete line 4, delete the remainder of the sentence in line 5, after the word "once" delete the word "the" and replace it with the word "a". The final paragraph would read, "The Community Development and Public Works Director or his or her designee shall present a draft funding recommendation to PSAC. Once a funding recommendation has been approved by PSAC it will be forwarded as a recommendation to the Council for final action."

**Mayor Ferguson** called for comments from those who testified on the modification.

**Mr. Hedges** said as he understood it, the draft recommendation would come to PSAC; if the Committee accepted it, then it went to the City Council.

**Councilor Chaimov** said it was his intention with the change to permit PSAC to send whatever funding recommendation, draft or otherwise, to the City Council.

**Mr. Hedges** replied that would be acceptable to PSAC.

**Ms. Hedges** agreed it was acceptable and thanked the City Council.

**Councilor Stone** commented on the ranking criteria and wondered why on page 79 of the staff report under neighborhood support the last criteria regarding signatures and neighborhood support did not have more definition. She had in mind support from residents on streets within a certain radius of the proposed project.

**Mr. Asher** responded staff had not set the bar quite that high as the purpose was to focus on the benchmarks which were empowering the Neighborhood Associations and increasing involvement. In the scheme of things this was only a point or two. It would be fine if the project impact area was notified but might be difficult to get that number of signatures.

**Councilor Stone** replied when they traffic-calmed streets, they got way more than 40 signatures from surrounding streets because of the possibility of cut through traffic. She thought it was a good practice.

**Mr. Asher** explained the criteria came from the history of Milwaukie programs and other cities. This was a unique program, and particular criteria had no science attached to it. One will not know how effective these were until they were tried, and some may need more customization.

**Councilor Stone** referred to awareness and education projects and was concerned if the NDAs had to prepare bid documents. She felt people could feel caught off-guard by some of the criteria.

**Mr. Asher** explained there were two kinds of projects in this program: capital where the scoring criteria needed to be more objective and awareness and education which had a softer evaluation that was not point-based.

**Mr. Campbell** discussed the awareness and education piece that each NDA, or a group of NDAs, could propose. These were practices staff felt should be encouraged to help the success of the program.

**Mr. Asher** clarified the motion. He understood staff would forward a list of projects based on the criteria to PSAC. The Committee would then take that list and forward it to the City Council as amended.

**Councilor Chaimov** replied that was correct. If the City Council thought PSAC had inappropriately strayed from the staff's recommendation, then it would make adjustments. He assumed City Council would see both the staff and the Committee lists in the background information.

**Mayor Ferguson** assumed since PSAC held public meetings that City Council could review the minutes and staff presentation materials for an understanding of the process.

**Mr. Asher** was concerned that perhaps there should be some time constraints on how long the Committee had to make its decision. He thought otherwise there might be some budget timing issues.

**Councilor Chaimov** assumed it would get done on time if people wanted money for their projects.

**Mr. Asher** heard in the motion a departure from the staff recommendation. At the last juncture before the City Council made its decision a new process was being inserted. He did not know what that process would look like, but he hoped it would be quick.

**Councilor Barnes** suggested a recess to fine-tune the process to help meet all parties' needs.

**Mayor Ferguson** read the language that would have been removed by Councilor Chaimov's motion and asked Mr. Asher how long he thought that process might take.

**Mr. Asher** thought it might be a matter of days or weeks because he wanted to stay within the funding cycle, but that was a very well-described process in which at least 2 people had to come to agreement. He hoped to complete as many projects as possible each summer. The new motion did not make clear how long the list might be in Committee.

**Councilor Stone** said if the objective ranking criteria were followed the projects would rank themselves based on need. If PSAC did not like it, then the Committee should let the City Council know. She understood that was what they were asking for.

**Mr. Asher** expected the City Council was the appropriate body to mediate those disagreements but different from what Councilor Chaimov was proposing.

**Councilor Loomis** agreed with Councilor Stone's comments. If there were a disagreement, then the City Council would render the decision.

**Mayor Ferguson** called for a recess at 9:20 p.m. The meeting reconvened at 9:40 p.m.

**Councilor Chaimov** revised his motion. The final paragraph, last sentence on page 12 would read, "PSAC within 30 days of receiving the draft funding recommendation forward a final funding recommendation to Council for final action."

**Mr. Monahan** asked for a few moments so that staff could review any other pages to identify subsequent inconsistencies.

**Mr. Campbell** understood the amendment on page 9 would mean at the May PSAC meeting, City staff would present the draft funding recommendation. The rest of that bullet and the next would be stricken. The final bullet would be "at the next available City Council meeting within 30 days of receipt of the draft funding recommendation: PSAC for a funding recommendation to City Council for final action."

**Councilor Chaimov** said that was consistent with the rest of his motion and would like to incorporate that.

**Councilor Stone seconded the motion.**

**Councilor Stone** understood staff would forward the list of recommended projects based on the ranking criteria to PSAC, and that if PSAC wanted to reprioritize that it would within 30 days get that recommendation to the City Council for final action with its sound reasons for making its proposals.

**Councilor Chaimov** responded that was the intent of the motion.

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

**RESOLUTION 83-2010:**

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

**B. Reinstate the Prohibition of Recreational Vehicles Parking in the Right-of-way in Residential Areas – Ordinance**

**Mr. Salyers** provided the staff report. He requested adoption of the ordinance that created a new code section 10.20.060D and amending sections 10.04.320 and 10.04.380 regarding parking of recreation vehicles and private pleasure crafts and the definitions of right-of-way and street. The City Council adopted Ordinance 2015 on May 18, 2010 which dealt with the off-street parking code. In doing so the on-street portion

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was left out of the appropriate code section. The action before the City Council was essentially a housekeeping measure. The definitions of right-of-way and street were amended to help enforce the code.

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 creating a new Milwaukie Municipal Code Section 10.20.060D and amending Sections 10.04.320 and 10.04.380 regarding parking of recreational vehicles and private pleasure crafts, amending the definition of "right-of-way" and "street". Motion passed with the following vote: Councilors Stone, Loomis, Barnes and Chaimov and Mayor Ferguson voting 'aye.' [5:0]

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

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

**ORDINANCE NO. 2021:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CREATING A NEW CODE SECTION 10.20.060D AND AMENDING SECTIONS 10.04.320 AND 10.04.380 OF THE MILWAUKIE MUNICIPAL CODE REGARDING PARKING OF RECREATIONAL VEHICLES AND PRIVATE PLEASURE CRAFTS, AMENDING DEFINITIONS OF "RIGHT-OF-WAY" AND "STREET."**

**B. City Manager Report**

Mr. Monahan discussed possible goal setting dates, and the Mayor and Council consulted their calendars.

**C. Council Reports**

Mayor Ferguson announced upcoming community events.

**ADJOURNMENT**

It was moved by Mayor Ferguson 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 9:56 p.m.

Respectfully submitted,



Pat DuVal, Recorder

# REGULAR SESSION

**REVISED**  
**AGENDA**

**MILWAUKIE CITY COUNCIL**  
**NOVEMBER 16, 2010**

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**2090<sup>th</sup> MEETING**

**REGULAR SESSION – 7:00 p.m.**

1. **CALL TO ORDER**  
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS** 1
  - A. **Milwaukie High School Student of the Month Kyle Adams**
  - B. **Recognize Teresa Bresaw for Her Service to the Community on the Planning Commission**  
Staff: Katie Mangle, Planning Director
  - C. **Construction Update for Jackson Street Improvement Project** 2  
Staff: Zachary Weigel, Civil Engineer & Young Park, TriMet
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.)* 25
  - A. **City Council Regular Session Minutes of August 17, 2010** 26
  - B. **City Council Regular Session Minutes of September 7, 2010** 31
  - C. **Authorization to Purchase Replacement Vehicles – Resolution** 33
  - D. **Consent for Clackamas County to Continue to Provide Dog Control and Licensing -- Resolution** 38
  - E. **Authorize a Lien in the Amount of City Costs for Abating the Nuisance on the Real Property owned by AAC REOCO 2008-1 LLC – Resolution** 62-1
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. **Continue Milwaukie Municipal Code Amendments 19.321.7 and 19.321.3 – Ordinance**  
Staff: Bill Monahan, City Manager
  
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.)* **63**
  - A. **Walk Safely Milwaukie Program Launch and Amendments – Resolution** **64**  
Staff: Alex Campbell, Resource and Economic Development Specialist
  - B. **Reinstate the Prohibition of Recreational Vehicles Parking in the Right-of-way in Residential Areas – Ordinance** **83**  
Staff: Tim Salyers, Code Compliance Coordinator
  - C. **City Manager’s Report**
  - D. **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 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.

**Stauffer, Scott**

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**From:** jh6432@comcast.net  
**Sent:** Tuesday, November 16, 2010 10:56 AM  
**To:** Milwaukie OCR  
**Subject:** For City Council November 16th Regular session RE: WSMP  
**Attachments:** Letter to City council for November 16 regular session.docx

Please have this letter entered into the record for this evenings meeting.

Thanks

Nick Harris  
971-244-3334

Milwaukie City Council meeting

regular session for November 16, 2010

RE: Walk Safe Milwaukie

Nick Harris

9831 SE Stanly Avenue

Milwaukie OR 97222

Mayor Ferguson and the City Council of Milwaukie,

Mr. Mayor and respected Counsel Members, I am writing today as a scheduling conflict prevents me from being able to attend this evenings meeting.

Over the last several weeks I have listened to, read and participated in, a number of conversations regarding the proposed Walk Safely Milwaukie program and I find that I share the concerns that have been expressed by a number of our NDA leaders and members of the PSAC committee. Among the complaints I have heard and that I share, a couple that seem to get repeated frequently are; Requiring NDA leaders to make even further sacrifices of personal time for things such as signature gathering, and the evaluation of projects based on how new the leadership of a particular NDA is. While I understand the spirit of this it also alienates those that have been complaining about needed improvements for years. It almost looks like staff trying to get dedicated volunteers to quit.

There is a large group that is feeling that this plan has been 'crammed down the throats' of PSAC and NDA's by convincing PSAC that if they did not act that we would miss an opportunity. My review of the timelines there is time to require the staff to go back to PSAC and the NDA leaders and work through the issues that have been raised.

I implore the council to do just that, send staff back to PSAC and the NDA's to develop a plan that has broader community support.

Respectfully,

Nick Harris

2.

PROCLAMATIONS,  
COMMENDATIONS,  
SPECIAL REPORTS,  
AND AWARDS



**To:** Mayor and City Council

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

**From:** Zachary Weigel, Civil Engineer

**Subject:** Construction Update for Jackson Street Improvement Project

**Date:** October 22 for November 16, 2010 Regular Session

### **Action Requested**

Provide advice and concurrence with Design Landmarks Committee recommendation on Jackson Street bus shelters selection, design, and installation time frame.

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

**January 2010:** Council approved a budget amendment to fill \$100,000.00 funding gap in Jackson Street Improvement Project from Fund 320. Council approved a Resolution (No. 07-2010) authorizing amendment to project IGA with ODOT, transferring ARRA funds from Linwood Ave. to Jackson Street.

**November 2009:** Council approved a Resolution (No. 73-2009) authorizing an IGA with TriMet to govern Jackson Street Improvement project cooperation and cost share between the City and TriMet.

**April 2009:** Council approved a Resolution (No. 20-2009) authorizing original project IGA between ODOT and the City governing stimulus fund contribution to the project.

**March 2009:** Council approved a Resolution (No. 14-2009) awarding a contract to Harper Houf Peterson Righellis Engineering for design of the Jackson Street Improvement project to ensure project eligibility for federal stimulus funding.

**October 2008:** Work session discussion of the proposed project, which is to dissolve the existing downtown transit center by consolidating and updating bus shelters on Jackson Street, and eliminating bus shelters and bus layover locations of 21<sup>st</sup> Avenue.

**June 2008:** Council approved a Resolution (59-2008) adopting an Umbrella Agreement with TriMet, in which TriMet and the City agreed to create improved Bus Stop Shelter Areas in downtown Milwaukie, using the balance of federal grant funds appropriated for transit improvements in Milwaukie (section 5(b)(ii)).

**May 2008:** Work session discussion of the Umbrella Agreement which contained specific language about making downtown bus shelter improvements at or near the existing transit center location.

**December 2007:** Council adopts the updated Transportation System Plan (Ord. #1975) in which downtown transit center improvements including “improvement of bus stops and shelters consistent with level 3 features” were listed as a high priority project (Table 13-3, pg. 13-10) and which states “*the downtown Transit Center needs to be dissolved, by establishing a bus layover facility somewhere outside downtown and improving bus stop facilities ... that will remain downtown*” (page 7-6).

**April 2007** – Work session update to Council on discussions with the Historic Milwaukie Neighborhood and North Industrial businesses regarding possible layover sites to replace those in use (on-street) at the downtown transit center. The discussion (and related staff report) emphasized the need to retain bus service downtown, and the desire to upgrade TriMet’s facilities, in part by relocating the layover function out of the downtown core.

**December 2006** – Work session discussion to establish the desirability of bus service downtown and the need to “dissolve” the existing transit center. Staff presented four options for moving the layovers out of their current on-street locations.

### **Background**

In March 2009, Council approved a contract with Harper Houf Peterson Righellis to design the Jackson Street Improvement project. The project consolidates downtown bus stops and layover locations on Jackson Street between Main Street and 21<sup>st</sup> Avenue by providing a high capacity bus shelter on each side of the street, and full street width public improvements on Jackson Street in accordance with the Milwaukie Downtown Design Standards. The public improvements include amenities such as the following:

- High capacity bus shelters to accommodate consolidated bus operations
- Wide sidewalks to accommodate high capacity bus shelters

- New concrete roadway
- Curb extensions to improve pedestrian safety
- Natural storm water treatment through use of rain gardens
- Ornamental street furniture, including bike racks, benches, and garbage cans
- Improved street lighting with use of ornamental fixtures
- Undergrounding of overhead utilities
- Sculpture garden

In Spring 2010, the Oregon Department of Transportation (ODOT) awarded the Jackson Street Improvement project to Civil Works NW for construction and Harper Houf Peterson Righellis for construction engineering. Construction of the Jackson Street project began in June 2010 and is currently nearing completion. The public improvements as part of the Jackson Street project have been completed with the exception of the street lighting, decorative bollards, and landscaping, which are scheduled for completion by November 24<sup>th</sup>. Space has been provided on Jackson Street to install two high capacity bus shelters. The bus shelters will be constructed under a separate contract that will be managed by TriMet with support from City staff.

Through the course of construction, added work and changes in scope have increased the project budget. Prior to the start of construction, the bid amount for construction totaled approximately \$713,000, excluding contingencies. The bid amount included \$517,000 for construction and \$196,000 for construction engineering. In July 2010, staff became aware of additional American Recovery & Reinvestment Act (ARRA) funding that became available. Staff requested and received an additional \$137,000 in ARRA funding to cover the increase construction and construction engineering costs associated with the Jackson Street Improvement project. At the time the additional funding was requested, the total estimated construction costs had increased to \$850,000. The major items that the additional funding was to pay for include the following:

- Additional Construction Engineering - \$17,500
- Curbing Missing for Bid Schedule - \$17,400
- Additional Road Reconstruction (21<sup>st</sup> Avenue) - \$17,100
- Subgrade Stabilization - \$16,500
- Additional Flagging for Traffic Control - \$12,700
- Storm Manholes - \$11,000
- Base Aggregate for Sidewalks & Curb - \$10,800
- New Fire Hydrant Assembly - \$6,000
- Additional Signage for Traffic Control - \$5,500
- Additional Roadway Lighting - \$5,400

The most recent cost estimate for the Jackson Street project was completed on October 12, 2010 and predicts a final construction cost below the \$850,000 estimate. If these costs hold true, construction of the Jackson Street project will be entirely funded through ARRA and TriMet, with no cost to the City.

On October 12<sup>th</sup>, TriMet informed City staff that the high capacity bus shelter designer and manufacturer, Trueform Engineering, has gone into receivership, closing its U.S. operations. As a result, Trueform will not be able to fulfill its contractual obligations to provide bus shelters for the Jackson Street project. This unexpected news of the Trueform Engineering closing its U.S. operations means that an alternate high capacity bus shelter design must be selected for the Jackson Street project.

Early in the Jackson Street Improvements design process, the Milwaukie Design Landmarks Committee (DLC), after considering and evaluating a number of bus shelter designs, selected the Trueform high capacity bus shelter. As part of the selection process, the DLC selected another bus shelter design in the event the Trueform shelter became too expensive or was not available. The “Plan B” bus shelter selected was the TriMet cantilevered high capacity bus shelter. See Attachment #2 for additional information regarding the selection the Trueform and TriMet bus shelters for the Jackson Street Improvement project.

On October 27<sup>th</sup>, the Milwaukie Design Landmarks Committee (DLC) met and made a recommendation to City staff on the type of high capacity bus shelter to design and install at Jackson Street. The options before the DLC are to move forward with the “Plan B” bus shelter design, the TriMet cantilevered high capacity bus shelter, or pursue a new bus shelter design. Selection of either option will have design, cost, and schedule implications on completion of the Jackson Street Bus Shelters project. See Attachment #1 for a summary of project implications based on the selection of each bus shelter design.

Regardless of the final bus shelter design, TriMet will transfer bus operations to Jackson Street beginning on December 5, 2010. While the selected bus shelters are being designed/manufactured, TriMet will install temporary bus shelters at the two locations on Jackson Street prior to transferring bus operations. The temporary bus shelters will consist of one or two of the standard TriMet bus shelters and will remain in place until the final bus shelters are ready for installation.

### **Concurrence**

TriMet has reviewed the selected options for a high capacity bus shelter design before the Milwaukie Design Landmarks Committee (DLC) and agrees to support either option. Engineering, Community Development, and Planning staff support the DLC recommended high capacity bus shelter design for Jackson Street.

### **Fiscal Impact**

The high capacity bus shelters as part of the Jackson Street Improvement project are being funded through TriMet. City funds will not be expended as part of the high capacity bus shelters design and installation.

### **Work Load Impacts**

Community Development, Planning, and Engineering staff will continue to coordinate the bus shelter design and construction efforts with TriMet. Selection of a new bus shelter design as opposed to using the TriMet cantilevered bus shelter will take more staff resources due to the additional selection and design work, but can be accommodated within existing workloads.

### **Alternatives**

1. Direct staff to move forward TriMet cantilevered bus shelter for installation on Jackson Street.
2. Direct staff to pursue a new bus shelter design for the Jackson Street Bus Shelters project.

### **Attachments**

1. Bus Shelter Design Selection Project Implications Summary.
2. Milwaukie Design Landmarks Committee Staff Report for October 27, 2010.
3. Design and Landmarks Committee Draft Meeting Notes from October 27, 2010.

## ATTACHMENT 1

Summary of Shelter Selection Recommendation			
Alternatives	Design Implications	Cost Implications	Schedule Implications
<b>Select TriMet Cantilevered Shelter</b>	<ul style="list-style-type: none"> <li>• DLC selected as “back-up” shelter in 2009.</li> <li>• Simple, high-quality design.</li> <li>• DLC will advise on customized details.</li> <li>• Plans and final products exist and are well-understood.</li> </ul>	Minimal	<ul style="list-style-type: none"> <li>• No impact to streetscape project. Bus stops and street would open on schedule, in December.</li> <li>• Final shelter foundation would be constructed with the rest of the sidewalk in November.</li> <li>• Shelter installation delayed by 3 months.</li> <li>• No future closure of bus stops.</li> </ul>
<b>Seek Other Shelter Design</b>	<ul style="list-style-type: none"> <li>• Potential to find another unique shelter.</li> </ul>	<ul style="list-style-type: none"> <li>• Additional cost to design custom shelter.</li> <li>• Additional cost to construct temporary and final shelter foundation.</li> </ul>	<ul style="list-style-type: none"> <li>• No impact to streetscape project. Bus stops and street would open on schedule, in December.</li> <li>• Temporary (asphalt) shelter foundation would be constructed with the rest of the sidewalk in November.</li> <li>• Permanent shelter foundation and shelter installation would be delayed by 6-10 months.</li> <li>• Final construction and installation would require bus stop closure and impact circulation.</li> </ul>

## ATTACHMENT 2



# MILWAUKIE

*Dogwood City of the West*

**To:** Design and Landmarks Committee  
**From:** Katie Mangle, Planning Director  
**Date:** October 20, 2010, for October 27, 2010, Worksession  
**Subject:** Jackson Street Bus Shelter Project Update

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### **ACTION REQUESTED**

Review the staff recommendation to select an alternative bus shelter design, and advise staff how to customize the shelter for the downtown Milwaukie location. This action would advise the City Engineer to approve placement of this shelter type in the public right-of-way.

### **BACKGROUND INFORMATION**

The City and TriMet have worked closely over the past two years to design a new streetscape on Jackson St between Main St and 21<sup>st</sup> Ave, to replace the tired facilities known as the Milwaukie Transit Center. In addition to extensive pedestrian amenities, the project will feature two new, high-quality bus shelters. The Jackson Street project, which is now under construction, will eliminate the other bus stops and bus layover locations in the existing transit center area, and construct full streetscape improvements on Jackson St. See Attachment 1 for an illustration of the streetscape design.

Based largely on the DLC's recommendation, as well as feedback received at a March 2009 public open house, TriMet selected the Discovery shelter for the Jackson Street project. The Discovery shelter was originally designed for a streetscape project in Dundee, England. Over the past year, City staff have worked closely with TriMet staff to refine the design of the shelters to meet the Milwaukie project's needs and budget. Though the shelter was scheduled to be installed next month, TriMet recently learned that the company will not fulfill its contractual obligation to deliver the Discovery shelter.

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

- **June 24, 2009:** DLC reviewed three shelter options presented by staff and recommended that the City and TriMet select the Discovery shelter as the high capacity bus shelter for the Jackson Street improvement project. The committee listed TriMet's cantilevered glass shelter as a second choice.

- **October 15, 2009:** Staff briefed the committee on progress made on the final design of the shelter. The DLC authorized Chair Ives to sign a letter to TriMet in support of the agency's decision to contract with TrueForm to manufacture a Discovery shelter specifically for Milwaukie.
- **July 28, 2010:** The DLC provided input on aspects of the final design of the Discovery shelter, including roof color and plinth wall design. These preferences were incorporated into the final plans for the Discovery shelter, which was scheduled to go into production in October 2010.

## JACKSON STREET SHELTER SELECTION

### Selection and Loss of the Discovery Shelter

In 2009, the DLC made a recommendation that TriMet pursue the Discovery shelter. Project staff prepared for the DLC meeting by conducting a thorough review of high capacity shelters available on the market. The review included "off the shelf" products, those available in TriMet's inventory, and feasible custom-designed options. Following this review, staff concluded that there were three recommended options.

Of the three options identified by staff, the DLC's conclusion at the end of the discussion was documented in the meeting notes as follows:

"A lot of interest existed in the TrueForm shelter and how it could be customized. The cantilever shelter would be a good "Plan B" choice, especially if issues arose with the TrueForm shelter.

If the cantilever shelter were chosen, the north Jackson St shelter would have two columns and the south Jackson St bus shelter would have one column. The cantilever shelter would meld easily with the surrounding environment and would match Dark Horse very well. TriMet would ask if the color of the rafters could also be changed with powder-coating."<sup>1</sup>

TriMet had worked with TrueForm to develop final design plans for the Discovery shelter, and until recently had confirmation that the shelter would be delivered as promised. Just as the shelter was due to go into production to meet a November installation deadline, TriMet learned that the company's US division has gone into receivership and would not be fulfilling its outstanding contractual obligations. The unexpected news of the closure of the TrueForm US office means that TriMet must select an alternate shelter for the Jackson Street project.

Despite the disappointing news, the Jackson Street project will be completed with two new, high-capacity bus shelters that provide the same amenities as would be featured in the TrueForm shelters (LED lighting, flat panel real time display, windscreen, leaning rail, seating, graffiti resistance, etc.). What will change as a result of TrueForm's bankruptcy is the look and design of the new shelters, and the installation date. In the *best* case, the newly selected shelters will be installed 3 months late (March 2011 vs. December 2010).

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<sup>1</sup> Minutes for the June 24, 2009, DLC meeting, Page 2

**Revised Shelter Selection Recommendation**

City and TriMet project staff have discussed the options available for the Jackson Street project, and are seeking the DLC’s concurrence with the staff recommendation. Project staff recommends procurement of the TriMet Cantilevered shelter, for reasons that involve not only the design of the structure itself, but also the design and construction of the shelter’s foundation. See Attachment 2 for illustrations of the Cantilevered shelter design.

The options are summarized in the following table:

<b>Summary of Shelter Selection Recommendation</b>			
<b>Alternatives</b>	<b>Design Implications</b>	<b>Cost Implications</b>	<b>Schedule Implications</b>
<b>Select TriMet Cantilevered Shelter</b>	<ul style="list-style-type: none"> <li>• DLC selected as “back-up” shelter in 2009.</li> <li>• Simple, high-quality design.</li> <li>• DLC will advise on customized details.</li> <li>• Plans and final products exist and are well-understood.</li> </ul>	Minimal	<ul style="list-style-type: none"> <li>• No impact to streetscape project. Bus stops and street would open on schedule, in December.</li> <li>• Final shelter foundation would be constructed with the rest of the sidewalk in November.</li> <li>• Shelter installation delayed by 3 months.</li> <li>• No future closure of bus stops.</li> </ul>
<b>Seek Other Shelter Design</b>	<ul style="list-style-type: none"> <li>• Potential to find another unique shelter.</li> </ul>	<ul style="list-style-type: none"> <li>• Additional cost to design custom shelter.</li> <li>• Additional cost to construct temporary and final shelter foundation.</li> </ul>	<ul style="list-style-type: none"> <li>• No impact to streetscape project. Bus stops and street would open on schedule, in December.</li> <li>• Temporary (asphalt) shelter foundation would be constructed with the rest of the sidewalk in November.</li> <li>• Permanent shelter foundation and shelter installation would be delayed by 6-10 months.</li> <li>• Final construction and installation would require bus stop closure and impact circulation.</li> </ul>

**Recommendation : TriMet Cantilevered Shelter**

Based on the DLC’s recommendation that the TriMet Cantilevered shelter be the back-up design, staff is recommending that the City direct TriMet to finalize design features and procure a version of this shelter for the Jackson Street project. The Cantilevered shelter represents TriMet’s best design and quality materials. Additionally, because the designers and fabricators who created this shelter recently produced them for the downtown Portland transit mall project, delay to the Milwaukie project would be minimized.

Staff believes the cantilevered shelter would complement the Jackson St streetscape, adjacent City Hall building, and new sculpture garden. Additionally, elements of the shelter would be customized for the Milwaukie site.

These elements may include:

- Color of the benches and roof structure. To retain custom features unique to City of Milwaukie, the stainless steel rafters could be galvanized and painted silk grey.
- Glass glazing on the roof - could be a custom tint.
- Bench selection.
- Wind screen etching and placement. The laminated patterns in the windscreen could be configured to coordinate with the modern shelter design style.

The cantilevered shelter option would minimize disruption to transit customers and downtown circulation, because the foundation could be poured in November as the contractor completes the new sidewalks. Design and manufacturing of the shelters could begin immediately, and could be installed in March. Selecting the TriMet cantilevered shelter would not only follow the DLC's original recommendation, but also would also minimize delay, impact to the public, and project expense.

#### **Alternative: Seek Other Options**

An alternative to choosing the TriMet cantilevered shelter design would be to start over with the development of a custom shelter for the Jackson Street site. This may be a viable option, as there are other companies and shelter designs that could work for the Jackson Street and meet project budget. However, since this would require a new search for alternatives and additional shelter design, it would add at least 6-10 months to the schedule. The foundation upon which a shelter sits is closely related to the structure of the shelter itself. Therefore, the foundation can not be constructed until a shelter design is selected.

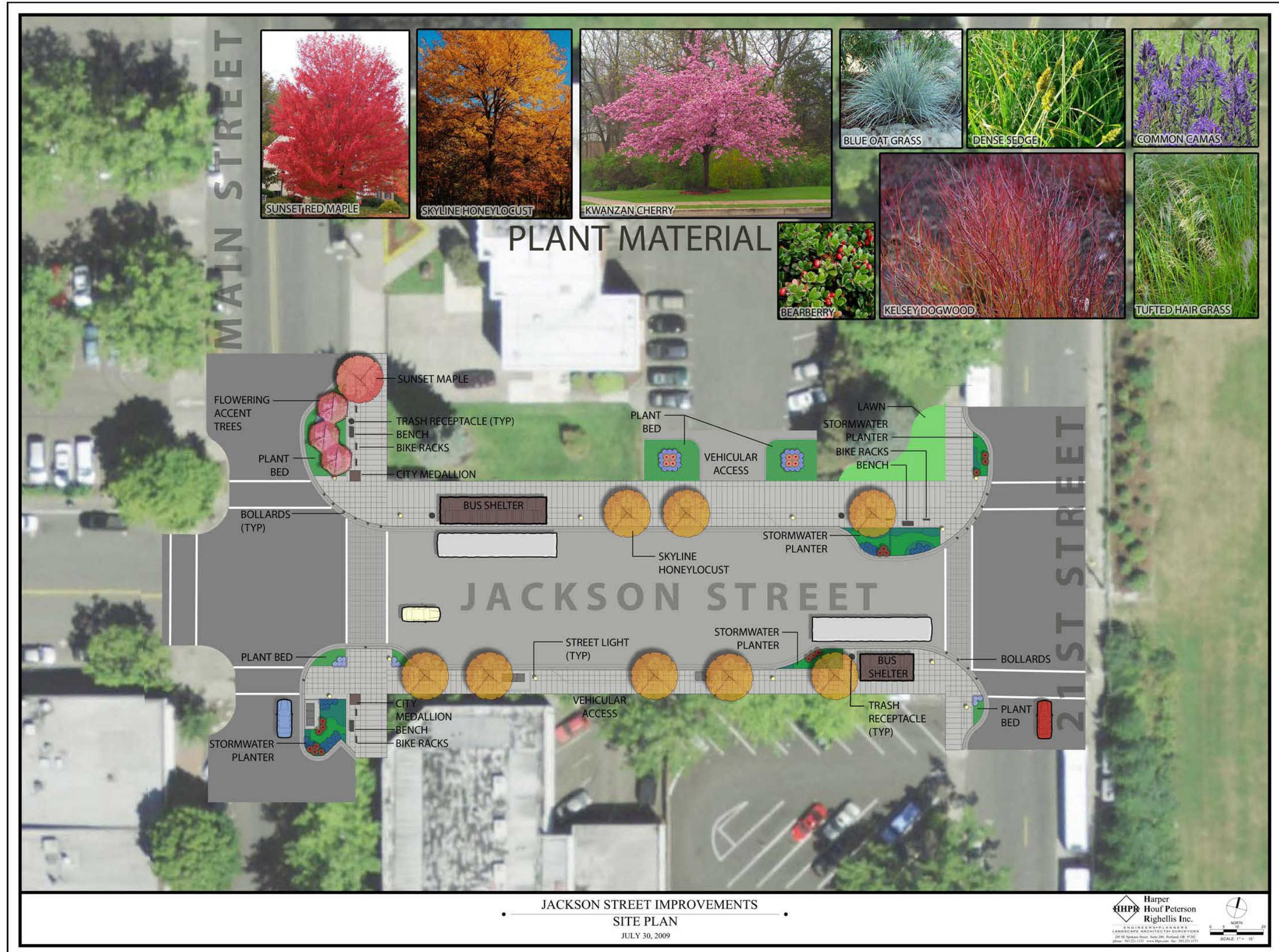
Choosing to start over with the shelter selection process would have the following implications to the completion of the Jackson Street project:

- Uncertainty about the shelter design would delay the contractor's ability to construct the shelter foundation and complete the sidewalks on Jackson Street.
- A temporary or concrete surface (and temporary shelters) would be constructed in November 2010
- The permanent shelter foundation would be constructed in the late spring or summer, when the shelter fabrication is complete and ready to be installed. This would cause a short-term disruption to bus routing and street usage.

#### **ATTACHMENTS**

1. Jackson Street site plan
2. Cantilevered shelter design

ATTACHMENT 2 - EX A



JACKSON STREET IMPROVEMENTS  
SITE PLAN  
JULY 30, 2009

**Harper Houff Peterson Righellis Inc.**  
 ENGINEERS PLANNERS  
 LANDSCAPE ARCHITECTS SURVEYORS  
 205 SE Spokane Street, Suite 200, Portland, OR 97202  
 Phone: 503.231.1111 www.hhp.com Fax: 503.231.2171

SCALE: 1" = 10'



MAIN STREET

FUTURE ANGLED PARKING

POTENTIAL SCULPTURE GARDEN

POTENTIAL PARKING LOT RE-STRIPING

REMOVE SHELTER AND BUS STOPS, REVEGETATE

LAYOVER FOR UP TO THREE BUSES

NEW CURB EXTENSIONS WILL REDUCE CROSSING DISTANCE FROM 56' TO 40'

21 ST STREET

BUS LAYOUT AND STOPS REMOVED; NEW ON-STREET PARKING

WIDEN SIDEWALK FROM 10' TO 18'

DROP-OFF / PICKUP FOR UP TO TWO BUSES

ORNAMENTAL LIGHTING

CONCRETE STREET

JACKSON STREET

LAYOVER FOR UP TO TWO BUSES; PARKING REMOVED

ORNAMENTAL LIGHTING

DARK HORSE LOADING ACCESS AND PARKING RETAINED

JACKSON STREET IMPROVEMENTS

RS PAGE 13

JULY 30, 2009

**HHP** Harper Houf Peterson Righellis Inc.  
 ENGINEERS • PLANNERS  
 LANDSCAPE ARCHITECTS • SURVEYORS  
 201 SE Spokane Street, Suite 200, Portland, OR 97202  
 phone: 503.221.1131 www.hhp.com fax: 503.221.1171

NORTH  
 0 5 10 20  
 SCALE: 1" = 10'

ATTACHMENT 2 - EX B

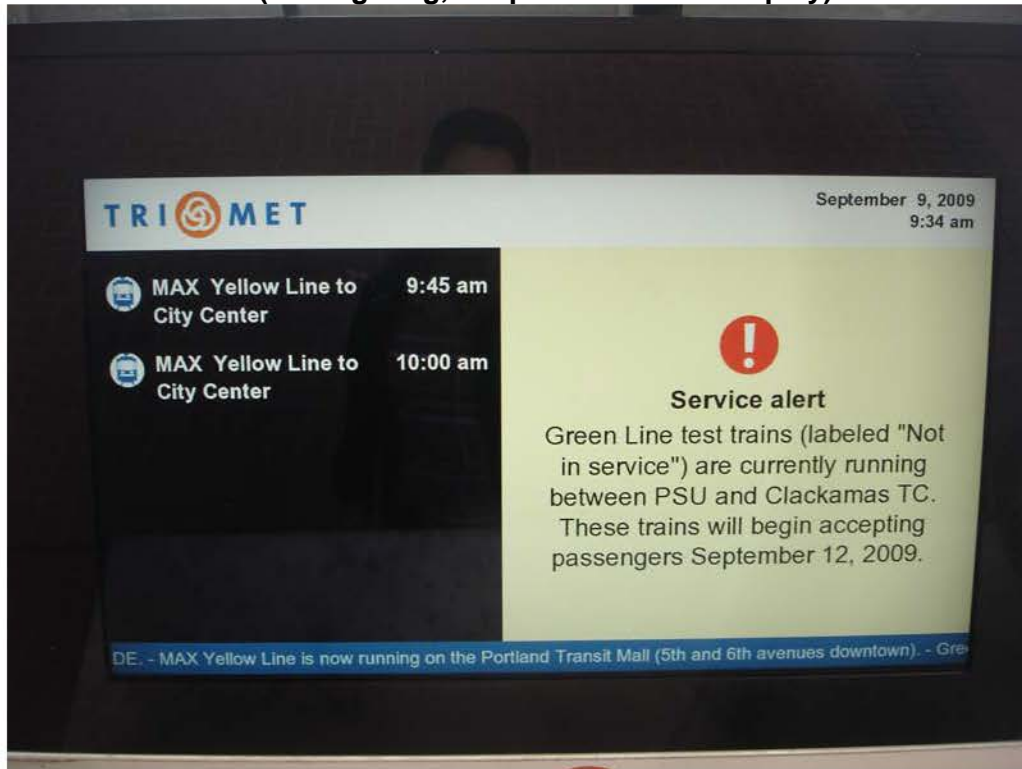
TriMet Cantilevered Glass Shelter, Type 1B



TriMet Cantilevered Shelter, Type 1BS

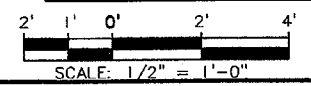
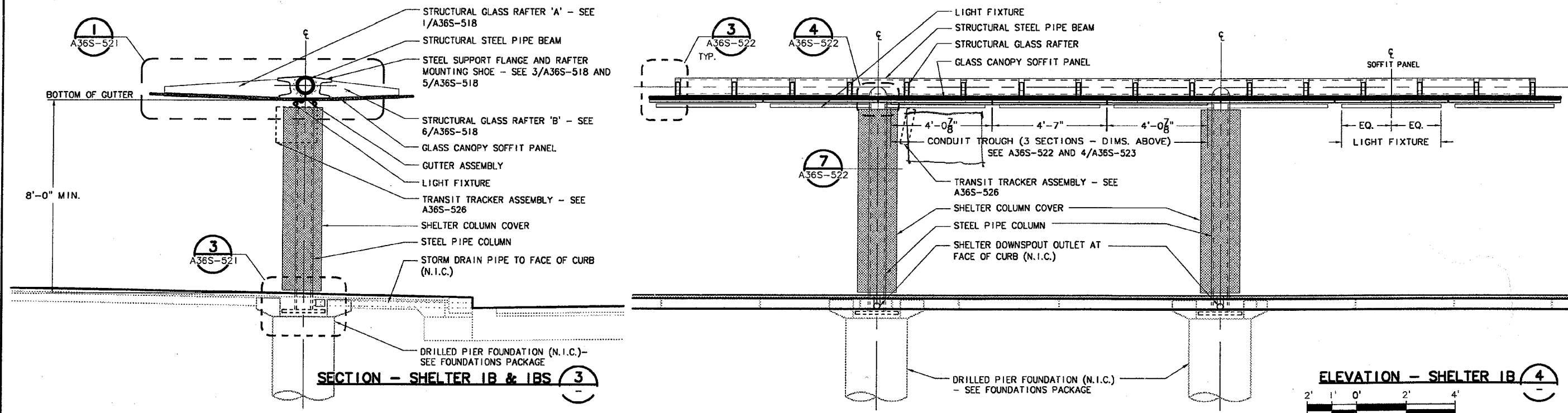
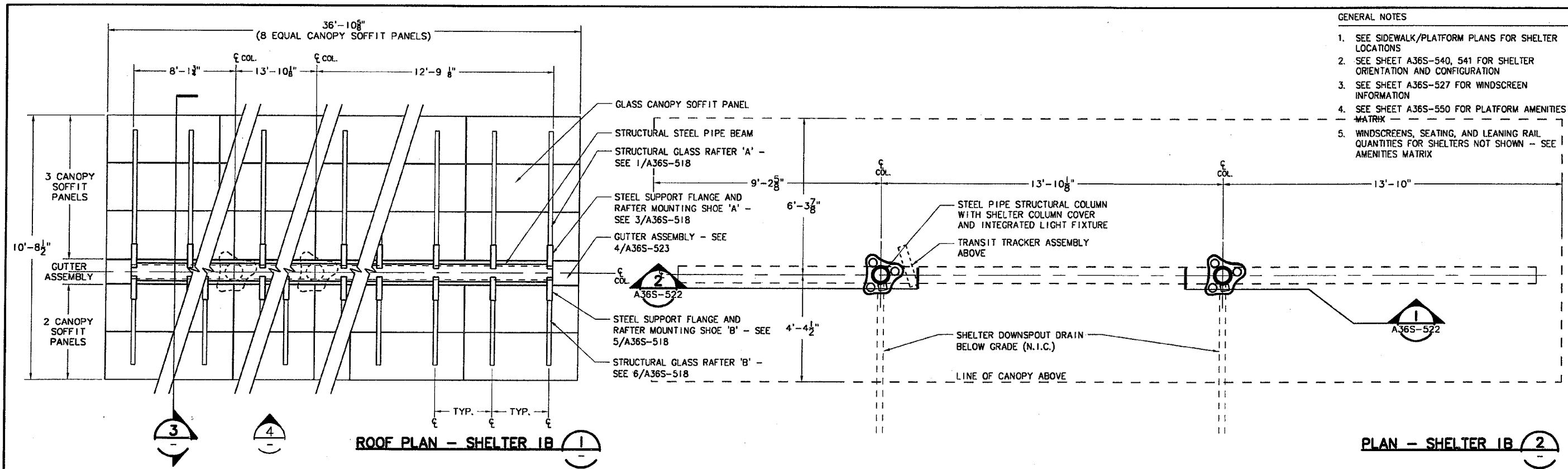


Shelter amenities (LED lighting, flat panel real time display)



GENERAL NOTES

1. SEE SIDEWALK/PLATFORM PLANS FOR SHELTER LOCATIONS
2. SEE SHEET A36S-540, 541 FOR SHELTER ORIENTATION AND CONFIGURATION
3. SEE SHEET A36S-527 FOR WINDSCREEN INFORMATION
4. SEE SHEET A36S-550 FOR PLATFORM AMENITIES MATRIX
5. WINDSCREENS, SEATING, AND LEANING RAIL QUANTITIES FOR SHELTERS NOT SHOWN - SEE AMENITIES MATRIX



2007 8:26:13 AM, lorteb  
 C:\Users\lorteb\Documents\Architectural\A36S-501.dwg  
 3/2/07 RRS GSB ISSUED FOR SHELTER RFP  
 03/01/07 GSB APPROVED  
 03/02/07 TG DRAWN  
 02/23/07 RRS CHECKED  
 02/10/07 GS DESIGNED

GS DESIGNED 02/10/07 DATE				TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT OF OREGON				SOUTH CORRIDOR PROJECT PORTLAND MALL SEGMENT SHELTER IB PLAN/SECTION/ELEVATION			
TG DRAWN 02/23/07 DATE				ZIMMER GUNSUL FRASCA ARCHITECTS LLP Architecture/Planning/Interior Design Portland Seattle Los Angeles Washington, D.C. New York				CAPITAL PROJECTS AND FACILITIES DIVISION 710 N.E. HOLLADAY STREET PORTLAND, OREGON 97232			
RRS CHECKED 02/26/07 DATE				TRI MET				SCALE: 1/2" = 1'-0"			
GSB APPROVED 03/01/07 DATE				SUBMITTED: 03/02/07				DRAWING NO.: A36S-501			
NO. DATE BY APPD. REVISIONS				DATE: 03/02/07				CONTRACT NO.: RH070389BW			
				APPROVED: 03/02/07				SHEET NO.:			



**Design and Landmarks Committee (DRAFT)  
Meeting Notes  
Wednesday, October 27, 2010**

**Members Present**

Becky Ives, Chair  
Patty Wisner  
Greg "Frank" Hemer  
Jim Perrault

**Members Absent**

None

**Staff Present**

Katie Mangle, Planning Director  
Zach Weigel, Civil Engineer

**1. CALL TO ORDER**

**Chair Ives** called the Design and Landmarks Committee (DLC) meeting to order at 6:36 p.m.

**2. MEETING NOTES**

**a. September 22, 2010**

**DLC Member Wisner** noted the following correction:

Line 36 stated that a decision had been made at the November 9, 2010, meeting, which had not happened yet. She requested that the date be changed to November 9, 2009.

**DLC Member Wisner moved to approve the September 22, 2010, DLC meeting notes with the requested change. DLC Member Hemer seconded the motion. The notes were approved unanimously.**

**3. INFORMATION ITEMS—NONE**

**4. WORKSESSION ITEMS**

**a. Jackson Street Bus Shelter**

**Katie Mangle, Planning Director**, introduced TriMet staff **Young Park, Capital Projects Manager**, and **Bob Hastings, Agency Architect**. She also introduced **Zach Weigel, Civil Engineer**. TriMet was the general project manager for the Jackson Street project and Mr. Weigel was the City's project manager.

**Ms. Mangle** provided an overview of past DLC discussions about the Jackson Street bus shelter.

- The DLC recommended the Discovery Shelter for the Jackson Street project at their June 24, 2009, meeting.
- The company that produced the Discovery Shelter was going into bankruptcy and the Discovery shelter design, which was supposed to be delivered in December, was no longer available.

- The DLC's second choice in 2009 had been the Cantilevered Glass Shelter. That shelter had been custom designed for TriMet for use in the Portland region.
- Given the need to choose a different high capacity shelter, project staff proposed that the project select the Cantilevered Glass Shelter as an alternative design and requested DLC concurrence. Some elements of the shelter could be customized to reflect Milwaukie's unique character.

**Mr. Park** noted that there were some timeline-driven aspects of the project. The project was in its final stages. On December 5, 2010, buses would begin operation along Jackson St. Some type of temporary shelter would be necessary until permanent shelters could be installed. The type of permanent shelter chosen would determine what type of foundation/base would be poured for the shelter.

**Chair Ives** clarified that, regardless of the choice, the new shelter would be installed after the street was opened to buses.

**Ms. Mangle** agreed and stated that the new shelter needed to be chosen within the following 2 weeks. Once the new shelter was chosen, the proper foundation and infrastructure would be poured to accommodate the new shelter.

- The Committee had the option to recommend that the City choose a custom-designed shelter, which would take approximately a year to select, fabricate, and install. The other alternative, the Cantilevered Glass Shelter, could be installed in 3 months or so—approximately February or March 2011.
- **Mr. Park** noted that in order to install a custom shelter, the temporary foundation would need to be removed and a new foundation poured. Buses would need to be rerouted and there would be a disruption in service.

**Ms. Mangle** clarified that the new bus stops would be functional in early December 2010. The permanent shelters would be installed either in February/March 2011, in the case of the Cantilevered Glass Shelter, or November/December 2011, in the case of a custom shelter.

**Mr. Hastings** presented drawings of the Cantilevered Glass Shelter. The shelter on the north side of Jackson St was larger, to accommodate greater rider demand, and the shelter on the south side was smaller.

- The Discovery Shelter had the attributes of a low, modern style; transparency so people could see in; and weather protection. The Cantilevered Glass Shelter was a kit of parts, so pieces could be added or removed as desired. The wind screens could be configured in many different ways and could have unique designs.
- The Cantilevered Glass Shelter was intended to be durable and the parts were easily replaceable. The canopy was a clear, tempered glass and was very strong. The wind screens were freestanding but supported themselves on the concrete, so they could be positioned wherever desired.
- Circulation for people getting on and off the bus was a concern, so the windscreens were located so as not to interfere with those movements. Many people got off of the bus and check the transit tracker display to determine whether they would wait inside or outside of the bus shelter.
- People did not like to be right next to others; they looked for ways to be adjacent but a little bit separated. Providing a variety of protected areas allows for rider comfort.

- Windscreen location could be very site-specific and could respond to the winds coming through downtown Milwaukee.

**Mr. Park** discussed the design of the shelter benches. He suggested using the same benches that had been planned for the Discovery Shelter. The benches could be installed in pairs or multiples.

- Typical bus shelters had openings in the front. Typical prevailing wind was expected to be from east to west, and wind screens would be oriented to accommodate those patterns.

**Ms. Mangle** stated that once the shelter design was chosen, more site-specific wind pattern analysis could be conducted.

**Mr. Park** continued his presentation. The dimensions of the Cantilevered Glass Shelters were comparable to the dimensions of the Discovery Shelters. The small shelter (with either design) was about half the size of the large shelter.

**Ms. Mangle** noted that in both designs, the lighting was integrated into the structure. On the Cantilevered Glass Shelters, the columns would be internally lit at night and used LED lights, which were energy efficient. There would be pedestrian-scale lighting along the street, and the shelter would have a glow.

**Mr. Hastings** added that illumination greatly affects the feeling of safety and security for riders. The glass roof was treated with a shade co-efficient to cool the waiting area during the day.

**Chair Ives** asked if the wind screens would have a design.

- **Mr. Hastings** responded that there would be a design of some kind; likely not pictorial, but a pattern of some sort. Too much pattern could block vision of what is going on inside or outside of the shelter. The wind screens were easily replaceable if they were vandalized.

**DLC Member Perrault** clarified that the custom-patterned wind screens could be fabricated for installation in February/March.

**DLC Member Hemer** clarified that the Cantilevered Glass Shelter was modular and it would be easy to repair or replace parts as needed, and asked whether the plinth wall would still be installed, and whether the columns needed to be gray.

- **Ms. Mangle** replied that the plinth wall was no longer needed because the Cantilevered Glass Shelter was more adjustable than the Discovery Shelter, and would be installed directly into the concrete.
- **Mr. Hastings** stated that the columns were stainless steel covered with a polycarbonate mesh with lighting behind it; it was expensive but very durable. The rafters were made out of stainless steel as well. The stainless steel could be cleaned more easily than paint. There was a structural steel assembly that would be painted, and the Committee could choose a color.

**DLC Member Hemer** asked whether the honey locust trees to be planted adjacent to the shelters would drop seeds onto the shelter.

- **Chair Ives** noted that she had suggested zelkova trees as an alternative to the honey locust trees.

**Ms. Mangle** reviewed the customizable components of the Cantilevered Glass Shelters: the wind screen patterns; the color of the steel structural beam; and the type and placement of benches and leaning rails.

- The wind screens are laminated plastic with silk screened designs baked into the center of the plastic panels. The design could be colored or neutral.
- The steel structural beam could be painted the color the Committee had chosen for the Discovery Shelter roof.
- The Committee could choose whether and where leaning rails would be installed and the style and number of benches.

**Ms. Mangle** requested Committee support of the staff proposal to choose the Cantilevered Glass Shelter for the Jackson Street project.

**DLC Member Wisner** stated that she felt the shelter design was acceptable as long as the prevailing winds were considered in the placement of the wind screens.

**DLC Member Hemer moved to support the staff recommendation for the Cantilevered Glass Shelter. DLC Member Perrault seconded. The motion was approved unanimously.**

**Ms. Mangle** stated that staff would investigate design options for the benches and windscreens, and communicate with the DLC via email over the coming month. A special meeting could be set to discuss these options, if desired by the committee members.

#### **b. Design Review procedures discussion**

**Katie Mangle, Planning Director**, provided an overview of previous discussions about the City's design review procedures and the role of the DLC.

- The Planning Department was in the midst of a "development review tune-up", which would update the City's development review procedures and processes. There was some duplication of staff effort and confusion about public notice requirements in the design review process.
- The City's goal was to streamline the process, utilize the Committee as effectively as possible, utilize City resources as effectively as possible, and make sure design review was effective and resulted in better projects.
- Currently, the DLC was an advisory group to the Planning Commission for design review. It did not have a formal role in historic resources review, but staff practice had been to bring those applications before the DLC as well.
- Currently, the DLC is only involved in design review as part of a minor quasi-judicial application.
- Staff direction was to look at all alternatives, from recommending abolishing the DLC to recommending the DLC become a commission. Staff was recommending a middle ground, which was to suggest making the DLC an advisory committee to the Planning Director. That option would allow the DLC to get involved much earlier in the process, would free the Committee up to have more creative conversations about the application, and would reduce duplication of staff effort.
- There was no design review process in place for commercial buildings outside of downtown; those projects went straight to a building permit. As part of the tune-up

project, the City would create a development review application. The next step would be to adopt design standards for residential and commercial development.

**DLC Member Hemer** agreed that the DLC would have more influence if they were involved from early on in the project, perhaps at 20 percent design rather than 70 percent design.

**Chair Ives** agreed and added that the DLC should retain the ability to influence projects that come before it.

**Ms. Mangle** clarified that as an advisory group, the applicant would be required to meet with the DLC but that it would be a public meeting rather than a public hearing. The DLC would make recommendations to the Planning Director rather than the Planning Commission.

- As an advisory group, meetings with the applicant could happen earlier in the process and could be more informal.
- DLC members have expressed frustration at seeing projects so late in the design process and its limited ability to make adjustments to the design.

**DLC Member Wisner** clarified that as an advisory group, the applicant would meet with the DLC earlier in the process and asked what the role of the DLC would be in later stages of the project.

- **Ms. Mangle** stated that the role of the DLC would depend on the complexity of the project. Some projects might need only one meeting with the DLC; some might need additional meetings.

**DLC Member Wisner** clarified that the DLC would no longer recommend findings and conditions to the Planning Commission.

- **Ms. Mangle** explained that the meetings would be informal and the Planning staff would integrate the DLC's suggestions into the staff report for the Planning Commission. Staff would not prepare findings for the DLC. This would allow staff to more comfortably meet the State's 120-day land use decision deadline.

**DLC Member Wisner** noted that she should find the staff findings very helpful because she looked to the Planning Department to be the experts regarding the criteria to be met. Staff sends up the red flags about what the DLC should review. She questioned whether the DLC would be able to do its job as well without that level of information.

**DLC Member Hemer** noted that the DLC is currently advisory to the Planning Commission but did not have the final say about whether to approve a project. Meeting with applicants earlier in the process would allow the DLC to provide more input regarding color, details, and other design features.

**DLC Member Wisner** expressed concern that the role of the DLC in the design review process had not yet been defined and suggested that the DLC remain an advisory committee to the Planning Commission but add a meeting earlier in the process.

**Ms. Mangle** noted that the City could strongly suggest a meeting with the DLC early in the process, similar to the suggestion to meet with the NDAs.

- The other issue with the process was that design review decisions are generally decided at the DLC meetings even though the code did not contain provisions for public notifications of those meetings.

**Chair Ives** suggested that when a downtown property owner came to the Planning Department with a proposal for a new building, their first stop should be the DLC. Staff should suggest items to present to the DLC so it can comment on the choices.

- Felt rushed by the need to remain within the 120-day clock when the applicant did not present the materials needed for the DLC to make its condition.

**DLC Member Hemer** noted that if the DLC remains advisory to the Planning Committee, they were required to follow the Downtown Design Guidelines and did not have the ability to make comments about specifics of the project. If it was involved earlier in the project, comments and input could be more wide-ranging.

**DLC Member Wisner** noted that the design guidelines are flexible and gave the DLC the responsibility for ensuring that new design was sensitive to Milwaukie's character. Members could use good judgment and discernment to shape projects under review.

- Agreed that the DLC should come in earlier in the process, but would not want to be deprived of staff findings. The findings educated the Committee about the application and allowed them to perform their roles more effectively.

**Ms. Mangle** suggested there may be a simplified version of the findings to provide an outline of how the application met the design standards and guidelines.

**DLC Member Hemer** suggested that a DLC member should attend Planning Commission hearings where design review applications are scheduled and explain the DLC recommendation to the Commission.

**Chair Ives** asked if there was a timeline for making changes to the design review process.

- **Ms. Mangle** stated that the decision about the procedures would need to be made very soon, but there would be another opportunity to review the procedures with the downtown code "refresh" project in 2011. Small clarifications and changes could be made with the development procedures project, such as public notification requirements for DLC meetings.

**DLC Member Hemer** suggested the DLC meet twice per year as a Historic Resources Commission.

- **Ms. Mangle** noted that the DLC does not currently have any role in historic preservation applications, although she did not know why.
- The DLC could act as both the Design and Landmarks Committee, in an advisory design review capacity, and the historic resources commission, as a decision-maker on historic preservation applications.
- **DLC Member Wisner** noted that if they were members of a commission, they would have additional personal reporting requirements.

**Ms. Mangle** stated that she appreciated the discussion, and felt there was more work to do. She would not recommend any change to the DLC's role right now. The Development Review Procedures code amendments would be limited to clarifying the existing process. Staff would send the proposed DLC-related code changes to the Committee before the application moved forward for adoption by City Council.

**5. APPLICATION REVIEW ITEMS—NONE**

**6. OTHER BUSINESS**

**a. Next meeting**

The November 24, 2010, meeting was cancelled.

**Ms. Mangle** suggested the Committee members attend the November 15, 2010, light rail design meeting in lieu of the regularly-scheduled DLC meeting.

The next meeting was to be scheduled via e-mail for early December.

**7. ADJOURN**

The meeting adjourned at 8:45 p.m.

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Becky Ives, Chair

DRAFT

3.

# CONSENT AGENDA

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
AUGUST 17, 2010**

**CALL TO ORDER**

**Mayor Ferguson** called the 2084<sup>th</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 Deborah Barnes, Joe Loomis and Susan Stone

Staff present: City Manager Pro Tem Pat DuVal, City Attorney Bill Monahan, Human Resources Director Cynthia Trosino, Operations Director Paul Shirey, and Interim Finance Director Andy Parks

**PLEDGE OF ALLEGIANCE**

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

**Mayor Ferguson** moved Other Business item A, Approve the 2010 – 2013 Collective Bargaining Agreement between the City of Milwaukie and the American Federation of State, County, and Municipal employees (AFSCME) Local 350-5, Council 75 forward on the agenda.

**Ms. Trosino** reviewed the negotiation process and stated the parties had reached an agreement with a total compensation increase of 1.5% which was included in the adopted budget.

**It was moved by Councilor Barnes and seconded by Councilor Stone to approve the 2010 – 2013 Collective Bargaining Agreement with AFSCME. Motion passed with the following vote: Councilors Barnes, Chaimov, Loomis, and Stone and Mayor Ferguson voting “aye.” [5:0]**

**CONSENT AGENDA**

**Councilor Stone asked to remove item F for discussion.**

**It was moved by Councilor Stone and seconded by Councilor Barnes to approve the consent agenda as modified.**

- A. The City Council minutes of the April 20, 2010 regular session;**
- B. The City Council minutes of the May 4, 2010 regular session;**
- C. Resolution 69-2010: A Resolution of the City Council of the City of Milwaukie, Oregon, amending contract #2006-097 with David Evans and Associates, Inc. for landscape design and engineering services for Milwaukie Riverfront Park to extend the term to September 2011 and increase the compensation by \$100,000 resulting in a “not to exceed” amount of \$750,000;**
- D. Resolution 70-2010: A Resolution of the City Council of the City of Milwaukie, Oregon, reappointing Margaret Anderson to the Public Safety Advisory Committee as the Lewelling Neighborhood District Association Representative; and**

**E. An OLCC application for Pizano's Pizza, 10843 SE Oak Street, change of ownership.**

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

## **AUDIENCE PARTICIPATION**

None.

## **PUBLIC HEARING**

### **A. Continue Milwaukie Municipal Code Amendments 19.321 and 19.321.3**

**City Attorney Monahan** provided a brief staff report on the proposed amendments which applied to community service issues. He recommended continuing the hearing to November 16, 2010.

**It was moved by Councilor Chaimov and seconded by Councilor Stone to continue the hearing to the regular session of November 16, 2010. Motion passed with the following vote: Councilors Barnes, Chaimov, Loomis, and Stone and Mayor Ferguson voting "aye." [5:0]**

## **OTHER BUSINESS**

### **B. Bertman House Lease**

**Mr. Shirey** provided the staff report in which the City Council's approval of a modification of the terms to the lease with New Century Players (NCP) to share the cost of replacing the Bertman House roof was requested. For the first 3 years of the agreement, NCP was able to make the upgrades stipulated in the lease agreement. As a result of declining ticket sales, the organization is unable to make the needed roof repairs and asks the City for its assistance. Mr. Shirey did not believe the City's share would be greater than about \$4,500, and NCP would repay its half over the life of the current agreement which expires May 2011. Mr. Shirey added maintaining a responsible tenant in the building was in the City's best interest.

**It was moved by Councilor Barnes and seconded by Councilor Stone to modify the terms of the lease agreement with New Century Players. Motion passed with the following vote: Councilors Barnes, Chaimov, Stone, and Loomis and Mayor Ferguson voting "aye." [5:0]**

### **C. Budget Actual Report**

**Mr. Parks** covered the highlights of the fourth quarter and 2010 fiscal year-end budget actual report. The overall sense was the City was in a better position than might have been anticipated in terms of the general fund with \$1 million more than originally projected. All departments except police field services reduced their expenditures by about 6%. Property tax collections were \$250,000 stronger than anticipated, and the funding gap originally projected at \$1.6 million was reduced to \$250,000. The ending fund balance was \$119,000 less as a result of paying the Cash Spot loan payment. He discussed those funds having greater fund balances than anticipated including the Public Safety Building Debt Fund which had sufficient funds to pay the debt in 2011. He noted the water, fleet, and engineering funds had smaller fund balances than anticipated.

He recommended continued monitoring of the general fund balance which was approximately \$1.3 million less than desirable and revenues in the building inspection

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**DRAFT MINUTES**

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fund. The water fund was not generating cash flow for capital expenditure and operated with limited reserves.

**Councilor Barnes** asked why there was a wastewater fund balance of \$568,000.

**Mr. Parks** discussed the settlement agreement with Clackamas County and further noted the wastewater surcharge revenue was not anticipated when the budget was prepared.

**Councilor Barnes** asked if any of that money could be used to offset ratepayer cost.

**Mr. Parks** did not think the City Council would have the ability to reduce rates because of probable significant increases going forward. He reviewed upcoming equivalent dwelling unit (EDU) treatment costs from Clackamas County. In his judgment the surcharge would not be used in the form of a refund based on his calculations of the rate structure going forward.

**Councilor Chaimov** appreciated Mr. Parks' work and felt the City was heading in a better direction. He asked if there were a plan to address particular issues.

**Mr. Parks** reported he was going forward with fiscal policies which were discussed among the members of the management team and would be reviewed by the Budget Review Board before going to City Council in October or November. He noted there were some significant issues in certain funds, water being one example, and proposed a 3-year recovery plan. He commented on the building department shortfalls related to the slow housing market. The Water Master Plan will likely in his opinion focus on maintenance of an aging infrastructure, similar to the pavement condition index used in the Street Surface Maintenance program, rather than system expansion.

**Councilor Stone** looked forward to seeing the policies that would serve as guiding documents in the preparation of future budgets.

#### **Reappoint Pat DuVal as Manager Pro Tem for up to an Additional Three Months – Resolution**

It was moved by Mayor Ferguson and seconded by Councilor Chaimov to reappoint Pat DuVal as Manager Pro Tem for up to three months effective September 2, 2010. Motion passed with the following vote: Councilors Barnes, Chaimov, Stone, and Loomis and Mayor Ferguson voting "aye." [5:0]

#### **RESOLUTION NO. 71-2010**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING PAT DUVAL AS MANAGER PRO TEM FOR UP TO THREE MONTHS EFFECTIVE SEPTEMBER 2, 2010.**

#### **F. IGA for Match Commitment for TIGER II Application to Fund Kellogg Lake Bicycle/Pedestrian Crossing – Resolution**

**Mr. Campbell** believed the proposed resolution reflected the discussion at the last City Council meeting and clarified the more formal commitment of matching funds to support construction of the bridge deck.

**Councilor Stone** understood from the August 3 presentation on this matter this was a grant with no fiscal impact to the City; however, the current report committed the City to \$100,000 in matching funds. She felt this was a very expensive project and was leaning toward not supporting it. She had always felt the infrastructure to support light rail was humongous, and now there would be another side-by-side structure. She asked why the Trolley Trail could not be used.

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**Mr. Campbell** apologized if he had left that impression at the August 3 session. The City has money in the fees in lieu of (FILO) fund collected from development to be used to improve regional and neighborhood circulation. If those funds were not spent, they would have to be refunded. The proposed bike/pedestrian deck would be slung beneath the light rail structure and was not side-by-side. The facility would reduce the amount of time it would take to get from the Trolley Trail to Milwaukie High School, the downtown, and the light rail station.

**Councilor Stone** stated on the August 3 staff report it was written there would be no fiscal impact and no local match requirement.

**Mr. Campbell** believed he addressed that change in his oral report to City Council on August 3. Councilor Stone was correct the local match was not in the August 3 staff report. He had clarified the bridge was not a match for the project, and that the City would be responsible for the local match.

**Councilor Stone** had understood the bike/pedestrian deck was under the planned bridge. The diagram showed the structure to the side, and she asked for clarification on the clearance requirements and the cost of cantilevering the structure.

**Mr. Campbell** replied the bike/pedestrian deck being designed would be slightly off to the side at either end of the bridge. On Lake Road side there was an abutment in the way, so it begins slightly offset and then swings under the light rail bridge for most of the length. At the Robert Kronberg Park end, the deck swings out to the side again.

**Mayor Ferguson** observed it would be similar to the Fremont Bridge.

**Mr. Campbell** added the cost of a pedestrian bridge across McLoughlin Boulevard would have raised the vertical clearance and would have been very expensive. He discussed the "H" supports from which the deck would be suspended.

**Councilor Stone** thought this sounded like a wish list and asked where the Trolley Trail came in. This was a \$1.5 million project and now the City Council was being asked to commit to \$100,000.

**Mr. Campbell** replied the significant advantages of this bridge and the Trolley Trail were that it was about 10-minutes faster getting from the Island Station Neighborhood to the downtown area. The experience of traveling over a Lake and Park, he felt, would be a pleasurable experience and attract more people. The Trolley Trail did not provide access to the future Robert Kronberg Park which he believed would be a great benefit.

**Mr. Asher** added the Island Station Neighborhood asked for this bridge and viewed it as an important connector.

**Councilor Chaimov** commented the bridge was a high priority for residents of his neighborhood, and they looked forward to being more connected with the other neighbors and the downtown. The Island Station Neighborhood felt it was a good use of FILO money.

**Mr. Campbell** explained the fees were collected from the Milwaukie High School renovation in the Historic Milwaukie Neighborhood and development in the Island Station Neighborhood. He assured City Council the \$100,000 was available in FILO and there should be no additional costs related to the bike/pedestrian bridge.

**It was moved by Councilor Chaimov and seconded by Councilor Loomis to adopt the resolution authorizing the Mayor to sign an Intergovernmental Agreement (IGA) with TriMet committing City funds to contribute to the local match for a TIGER II application to construct a Kellogg Lake pedestrian and bicycle bridge and related multi-use path.. Motion passed with the following vote: Councilors Barnes, Chaimov, Stone, and Loomis and Mayor Ferguson voting "aye." [5:0].**

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**RESOLUTION 71-2010:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR TO SIGN AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH TRIMET COMMITTING CITY FUNDS TO CONTRIBUTE TO THE LOCAL MATCH FOR A TIGER II APPLICATION TO CONSTRUCT A KELLOGG LAKE PEDESTRIAN AND BICYCLE BRIDGE AND RELATED MULTI-USE PATH.**

**D. Council Reports**

The Mayor and Councilors reported on upcoming community, regional, and state events.

**Mayor Ferguson** announced the upcoming special City Council meeting regarding light rail on August 31, 2010 at 6 p.m. in the Milwaukie City Hall Council Chambers and the executive session at 5 p.m. and community social at 7 p.m. on September 2, 2010 related to the City Manager recruitment.

**Mayor Ferguson** announced the City Council would meet in executive session pursuant to ORS 192.660(2)(a) to consider the employment of public officers, employees, and agents and ORS 192.660(2)(h) to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed. The City Council will not reconvene the regular session.

**ADJOURNMENT**

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

**Mayor Ferguson** adjourned the regular session at 7:58 p.m.

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
SEPTEMBER 7, 2010**

**CALL TO ORDER**

**Mayor Ferguson** called the 2085<sup>th</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 Deborah Barnes, and Susan Stone

Staff present: City Manager Pro Tem Pat DuVal

**PLEDGE OF ALLEGIANCE**

**Mayor Ferguson** announced that the City Attorney was excused from this meeting pursuant to Resolution 9-2003 and Milwaukie Municipal Code Section 2.04.120 as were no agenda items requiring counsel advice.

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

The City Council interviewed Jim Perrault for a vacancy on the Design and Landmarks Committee; Mike Pinker for the Park and Recreation Board; Roger Thompson for the Riverfront Board; and Jason Lavery for the Arts Committee. Staff was directed to prepare resolutions making their appointments.

**CONSENT AGENDA**

It was moved by Councilor Stone and seconded by Councilor Barnes to approve the consent agenda as modified.

- A. City Council minutes of the February 16, 2010 work session;
- B. City Council minutes of the March 16, 2010 work session;
- C. City Council minutes of May 4, 2010 work session;
- D. City Council minutes of May 28, 2010 regular session;
- E. City Council minutes of June 1, 2010 regular session; and
- F. City Council minutes of June 15, 2010 regular session

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

**AUDIENCE PARTICIPATION**

None.

**PUBLIC HEARING**

None scheduled.

## **OTHER BUSINESS**

### **A. Triple Trailer Issues**

**Councilor Chaimov** explained an organization that opposed triple trailers asked the Milwaukie City Council if it would be amenable to sending letters to its congressional delegation supporting keeping trucks at two, not three, trailers. He understood it had to do with federal legislation.

**Councilor Barnes** had already signed off as an individual councilor in opposition to triple trailers and in support of the use of rail.

**Mayor Ferguson** and **Councilor Stone** supported the request, and **Councilor Barnes** offered to provide the City with a copy of the letter she had signed.

### **B. Designate League of Oregon Cities Voting Delegate and Alternate for the City of Milwaukie**

**Mayor Ferguson** would be the voting delegate and **Councilor Chaimov** his alternate. Staff was directed to inform the League of Oregon Cities.

### **C. Council Reports**

The Mayor and City Council provided updates on community events.

**Mayor Ferguson** announced the City Council would meet in executive session pursuant to ORS 192.660(2)(a) to consider the employment of public officers, employees. The City Council will not reconvene the regular session.

## **ADJOURNMENT**

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

**Mayor Ferguson** adjourned the regular session at 7:35 p.m.

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Pat DuVal, Recorder



**To: Mayor and City Council**

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

**From: Paul Shirey, Operations Director**

**Subject: Authorize the Purchase of Replacement Vehicles**

**Date: November 3, 2010 for November 16, 2010 Council Meeting**

### **Action Requested**

Authorize the purchase of replacement vehicles for various City departments totaling \$313,000.

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

**December 15, 2009:** Resolution 79-2009 authorizing the City Manager to purchase replacement vehicles for FY 2009-2010

### **Background**

The City has a vehicle replacement program that is designed to replace vehicles on a regular schedule to insure the lowest overall operating cost and to provide safe and reliable vehicles for City staff. See attached Vehicle Replacement Policy. Fleet Services' replacement schedule for FY 2010/2011 includes the following:

- Two police detective vehicles
- One SUV for the police K-9 unit
- One police motorcycle
- One vehicle for Engineering
- One vehicle for Code Enforcement,
- One vehicle for P.W Operations
- One service truck each for Wastewater, Water and Fleet.

New vehicles will be purchased through the Oregon State Cooperative Purchasing Program. The Police Department may purchase one or two used vehicles from Enterprise Rentals for their detective cars. The amount budgeted for the replacement of this year’s vehicles and equipment is \$330,000. Due to budget considerations last year two vehicles on the replacement schedule were deferred and are included in this year’s schedule. Those vehicles are a service truck for the Waste Water division and a staff vehicle for Engineering. The cost of ten new replacement vehicles this year is \$313,000, less than the budgeted amount. This amount will be less should Police decide to purchase one or two used vehicles.

Although the City has no adopted policy regarding replacement vehicles, past practice has been to retain serviceable police vehicles for use as staff vehicles and otherwise, to purchase in-kind replacements. Vehicles not retained are typically sold through auction or other means. The City’s adopted Sustainability Policy (Resolution 16-2009) establishes goals for 1) reducing carbon emissions by purchase of lower emission vehicles and 2) improving overall fuel efficiency by “right-sizing” the City’s fleet. Replacing conventional gas-powered vehicles with hybrid and electric vehicles where appropriate will help the City meet these sustainability goals. For example, Code Enforcement is replacing a former V-8 gasoline powered police cruiser with a hybrid SUV and the Operations Director V-6 SUV (a used police vehicle) is proposed to be replaced with an all-electric vehicle.

The chart below shows each vehicle proposed to be replaced, the type and mileage and proposed disposition of each along with the type and cost of the replacement vehicle.

**2010-2011 Vehicle Replacement Schedule**

Vehicle #	Description	Year/Make/Mileage	Department	Proposed Replacement	Cost (\$)	Disposition
3209	K 9 Patrol	2002 Ford; 82,098	Police	SUV K9 Patrol	51,000	Retain for backup
3233	Detective Vehicle	2001Chevy; 83,955	Police	Detective vehicles	32,000*	Retain for staff car
3217	Detective Vehicle	2001 Dodge;101,054	Police	Detective vehicles	32,000*	Retain for staff car
3253	Motorcycle	2003 BMW; 34,153	Police	Motorcycle	28,000	Auction
6216	Small pick up	Chevy S-10; 81,622	Engineering	Hybrid SUV	25,000	Auction
6015	Converted PD Vehicle	2000 Ford; 80,100	PW Operations	All Electric Vehicle	25,000	Auction
6326	1-T Service Truck	1999 GMC; 80,221	PW Water	1-Ton Service Truck	35,000	Auction

6515	1-T Service Truck	2001 Ford; 95,430	PW Wastewater	1-Ton Service Truck	35,000	Auction
7104	½ T service truck	1989 Chevy; 87,963	PW Fleet	1/2 Ton Service Truck	25,000	Auction
6211	Converted PD vehicle	2002 Ford; 98,700	Code Enforcement	Hybrid SUV	25,000	Retain for staff car
<b>Total</b>					<b>\$313,000</b>	

\* Cost will be less if used vehicle purchased instead of new

**Concurrence**

The Public Works Operations Director has conferred with the Police Sergeant, Code Enforcement, Engineering Director, Fleet Foreman and the Operation Supervisors to confirm types and numbers of replacement vehicles are needed for each department and the disposition of vehicles being replaced.

**Fiscal Impact**

The funds to purchase this equipment are in Fleet Reserve. The Fleet Reserve fund operates like a savings account for each department and division, which put aside monies each year to replace vehicles and equipment on a regular replacement schedule. A five-year replacement schedule is included and updated annually as part of the Capital Improvement Program. \$335,000 has been appropriated in the current fiscal budget for this purpose.

**Work Load Impacts**

Each new vehicle requires set up costs and fleet staff time to install after-market equipment such as light bars, radios and so forth. This is figured into the overall cost of each vehicle and is included in the \$335,000 total. The Fleet Department purchases the vehicles and the mechanics do the set up and special equipment installation or send the vehicle to special outfitters if necessary.

**Alternatives**

Defer the replacement of some or all of the vehicles in the interest of saving money. Vehicle reliability, particularly for police uses, would be jeopardized and operating costs would likely increase for maintenance given the age of the vehicles in question.

**Attachments**

1. Vehicle Replacement Criteria
2. Resolution

# ATTACHMENT 1

## CITY OF MILWAUKIE FLEET SERVICES STANDARD CRITERIA FOR VEHICLE REPLACEMENT

**AGE:** Schedule the replacement of City vehicles and equipment as follows:

**1. POLICE PATROL CARS – 4 YEARS or 80,000 MILES:** Patrol cars are used as an essential tool for the officers and receive much more stress on the drive train components than normal vehicles. This type of stress takes a toll on these vehicles and can become a safety issue.

**2. DETECTIVE, POLICE CHIEF AND CAPTAIN CARS - 5 YEARS:** Detective cars are replaced more often in order to remain anonymous. These vehicles are used for surveillance. The Police Chief and Police Captain's cars are replaced more often due to moderate to high stress and mileage.

**3. PICKUPS AND LIGHT DUTY TRUCKS – 10 YEARS:** These vehicles are the front line pickups, vans, service trucks and small dump trucks that are used in the everyday maintenance and inspection work of each division of Public Works.

**4. HEAVY DUTY TRUCKS – 15 YEARS:** The heavy-duty trucks are built to last longer and are not use as often.

**5. BACKHOES, LOADERS, ROLLERS AND AIR COMPRESSORS – 15 YEARS:** These vehicles are not used on an every day basis but are essential to the overall operations of Public Works.

**MILEAGE:** Total mileage on a vehicle is major consideration; Milwaukie is small so other than the police patrol cars most vehicles do not accumulate high mileage quickly. However, usage is mostly stop and start city driving. This type of usage is much harder on the drive train of a vehicle than over the road or freeway driving.

**CONDITION:** Condition is a big factor in making a decision to replace a vehicle. Fleet staff evaluates the vehicle by looking at all of the components such as body condition, rust, door fit, door hinges, floorboard condition, paint and body damage. We look at the suspension and steering components, brake system, and perform a safety check to make sure the vehicle meets all the safety requirements. The condition of the drive train, engine, transmission, and rear end is evaluated to determine if a major repair is coming due.

**COST RECORDS:** Cost records gives staff the information of cost history, and repairs made and would indicate whether future repairs would exceed the worth of the vehicle.

**VEHICLE USE:** A major factor in vehicle replacement is what the vehicle is used for, and how often the vehicle is used. A good example is a police patrol vehicle that is used daily, even sometimes on a double shift, and in extreme conditions, compared to a backhoe that may only be used for emergency repairs possibly one time per week.

ATTACHMENT 2

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE PURCHASE OF CITY VEHICLES THAT WERE APPROVED FOR REPLACEMENT IN THE FISCAL YEAR 2010/2011, AS PER THE CITY VEHICLE REPLACEMENT CRITERA.**

**WHEREAS**, the 2010/2011 City budget was approved and adopted at the June 15, 2010 City Council meeting; and

**WHEREAS**, the approved City budget identified vehicles that are authorized for purchase during Fiscal Year 2010/2011, and

**WHEREAS**, the City established vehicle replacement guidelines that have been followed by City staff to procure new or replacement vehicles; and

**WHEREAS**, the City is an eligible entity and a member of the Oregon Cooperative Purchasing Program and is authorized to purchase vehicles under the program, and

**WHEREAS**, the City will purchase the vehicles through a vendor approved through the Oregon Cooperative Purchasing Program that has submitted a competitive bid approved by the State for purchases by program members, and

**WHEREAS**, the City will purchase the police and public works vehicles through the Oregon Cooperative Purchasing Program at a total cost of \$313,000.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Milwaukie authorizes the City Manager to approve the purchase of ten new vehicles from Oregon Cooperative Purchasing Program approved vendor at a total cost of \$313,000 as per the approved 2010/2011 budget.

Introduced and adopted by the City Council on \_\_\_\_\_ .

This resolution is effective on \_\_\_\_\_ .

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

ATTEST:

APPROVED AS TO FORM:

Ramis, Crew, & Corrigan, LLP

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

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



**To: Mayor and City Council**  
**Through: Bill Monahan, City Manager**  
**From: Pat DuVal, City Recorder/Records & Information Manager**  
**Subject: Dog Control and Dog Licensing**  
**Date: November 4, 2010 for November 16, 2010 Regular Session**

### **Action Requested**

Adopt a resolution granting consent to Clackamas County to administer its revised Clackamas County Code Chapter 5.01, Dog Licensing and Services in the City of Milwaukie and repealing Resolution 28-2001.

### **Background**

The Milwaukie City Council adopted Ordinance 1630 on July 21, 1987, repealing Milwaukie Municipal Code Title 6 related to the provision of animal control. Further, it acknowledged that Clackamas County would undertake animal control and licensing in the City. The Ordinance, however, did not specifically grant the consent of the governing body as required by ORS 203.040<sup>1</sup>. On July 25, 2001 Clackamas County Counsel sent a letter asking the City to take action to consent to the County's administration of dog control and services.

The City Council adopted Resolution 28-2001 on September 4, 2001, granting its consent to Clackamas County to do so. On July 1, 2010 Clackamas County adopted Ordinance 05-2010 revising its Dog Control and Licensing Ordinance, Chapter 5.01 of the Clackamas County Code. In order to continue its service arrangements, County Administrator Steve Wheeler has requested that cities adopt resolutions recognizing the revisions to the County Code and consenting to continued service.

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<sup>1</sup> ORS 203.040 -- Except by consent of the governing body or the electors of a city and except in cities not regularly operating as such through elected governmental officials, ordinances adopted under ORS 201.030 to 203.075 in exercise of the police power shall not apply inside an incorporated city

**Concurrence**

The City Attorney's office has reviewed Ordinance 05-2010 amending the County Code and finds it standard, mainly addressing housekeeping matters. Milwaukie Police Chief Bob Jordan and Milwaukie Code Compliance Coordinator Tim Salyers concur with the recommendation to adopt the proposed resolution.

**Attachments**

1. Proposed resolution
2. Clackamas County Code Title 5, Animals

ATTACHMENT 1

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, GRANTING CONSENT TO CLACKAMAS COUNTY TO CONTINUE TO ADMINISTER ITS DOG CONTROL AND LICENSING ORDINANCE, CHAPTER 5.01 TO THE CLACKAMAS COUNTY CODE, AS REVISED BY ORDINANCE 05-2010, ADOPTED ON JULY 1, 2010 AND REPEALING RESOLUTION 28-2001.**

**WHEREAS**, ORS 203.040 requires consent be given by the City in order for a County ordinance to apply within the City; and

**WHEREAS**, in 2001 the City through Resolution 28-2001 granted authority to Clackamas County to administer Clackamas County Code 5.01 within the City and the City has been satisfied with the service provided given financial constraints; and

**WHEREAS**, Clackamas County through its Ordinance 05-2010, adopted July 1, 2010, adopted housekeeping changes to the code; and

**WHEREAS**, the City finds it would be beneficial to continue to grant consent to Clackamas County to administer the County's dog control and licensing ordinance with the City; and

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

Section 1: Milwaukie hereby consents to the changes made to Clackamas County Code Chapter 5.01 through Ordinance 05-2010 and authorizes the County to administer the County's revised dog control and licensing ordinance within the City.

Section 2: Resolution 28-2001 adopted September 4, 2001 is repealed.

Section 3: This resolution is effective immediately upon adoption.

Introduced and adopted by the Milwaukie City Council on November 16, 2010.

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

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Jordan Schrader Ramis PC

Resolution No. \_\_\_\_\_

## Chapter 5.01

### 5.01 DOG LICENSING & SERVICES

#### **5.01.010 Enactment; Authority**

The County is authorized by Oregon Revised Statutes (ORS) 203.035 to regulate matters of County concern. The Board of County Commissioners finds that dog licensing and services within the County is a matter of County concern that impacts the health and safety of the people of Clackamas County. ORS 609.015, ORS 609.135 and ORS 153.030 recognize the authority of the County to enact and enforce regulations and procedures that vary from related state law provisions. The Board of County Commissioners adopts the following dog licensing and services regulations and procedures pursuant to ORS 203.035. Matters that concern crimes of abuse, neglect, or abandonment of dogs will be investigated and prosecuted under state law. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

#### **5.01.020 Definitions; Exclusions; Fines and Fees**

##### **A. Definitions:**

Terms used but not defined shall have their plain meaning.

1. BITE, BITING, BITTEN means the breaking of the skin of a person, domestic animal, or livestock by the teeth of a dog. 2. CONDITIONAL RELEASE means a security or non-security release of an impounded dog which imposes regulations and conditions on the activities and keeping of a dog pending final disposition of a violation of this chapter, including appeal.
3. COSTS mean any monetary assessment, other than fines and fees ordered by a Hearings Officer including, but not limited to, costs for veterinarian care, restitution, prosecution expenses and attorney fees.
4. DANGEROUS DOG means any dog that menaces, bites, injures or kills a person, domestic animal, or livestock.
5. DOG means the common dog (*Canis familiaris*) and any animal claimed by its owner to be a wolf-hybrid unless the owner provides written verification from a licensed veterinarian that the animal is a wolf-hybrid and not a dog.
6. DOG AT LARGE means a dog that is off or outside the dog owner's property and not under the immediate control of a person.
7. DOG OWNER means the following, however any presumption of ownership raised in this section may be rebutted by proof to the contrary:
  - a. Any person in whose name a dog license has been issued;

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- b. Any person who has a possessory property right in a dog;
  - c. In a family situation the adult head(s) of household shall be jointly and severally presumed to be the owner(s);
  - d. Any person who without regard to any ownership interest, shelters a dog or who has a dog in that person's care, possession, custody or control, or who knowingly permits a dog to remain on property occupied by that person for more than 30 days shall be presumed to be the owner.
- 8. DOG SERVICES means Clackamas County Dog Services.
  - 9. DOG SERVICES OFFICER means a person employed by or contracting with Clackamas County who is authorized to investigate violations and issue citations as provided in this chapter.
  - 10. DOMESTIC ANIMAL has the meaning provided in ORS 167.310.
  - 11. EUTHANASIA means the putting of a dog to death in any humane manner permitted under ORS 609.405.
  - 12. EXPENSES mean expenditures incurred by Dog Services during impoundment, keeping and disposition of a dog.
  - 13. HEARINGS OFFICER means any authority appointed by the Board of County Commissioners to hear and determine violations of this chapter.
  - 14. IMPOUND means taking physical or constructive custody of a dog. A dog shall be considered impounded from the time Dog Services staff or a peace officer takes physical custody of the dog or serves an owner with a Notice of Impound and Conditional Release in accordance with this chapter.
  - 15. LIVESTOCK has the meaning provided in ORS 609.125.
  - 16. MANAGER means the Clackamas County Dog Services Manager or his/her designee.
  - 17. MENACE means lunging, growling, snarling, chasing, attacking, or other behavior by a dog that would cause a reasonable person to fear for the person's safety, the safety of another person or the safety of a domestic animal or livestock.
  - 18. MINIMUM CARE means but is not limited to, sufficient food to maintain the dog's health; access to potable water that is not snow or ice; access to an enclosed structure sufficient to protect the dog; continuous access to an area that is kept clean and has adequate space and ventilation with suitable temperature; and veterinary care to relieve distress from injury, neglect or disease.

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19. MULTIPLE DWELLING means any building or portion thereof that is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of two or more families living independently of each other in separate units.
  20. PEACE OFFICER has the meaning provided in ORS 161.015.
  21. PHYSICAL INJURY has the meaning provided in ORS 167.310.
  22. SECURE ENCLOSURE means any of the following:
    - a. A fully fenced pen, kennel or structure that is in compliance with applicable County codes, that will remain locked with a padlock or combination lock, and which has secure sides at least five feet high. The County may also require that the structure have a secure top and/or floor that are attached to the sides, or require that the sides be embedded in the ground no less than one foot; or
    - b. A house or garage that has latched doors kept in good repair to prevent the escape of the dog. A house, garage, patio, porch or any part of the house is not a secure enclosure if the structure would allow the dog to exit the structure of its own will; or
    - c. For a dangerous dog, a fully fenced pen, kennel or structure at least six feet in height that is either anchored beneath the ground or is in concrete and which prevents the dog from digging under it. The enclosure must be of a design that prevents entry of children or unauthorized persons and also prevents those persons from extending an arm or leg inside the enclosure. The enclosure must remain locked with a padlock or combination lock when occupied by the dog. A County approved sign must remain posted at all entry points of the dog owner's property that informs both children and adults that the dog is dangerous.
  23. VIOLATION means any violation of this chapter for which a fine, condition or restriction or other sanction may be imposed.
  24. WOLF-HYBRID means an animal that is either the result of cross breeding a purebred wolf and a dog, or an existing wolf-hybrid with a dog, or any dog declared by its owner to be a wolf-hybrid. A wolf-hybrid will be considered a dog under this chapter unless the owner provides written verification from a licensed veterinarian that the animal is a wolf-hybrid and not a dog.

**B. Exclusions:**

This chapter does not regulate veterinarians, kennel operators or pet shop owners who for a period of not more than 90 days maintain on their property dogs owned by other persons.

**C. Fines and Fees:**

All fines and fees associated with this chapter shall be set by resolution of the Board of County Commissioners. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

**5.01.030 LICENSING; VACCINATIONS****A. License.**

## 1. Individual Dog License.

- a. Every dog owner shall license a dog within thirty (30) days of the animal obtaining the age of six months or within thirty (30) days of acquiring the dog, whichever occurs later.
- b. A dog owner who has moved to Clackamas County and who does not have a current dog license from another Oregon city or county, shall obtain a dog license within thirty (30) days of moving into Clackamas County unless the dog has not yet reached six months of age. A dog with a current dog license from another city or county shall not require licensing under this chapter until expiration of the current license, if within thirty (30) days of moving into Clackamas County the owner notifies Dog Services of the dog's description, license number and city or county of issuance, and Clackamas County address.

## 2. Multiple Dog license.

- a. Qualification; Application; Inspection. When an owner has more than one dog the owner may obtain or renew a multiple dog license after submission of a qualifying Multiple Dog License Application and after a County inspection of the applicant's premises to determine that minimum care standards exist.
- b. Denial of a Multiple Dog License. An owner may appeal the denial of a multiple dog license to a Hearings Officer by delivering a written request to Dog Services within seven (7) days of the mailing date of the written notice denying the license. A hearing will follow the same procedures set forth in this chapter for a hearing on a violation except that the burden of proof will be on the owner to prove that the denial was improper.

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- c. Land Use Approval. Issuance of a Multiple Dog License does not constitute approval of a particular land use or indicate compliance with any zoning or land use planning restrictions that may apply. Applicant may be required to demonstrate compliance with city or county zoning or land use planning restrictions prior to issuance.

**B. Rabies Vaccination**

1. Individual or multiple dog licenses will not be issued without evidence of one of the following for each dog to be licensed:
  - a. A rabies vaccination certificate issued by a licensed veterinarian that is valid for the license period; or,
  - b. A written statement signed by a licensed veterinarian stating that for medical reasons the rabies vaccination cannot be administered to the dog.
2. A dog that does not have proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license, shall be apprehended and impounded at the owner's expense.

**C. License Term; Renewal; Fine**

1. A license will be valid for one, two or three years from the date of issuance at the option of the dog owner and requires a rabies vaccination certificate for the licensing period.
2. Renewal of a license shall not be due until the last day of the month in which the license expires. If a person fails to renew a license prior to its expiration date, a fine may be assessed at the time the license is renewed.

**D. Identification tags.**

1. At the time an individual dog license is issued, the County will issue a free identification tag that is to be fastened to a collar or harness and kept on the dog at all times when the dog is not in the immediate possession of the owner.
2. When a multiple dog license is issued, the owner may obtain identification tags upon payment of a fee.
3. If a dog license tag is lost, the owner may obtain a duplicate tag from Dog Services upon payment of a fee.

**E. License Fees Exemptions.**

1. No license fee will be required for the following:

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- a. Any dog that meets the definition of an “assistance animal” as defined in ORS 346.680, provided that the license applicant has filed a statement with Dog Services indicating that the dog is an "assistance animal" for a person who has a physical impairment in one or more of their daily life activities and resides in the applicant’s household.
  - b. Any dog in training to be an “assistance animal” as defined in ORS 346.680, in affiliation with a recognized organization for the training or placement of assistance animals, provided the trainer files a statement with Dog Services verifying that the dog is an assistance animal.  
[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

#### **5.01.040 CONTROL OF DOGS**

##### **A. Number of Dogs Permitted on Premises.**

1. Unless an exemption applies as provided in this chapter, the number of dogs shall not exceed:
  - a. More than 5 dogs in a unit of a multiple dwelling;
  - b. More than 5 dogs on premises less than or equal to one acre;
  - c. More than 10 dogs on premises larger than one acre but smaller than five acres;
  - d. More than 25 dogs on premises 5 acres or larger.
2. Exemption. This provision does not apply to:
  - a. Dogs not required to be licensed by this Chapter; or
  - b. A litter of puppies together with a mother; until the litter reaches six months of age the mother and puppies will count as one dog.
  - c. An owner that exceeds the number of dogs permitted, but has licensed all dogs on the premises prior to July 1, 2004 and thereafter has to date kept each qualified license in good standing by timely renewing each license in accordance with the provisions of this chapter.

##### **B. Duties of Owners.**

For the purposes of this chapter a dog owner is responsible for the behavior of the dog regardless of whether the owner or another person allowed the dog to engage in the behavior that is the subject of the violation.

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**C. Violations.**

1. It is unlawful to permit a dog to be a public nuisance. A dog is a public nuisance if it:
  - a. Menaces, bites, injures or kills a person, domestic animal, or livestock. It is a defense to this section if the dog engages in such behavior as a result of a person wrongfully assaulting the dog or owner, or other similar provocation, or when the dog's behavior was directed towards a trespasser or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to life or property;
  - b. Is a dog at large. It is a defense to this section that the dog was a working dog wearing a locating device and temporarily separated from the person in control of the dog;
  - c. Chases a vehicle while off the dog owner's property;
  - d. Damages or destroys property of another person while off the dog owner's property;
  - e. Scatters garbage while off the dog owner's property;
  - f. Is a female in heat (estrus) and is a dog at large.
2. It is unlawful to fail to comply with the requirements of this chapter that apply to keeping a dangerous dog.
3. It is unlawful to permit any dog to leave the confines of any prescribed quarantine area, and/or fail to comply with any other condition of quarantine.
4. It is unlawful to interfere with an identified County employee or peace officer who is enforcing any provision of this chapter by intentionally acting in any manner that prevents, or attempts to prevent a County employee or peace officer from performing their lawful duties.
5. It is unlawful to knowingly provide false information to a County employee or peace officer enforcing any provision of this chapter.
6. It is unlawful to permit a dog to be confined within a motor vehicle at any location under such conditions as may endanger the health or well-being of the dog, including but not limited to dangerous temperature, lack of food, water or attention.
7. It is unlawful to permit a dog to be unrestrained in an open portion of a vehicle.
8. It is unlawful to fail to reclaim an impounded dog.

9. It is unlawful to fail to comply with any fine, fee, cost, expense, condition or restriction or other order imposed by a Hearings Officer under this chapter.
10. It is unlawful to fail to surrender a dog for apprehension to the County when required by this chapter.
11. It is unlawful to fail to license a dog or renew a license as required by this chapter.
12. It is unlawful for an owner to fail to immediately notify Dog Services when the owner's dog has bitten a person, domestic animal, or livestock.
13. It is unlawful to exceed the number of dogs permitted on premises or in a unit of a multiple dwelling as set forth in this chapter.
14. It is unlawful to keep a dog in a manner that does not meet minimum care standards of this chapter.
15. It is unlawful to fail to maintain a current rabies vaccination.
16. It is unlawful for a person who has been bitten by a dog, or a parent/guardian of a bitten minor, to fail to immediately notify Dog Services when required by this chapter.
17. It is unlawful for a dog owner to fail to follow any condition of release pending final disposition of a violation of this chapter, including appeal.

**D. Lost Dogs; Duties of Finders.**

Any person who finds and shelters a dog without knowing the dog owner's identity shall notify Dog Services within three days with a description of the dog. A finder may surrender the dog to Dog Services, or retain possession subject to surrender upon County request. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

**5.01.050 BITING DOGS; DANGEROUS DOGS**

**A. Reporting biting dogs.**

1. The owner of a dog that bites a person, domestic animal, or livestock shall immediately notify Dog Services of the time and circumstances of the bite along with a description of the biting dog, its rabies vaccination status, the owner's name and address, and if known the name and address of the person who was bitten or the owner of the bitten domestic animal or livestock.
2. Any person who is bitten by a dog, or is the parent/guardian of a bitten minor, or owns a domestic animal or livestock bitten by a dog shall immediately notify Dog Services of the time and circumstances of the bite along with his/her name

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and address, a description of the biting dog, and if known the name and address of the dog owner.

**B. Quarantine of biting dogs.**

1. A dog suspected of biting a person will be quarantined at the owner's expense until the tenth day following the bite in accordance with state law.
2. At the discretion of the County, a dog that has proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license may be quarantined at the premises of a licensed veterinarian or at the premises of the owner providing the dog is kept within a secure enclosure or with approved restraint deemed adequate to prevent contact with any person or other animal, and is kept in accordance with any other conditions set by the County as permitted by this chapter or required by state law. It shall be a violation of this chapter if during home quarantine the dog leaves the confines of a prescribed quarantine area for any reason or otherwise violates the conditions of quarantine.
3. Dogs that have bitten a person and do not have proof of a current rabies vaccination, exemption from vaccination, or current Oregon county or city license shall be apprehended and impounded as resources allow.

**C. Dangerous Dogs.**

1. **Classification of Dog as a Dangerous Dog.** A dog may be classified by the Hearings Officer as a dangerous dog when it has menaced, bitten, chased, injured or killed any person, domestic animal, or livestock.
2. **Notice of Classification; Hearing.**
  - a. **Notice.** Prior to a dog being classified as dangerous, the owner shall have a right to a hearing before a Hearings Officer. The County shall send a Dangerous Dog Notice to the dog owner by certified mail or personal service; if sent by mail the date of mailing will be considered the date of service. The notice shall inform the owner of:
    - i. A description of the alleged incident and specific behavior that supports classification of the dog as dangerous.
    - ii. The regulations that may be imposed following a dangerous dog classification, including the requirement of a dangerous dog certificate.
    - iii. An opportunity to request a hearing.
    - iv. Information that the dog owner must request a hearing within seven (7) days from the date of service by delivering a written request to Dog Services.

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- v. Information that if the dog owner does not make a timely request for hearing, the dog owner shall be deemed to have waived his/her right to a hearing. Thereafter, following proof of sufficient evidence that the dog is dangerous, the Hearings Officer may so classify the dog and impose regulations consistent with this chapter.
- b. Hearing.
    - i. Following a timely request for hearing, the County will notify the dog owner and Hearings Officer of the date and time of the hearing. The hearing shall follow the procedures set forth in this chapter for a hearing on a violation.
    - ii. The Hearings Officer may refrain from classifying a dog as dangerous upon a finding that the behavior was the result of a person wrongfully assaulting the dog or owner, or other similar provocation, or when the dog's behavior was directed towards a trespasser, or other extenuating circumstances that establishes that the dog does not constitute an unreasonable risk to life or property.
    - iii. A hearing on classification of a dangerous dog may be consolidated with a hearing on any underlying violation for which the dog owner has been cited.
3. Regulation of Dangerous Dogs; Microchip Identification. When a dog has been classified as dangerous, the dog shall be microchip identified at Dog Services at the expense of the owner, as provided in ORS 609.168. In addition, a Hearings Officer may order the following regulations:
    - a. That the dog be kept in a secure enclosure;
    - b. That the dog owner obtain and maintain proof of public liability insurance;
    - c. That the dog owner not permit the dog to be off the owner's premises unless the dog is muzzled and restrained by an adequate leash and under the control of a competent person;
    - d. That the dog owner successfully complete a County approved pet ownership program;
    - e. That the dog successfully complete obedience training certified by the American Temperament Testing Society or other similar County approved program;

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- f. That the dog be spayed or neutered;
  - g. After consideration of the factors set forth in ORS 609.093, require euthanasia when a dog has bitten or killed a person, domestic animal, or livestock. The Hearings Officer may also consider the public nuisance violation history of the dog and owner to include all known determinations by any court, governing body, official or agency of any local or state government without regard to where or when the incident occurred.
4. Certificate of Registration; Secure Enclosure; Notice to New Owner
- a. Certificate of Registration. Within seven (7) days after a dog has been classified as dangerous, the owner must license the dog, if not licensed, and obtain a dangerous dog certificate of registration to be renewed annually until the dog is declassified or dies. The County will only issue certificates of registration and renewals to persons who are at least 18 years of age and who present sufficient evidence of:
    - i. A rabies vaccination certificate which will remain in effect for at least one year from the date the certificate of registration is issued;
    - ii. A secure enclosure to confine the dangerous dog;
    - iii. A clearly visible County approved warning sign to be posted and remain at all entry points of the owner's property that informs both children and adults that the dog is dangerous;
    - iv. Microchip identification as provided in ORS 609.168; and,
    - v. Payment of an annual dangerous dog registration fee.
  - b. Secure Enclosure. The owner of a dog classified as dangerous shall confine the dog in a secure enclosure. The owner must immediately notify Dog Services when a dangerous dog is at large, or has bitten a person, domestic animal, or livestock. A dangerous dog shall not be permitted to leave the confines of a secure enclosure unless the dog is muzzled and restrained by an adequate chain or leash and under control of a competent person.
  - c. Notice to New Owner. Prior to a dangerous dog being sold or given away the owner shall provide notice to the new owner that the dog has been classified as a dangerous dog and provide the County with the name, address and telephone number of the new owner whether or not the new owner resides in Clackamas County. The new owner must comply with all dangerous dog regulations imposed unless and until the dog is declassified or dies.
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5. Declassification of Dangerous Dog.
  - a. Declassification. Following an owner's written request, the County may declassify a dog as dangerous and terminate the regulations ordered at the time of classification, except for microchip identification and secure enclosure, when the following conditions have been met:
    - i. For two years from the date of classification the dog has had no further incidents of behavior that would make it a dangerous dog;
    - ii. For two years from the date of classification there have been no violations of the regulations imposed;
    - iii. The dog owner has obtained a certificate of satisfactory completion of obedience training for the classified dog.
  - b. Appeal of Declassification Denial. A dog owner may appeal to a Hearings Officer the denial of a request to declassify a dangerous dog by delivering a written request for appeal to Dog Services within seven (7) days of the mailing date of the County's written notice denying declassification.
    - i. The County's written denial shall include information on how the dog owner may appeal the denial.
    - ii. On appeal the Hearings Officer shall determine whether the dog meets the criteria for declassification and shall either uphold the County's denial or order declassification. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

**5.01.060 IMPOUNDMENT; RELEASE; ADOPTION**

**A. Impoundment**

1. Any Dog Services Officer or peace officer may impound a dog that is in violation of this chapter, or when a Dog Services Officer or peace officer reasonably believes a dog requires medical assistance or care, or when ordered by a court or Hearings Officer.
2. If a person refuses to allow a Dog Services Officer or peace officer to enter the premises to apprehend and impound a dog as authorized by this chapter, the County may request the assistance of the local law enforcement official to obtain and execute a search warrant as authorized by law to search for and seize the dog subject to impound.
3. Any Dog Services Officer or peace officer is authorized to remove a dog from a motor vehicle to apprehend and impound the dog when the officer reasonably

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believes it is confined in a manner that endangers its health or well-being, including but not limited to dangerous temperature, lack of food, water or attention. A written notice of impoundment will be left on or in the vehicle with information on how to reclaim the dog.

4. Any person may immediately apprehend and hold for impoundment any dog that has trespassed upon the property of that person or another in violation of this chapter, or has menaced, bitten, injured or killed a person, domestic animal, or livestock.

**B. Impound Holding Periods.**

Unless otherwise provided in this chapter, dogs impounded will be held for the following minimum time periods, unless sooner reclaimed by their owner:

1. Dogs not wearing a license tag shall be held for at least three consecutive days, not including the day of impoundment.
2. Dogs wearing a license tag shall be held for at least five consecutive days, from the date of notification of impoundment. If notification is by mail, the date of mailing shall be considered the date of notification.

**C. Release of Impounded Dogs; Conditional Release.**

1. Release.
  - a. Release Prohibited. Unless otherwise ordered by a Hearings Officer or court of competent jurisdiction, an impounded dog may not be released until final disposition of any violation alleging that the dog has killed a person, or when a dog is pending classification or has been classified as a dangerous dog.
  - b. Release Permitted. Unless prohibited by this chapter prior to final disposition of a violation or pending appeal, an impounded dog may be released subject to release conditions consistent with this chapter if any, upon posting security in the amount equal to 50% of the base fine for each violation and payment of fees and costs owed to date including prior outstanding balances.
2. Conditional Release.
  - a. Conditions. As permitted by this chapter pending final disposition of a violation or appeal, the County or Hearings Officer may conditionally release an impounded dog to its owner and may impose any of the following release conditions, including but not limited to a requirement that the dog owner:
    - i. Obtain and provide proof of a rabies vaccination within a designated time;

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- ii. Provide proof of license within a designated time;
  - iii. Restrain the dog on the dog owner's property by means of a secure enclosure;
  - iv. Control the dog on a leash that is no longer than six (6) feet, and at all times handled by an adult who is able to control the dog;
  - v. Muzzle the dog at all times when off the dog owner's property;
  - vi. Obtain veterinary care for the dog within a designated time;
  - vii. Comply with minimum care standards consistent with this chapter;
  - viii. Keep the dog indoors during certain hours.
- b. Revocation of Conditional Release; Violation; Security Forfeited.
- i. Revocation. Upon reasonable ground to believe that a release condition has been violated the County may revoke release, and apprehend and impound the subject dog pending final disposition of the underlying violation or appeal.
  - ii. Violation. At the time of revocation the dog owner shall be cited for failure to follow condition(s) of release. A hearing on revocation may be made in accordance with section 5.01.070 of this chapter and consolidated with a hearing on the underlying violation(s).
  - iii. Security Forfeited. The security amount posted on conditional release shall be forfeited upon a finding that one or more conditions of release were violated or if no timely hearing is requested.
3. If a dog owner has been cited for a violation(s) of this chapter, and a Hearings Officer finds that no violation(s) occurred, then impoundment and board fees shall not be assessed until the first business day after notice of the Hearings Officer's Final Order.
4. An owner must reclaim a dog within five (5) business days after notice of a Hearings Officer's Final Order unless otherwise ordered or unless stayed by a court of competent jurisdiction.

**D. Failure to Reclaim.**

1. If an owner fails to reclaim a dog as provided in this chapter the dog will be deemed abandoned and shall become the property of the County without compensation paid to the owner.
2. An owner that fails to reclaim a dog will be civilly liable to the County for all penalties, fines, fees, costs and expenses authorized by this chapter, which may be collected in the same manner as any other debt allowed by law.

**E. Diseased or Injured Dog.**

A dog owner shall be liable to the County for costs paid for medical treatment during impoundment. If the County determines a dog is seriously injured or seriously ill or its health condition causes a threat to public health or safety, the dog may be immediately euthanized without compensation paid to the owner.

**F. Release for Adoption.**

1. Fees. Adoption fees will be assessed consistent with this chapter.
2. Standards. The Dog Services Manager shall have the authority to develop and enforce adoption policies and procedures. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

**5.01.070 CITATION; COMPLAINT; HEARING PROCESS**

**A. Issuance of Citation.**

1. Any Dog Services Officer or peace officer may issue and serve a dog owner with a citation when there are reasonable grounds to believe the owner or dog has committed a violation of this chapter. The citation shall serve as the County's complaint.
2. A citation shall be served by personal service or by certified mail with return receipt requested, no later than six (6) months from the date the alleged violation occurred. When mailed the date of mailing shall be considered the date of service. The failure of any person to receive notice properly given shall not invalidate or otherwise affect proceedings under this chapter.

**B. Form of Citation.**

1. The citation shall include:
  - a. The name and address of the person cited;
  - b. The date(s) the alleged violation(s) occurred;

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- c. The number and title of the chapter section(s) violated;
  - d. A description of the dog(s) involved;
  - e. The base fine, to be equal to the minimum fine, along with the maximum fine for each violation as authorized by this chapter;
  - f. Whether appearance before a Hearings Officer is optional, or if mandatory the date, time and place at which the person is to appear;
  - g. The procedure for the person to follow to admit the violation and pay the fine, or contest the citation and appear before a Hearings Officer;
  - h. A statement that if the person fails to pay the fine within the time allowed, or fails to appear before the Hearings Officer when required, then the person shall have waived his/her right to contest the citation and the Hearings Officer may enter a judgment against the person for an amount up to the maximum fine, in addition to any fees, costs or expenses, conditions or restrictions authorized by this chapter;
  - i. A statement that when appearance before a Hearings Officer is mandatory the person cannot pay the fine in lieu of appearance.

### **C. Response to Citation**

1. Unless an appearance before a Hearings Officer is mandatory, a dog owner who has received a citation may respond by:
  - a. Appearing personally before the Hearings Officer on the cited appearance date and either admit or deny the violation; or
  - b. Prior to the appearance date return a signed copy of the citation to Dog Services admitting the violation, along with a check or money order payable to Clackamas County for the total base fine amount. Admission and payment does not relieve the dog owner of the requirement to correct the violation; or
  - c. Prior to the appearance date, return a signed copy of the citation to Dog Services denying the violation and requesting a hearing. Dog Services will set a time and place for the hearing and notify the Hearings Officer, and dog owner.
2. **Mandatory Appearance.** Personal appearance before a Hearings Officer at the time and place indicated on the citation shall be mandatory:
  - a. When a dog owner has received a citation three (3) times or more within a twelve (12) month period or the issuing officer has determined the appearance should be mandatory;

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- b. For violation of Failure to Surrender a Dog;
  - c. For violation of Interfering with a County employee or Peace Officer;
  - d. For violation of Providing False Information to a County employee or Peace Officer;
  - e. For violation of Failure to Comply with Conditions of Quarantine;
  - f. For violation of Failure to Comply with any Fine, Fee, Cost, Expense, Condition or Restriction authorized by this chapter;
  - g. For violation of Dog as a Public Nuisance when a dog kills a person, domestic animal, or livestock;
  - h. For violation of Failure to Comply with the Requirements of Keeping a Dangerous Dog.
  - i. For failure to reclaim an impounded dog.
  - j. For failure to meet minimum care standards.
3. Failure to Respond to Citation. If a person cited fails to respond to a citation as required by this chapter then the person shall be deemed to have waived his/her right to contest the citation. Following proof of sufficient evidence that the person has committed the cited violation(s) the Hearings Officer may enter a Final Order against the person for an amount up to the maximum fine, in addition to any applicable fees, costs or expenses, and any other imposition consistent with this chapter. A copy of the Final Order shall be sent to the person cited by regular mail.

**D. Hearing Process.**

1. Informal Disposition. The County and dog owner may agree to an informal and final disposition of any violation before a Hearings Officer issues a Final Order.
2. Burden of Proof. The burden will be on the County to prove that the violation occurred by a preponderance of the evidence.
3. Testimony of Witnesses and Parties. The Hearings Officer shall have the authority to administer oaths or affirmations and take testimony of and question witnesses and parties. Parties may offer witness testimony on their own behalf. Written testimony must be submitted by sworn affidavit and may be admitted into the record subject to exclusion by the Hearings Officer and objections by the opposing party.

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4. Cross-Examination of Witnesses. The person cited and attorneys may examine or cross-examine witnesses.
  5. Evidence. Reliable and relevant evidence shall be admitted subject to the rules of privilege recognized by law. The burden of presenting evidence to support a fact or position shall be on the offering party. The Hearings Officer may establish procedures for the presentation of evidence to ensure that the hearing record reflects a full and fair inquiry into the facts necessary to determine the matter alleged. The Hearings Officer shall have the discretion to exclude any material or testimony that is accumulative, repetitious, irrelevant or immaterial.
  6. Objections. Objections to admission of evidence shall be noted in the record and will be considered with respect to the weight to be given the particular evidence offered. The Hearings Officer shall have the discretion to admit or exclude any evidence presented and may reserve the ruling on the admissibility or exclusion of evidence until the time the Final Order is issued.
  7. Subpoenas. The Hearings Officer may issue subpoenas to parties when a request is supported by a showing of general relevance and reasonable scope of the evidence sought. Witnesses appearing pursuant to subpoena, other than the parties, peace officers or employees of the County, shall be paid the same witness fees and mileage as allowed in civil cases from the party requesting the subpoena to be paid at the time the subpoena is issued. The party requesting the subpoena will be responsible for its service in accordance with the Oregon Rules of Civil Procedure.
  8. Representation. The person cited may represent him/herself or may be represented by counsel at personal expense. The County may be represented at the hearing by any employee of the County. If the employee is not an attorney, the employee shall not present legal argument, examine or cross-examine witnesses, present rebuttal evidence or give legal advice to the Hearings Officer conducting the hearing.
  9. Record. A verbatim written or mechanical record shall be made of all hearings. The record may be transcribed at the request of a party upon payment in advance of the cost of transcription.
  10. Final Order. At the conclusion of the hearing the Hearings Officer shall issue a Final Order based upon reliable, relevant and substantial evidence which shall be the County's final determination. A Final Order shall be effective on the date that it is issued unless otherwise provided by the Hearings Officer. The order may be oral or written, but in all cases must be recorded in the record of the proceeding. The Hearings Officer may impose fines, fees, costs, expenses, conditions or restrictions and any other imposition authorized by this Chapter. Monetary obligations are due and payable on the effective date of the Final Order unless otherwise provided.

11. **Judicial Review.** Review of a Final Order of the Hearings Officer may be made by any party by writ of review as provided in ORS 34.010-34.100.
12. **Enforcement of Final Order.** The County may maintain civil proceedings in law or equity in a court of competent jurisdiction to enforce any provision of a Hearings Officer's Final Order. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

#### **5.01.080 PENALTIES**

##### **A. Fines, Fees, Costs; Expenses.**

1. Upon a finding that a dog owner has violated this chapter, a Hearings Officer may impose fines, fees, costs and expenses, which shall become a debt owing to Clackamas County and may be collected in the same manner as any other debt allowed by law. If fines, fees, costs or expenses are not paid within sixty (60) days after payment is ordered, the County may file and record the Final Order for payment in the County Clerk Lien Record as authorized by ORS 30.460.
2. If the Hearings Officer finds that the alleged violation did not occur, the County shall reimburse the dog owner for any fines, fees, costs and expenses previously paid by the owner for the alleged violation.
3. The Hearings Officer may order payment of the County's attorney fees and prosecution costs to include staff time for any violation of this Chapter.

##### **B. Conditions and Restrictions; Restitution; Euthanasia.**

1. Upon a finding by the Hearings Officer that a dog owner has violated a provision of this chapter, in addition to and not in lieu of any fine, fee, cost or expense, the Hearings Officer may impose restitution, euthanasia, and reasonable conditions and restrictions, including but not limited to:
  - a. Suspend the owner's right to own or keep any dog in Clackamas County for a period not to exceed five (5) years;
  - b. Require an owner in violation of Continuous Annoyance to keep the dog inside the owner's residence during hours specified by the Hearings Officer, and/or keep an operating bark-collar on the dog at all times. The bark-collar must be of sufficient quality and design to ensure intervention of barking;
  - c. Upon sufficient proof order restitution to any person who has suffered actual monetary loss as a result of a violation of this chapter, including but not limited to expenses incurred for veterinarian care, burial and memorial expenses, repair or replacement of damaged property, or medical bills;
  - d. Require the owner to spay or neuter the dog;

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- e. Require the owner to remove the dog to a location where the dog does not present a threat to persons, domestic animals, or livestock;
  - f. Require the owner to surrender the dog to the County;
  - g. After consideration of the factors set forth in ORS 609.093, require euthanasia when a dog has bitten or killed a person, domestic animal, or livestock. The Hearings Officer may also consider the public nuisance violation history of the dog and owner to include all known determinations by any court, governing body, official or agency of any local or state government without regard to where or when the incident occurred;
  - h. Require that the owner comply with any other condition or restriction reasonably designed to abate any future violation of this chapter;
  - i. Require that the owner obtain microchip identification for the dog;
  - j. Require the owner to reduce the number of dogs on the owner's premises.
2. Any condition or restriction imposed by a Hearings Officer must be complied with immediately unless otherwise ordered. The County may request that an owner provide proof of compliance by a date certain. If proof is not provided, or proof is insufficient, then a rebuttable presumption will exist that the owner has failed to comply and the owner may be cited for the violation of Failure to Comply in accordance with this chapter.
  3. An owner shall be responsible for all costs incurred in complying with any condition or restriction imposed.
  4. Upon a finding that an owner is guilty of a violation set forth in this chapter, regarding the same dog for the third time in a twelve (12) month period, the Hearings Officer may order that the owner surrender the dog to the County, without compensation paid to the owner.
  5. When a dog has been ordered surrendered and the County has determined that the dog qualifies for adoption, the County may give placement preference to any person who had prior contact with the dog, including but not limited to the former owner's family members or friends who reside separately from the former owner and whom the County has determined will provide adequate care and follow all conditions or restrictions imposed by the Hearings Officer in order to maintain control of the dog. [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 05-2003, 3/13/03; Amended by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

**5.01.090      AUTHORITY OF DOG SERVICES MANAGER**

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In accordance with the provisions of this chapter the Dog Services Manager shall have the authority to:

- A. Collect fines, fees, costs and expenses.
- B. Authorize an owner to keep a licensed dog that has been impounded and quarantined, at the premises of the owner during the period of quarantine.
- C. Declassify a dog as dangerous in accordance with the provisions of this chapter.
- D. Request the assistance of local law enforcement officials to obtain and execute a warrant authorized under state law and this chapter for the search and seizure of property.
- E. Require a dog owner to provide proof of compliance with a Hearings Officer's Final Order.
- F. Inspect premises of a dog owner to ensure compliance with this chapter;
- G. Develop and enforce policy, procedures, and standards to ensure the effective administration of this chapter. [Added by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

**5.01.100 TRANSITION**

- A. The provisions of chapter 5.01 as they existed prior to the most recent enactment of this chapter shall apply to violations of chapter 5.01 that occurred prior to the most recent enactment date, the disposition of which are not complete by the enactment date. The Dog Services Manager shall keep a copy of the previous chapter 5.01 on file.
- B. For the purposes of this chapter on or after the latest enactment date of this chapter, when consideration of prior or multiple violations is a factor, a violation of chapter 5.01 that occurred prior to the latest enactment date shall be considered a violation of this chapter. [Added by Ord. 01-2004, 4/8/04]

**5.01.110 SEVERABILITY**

If any clause, section or provision of this chapter is declared unconstitutional or invalid for any reason or cause, the remaining portion of this chapter shall remain in full force and effect and be valid as if the invalid portion had not been incorporated herein. [Added by Ord. 01-2004, 4/8/04; Amended by Ord. 05-2010, 7/1/10]

**5.01.120 ENFORCEMENT OF OTHER LAWS**

- A. Enforcement of Dogs. Pursuant to ORS 203.035; 153.030; 609.015 and ORS 609.135, this chapter supersedes enforcement in the County of the following state statutes regarding control of dogs: ORS 609.030 and 609.035 to 609.110; 609.155; 609.158; 609.165; 609.170; 609.180; 609.190.

- B. Enforcement of Rabies Control. Rabies control shall be enforced by the Clackamas County Health Officer in cooperation with the Dog Services Manager in accordance with the provisions of ORS 433.340 through 433.390.
- C. Enforcement of Violations Involving Livestock. When a dog is determined to be a Public Nuisance under this chapter for menacing, biting, injuring or killing livestock, in addition to all other provisions and regulations of this chapter the following state statutes apply: ORS 609.125; 609.156; 609.161; 609.162; 609.163; 609.167; 609.168.
- D. Other Laws Apply. Except as expressly provided in this chapter, this chapter shall in no way be a substitute for or eliminate the necessity of conforming with any and all state and federal laws, rules and regulations, and other ordinances which relate to the requirements provided in this chapter. [Added by Ord. 05-2010, 7/1/10]



To: Mayor and City Council

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

From: Tim Salyers, Code Compliance Coordinator

Subject: Resolution Authorizing a Lien in the Amount of City Costs for Abating the Nuisance on the Real Property owned by AAC REOCO 2008-1, LLC.

Date: November 10, 2010

Action Requested

Approve a resolution of the city council of the City of Milwaukie, Oregon, assessing the costs of abatement of the nuisance located at 9643 SE 38<sup>th</sup> Ave and entering the same on the docket of city liens pursuant to Milwaukie Municipal Code section 8.04.200(d).

History of Prior Actions and Discussions

None

Background

The Code Compliance Department received a request from a neighbor to inspect the premises located at 9643 SE 38<sup>th</sup> Ave in the City of Milwaukie, County of Clackamas, State of Oregon for overgrown weeds and grass. Code Compliance Coordinator Tim Salyers went to the property on or about July 19, 2010 and observed a violation of MMC Section 8.04.110A. Specifically, Officer Salyers observed and documented the existence of very tall grass and other weeds. The City's Code Compliance Department conducted a compliance case that resulted in non-compliance.

In order to address the continuing violations after the code compliance process, the Code Compliance Department went forth with an abatement of the nuisances. The Milwaukie Municipal Code Sections 8.04.170-8.04.190 establishes the procedures for abatement. All steps were followed and documented. The Code Compliance

department posted the premises advising of the existence of the nuisance, in compliance with MMC 8.04.170B. and sent a copy of the notice to the property owner certified mail postage prepaid. Since the nuisance was not abated by the property owner, in accordance with MMC 8.04.190, the nuisance was abated by the City.

On October 11, 2010, in compliance with MMC 8.04.200 A. an abatement summary was sent certified mail, postage prepaid, to AAC REOCO, the property owner, at 715 S. Metropolitan Ave, Oklahoma City, OK 73108. The notice was claimed on October 15, 2010.

The municipal code provides an opportunity for objections to be filed. There has been no objection and no payment as of today as required by Milwaukie Municipal Code Section 8.04.200.

MMC 8.04.200 provides that if the costs of abatement are not paid within thirty days from the date of notice, an assessment of the costs as determined by the City Council shall be made by resolution and entered in the docket of city liens. Upon such entry being made, the administrative costs and the other expenses shall constitute a lien upon the property from which the nuisance was abated.

#### Concurrence

The City Manager, City Recorder and Community Services Director concur with the recommendation.

#### Fiscal Impact

##### *If Action Not Taken*

If the recommended action is not taken as it relates to the non-administrative costs, the City will lose the costs that it has incurred to abate the nuisance.

If the recommended action is not taken as it relates to the administrative costs, the City will not be reimbursed for those costs, which have been budgeted.

##### *If Action Taken*

If the recommended action is taken, the City will enter a lien against the property, which may be satisfied in the near or far future as the property owner determines. In any event, it will accrue interest at the statutory amounts as allowed by ORS 82.010(2) per annum from the date of entry of the lien on to the lien docket pursuant to Milwaukie Municipal Code Section 8.04.200(D).

Council Staff Report -- (Resolution Authorizing a Lien in the Amount of City Costs for Abating the Nuisance on the Real Property owned by AAC REOCO 2008-1, LLC)  
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Work Load Impacts  
None

Alternatives  
Deny the resolution

Attachments

1. Resolution
2. October 11, 2010 letter from City Recorder to AAC REOCO 2008-1, LLC

# Attachment 1

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ASSESSING THE COSTS OF ABATEMENT OF THE NUISANCE LOCATED AT 9643 SE 38<sup>th</sup> AVE AND ENTERING THE SAME ON THE DOCKET OF CITY LIENS PURSUANT TO MILWAUKIE MUNICIPAL CODE SECTION 8.04.200(D).**

**WHEREAS**, on September 24, 2010 notice of a nuisance was issued and posted on the property located at 9643 SE 38<sup>th</sup> Ave, Milwaukie, Oregon; and

**WHEREAS**, the property owner or person in charge of the property did not abate the property or file a protest to the notice of a nuisance within ten (10) days of the posting; and

**WHEREAS**, the City abated the nuisance after first obtaining a judicial warrant authorizing entry to the property to abate the nuisance; and

**WHEREAS**, the City has maintained an accurate accounting of the costs of abatement, including administrative overhead; and

**WHEREAS**, on October 11, 2010, the City forwarded to the owner, or person in charge, by registered or certified mail, postage prepaid, a notice of the abatement costs in compliance with Milwaukie Municipal Code Section 8.04.200(A) et seq; and

**WHEREAS**, there has been no objection filed to the abatement costs within ten (10) days after the notice nor have the costs of the abatement been paid within thirty (30) days from the date of the notice; and

**WHEREAS**, Milwaukie Municipal Code Section 8.04.200(C) provides that if the costs of abatement are not paid within thirty days from the date of notice, an assessment of the costs as determined by the City Council shall be made by resolution and shall thereupon be entered in the dockets of city liens, and upon such entry being made shall constitute a lien upon the property from which the nuisance was abated.

**NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL, CITY OF MILWAUKIE, STATE OF OREGON, THAT, PURSUANT TO MILWAUKIE MUNICIPAL CODE SECTION 8.04.200(C):**

Section 1. The assessment of the costs for the abatement of the said nuisance, including administrative overhead, is in the amount of \$1,006.91.

Section 2. The above assessment of costs shall be entered in the docket of city liens.

Section 3. This resolution is effective immediately upon adoption.

# Attachment 1

**IT IS FURTHER RESOLVED THAT** the City may also record the lien as a lien in the County lien records.

Introduced and adopted by the City Council on \_\_\_\_\_.

This resolution is effective on \_\_\_\_\_.

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

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

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

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

# Attachment 2



**MILWAUKIE**  
*Dogwood City of the West*

October 11, 2010

AAC REOCO 2008-1 LLC  
715 S Metropolitan Ave  
Oklahoma City, OK 73108

Certified Mail # 7007 3020 0001 4229 7112

## **Abatement Costs of Nuisances on Your Property at 9643 SE 38<sup>th</sup> Ave, Milwaukie OR 97222**

To Whom It May Concern:

An abatement of numerous code violations has occurred on your property. The City of Milwaukie has done the following work on your property, which will now be entered onto the City's lien docket:

<u>Work Completed by Contractors or City Employees</u>	<u>Cost</u>	
Trimming, Cutting, and Removal of: Weeds, blackberries, and grass	\$678.91	
<u>Administrative Staff Time</u>	<u>Hours</u>	<u>Cost</u>
Tim Salyers, Code Compliance Coordinator	8 X \$41.00	\$328.00
<b><u>Total \$1,006.91</u></b>		

The cost as indicated will be assessed to and become a lien against the property unless paid within **thirty (30) days** from the date of this notice.

If the owner or person in charge of the property objects to the cost of the abatement as indicated, he or she may file a notice of objection with the city recorder not more than **ten (10) days** from the date of this notice.

Sincerely,

Pat DuVal  
City Recorder  
503-786-7502

6.  
OTHER BUSINESS



**To:** Mayor and City Council

**Through:** Bill Monahan, City Manager

**From:** Kenneth Asher, Community Development and Public Works Director  
Alex Campbell, Resource and Economic Development Specialist  
Nicole West, Community Development Coordinator

**Subject:** Walk Safely Milwaukie Program Launch & Amendments

**Date:** October 29 for November 16, 2010 Regular Session

### **Action Requested**

Adopt a revised program document for the Walk Safely Milwaukie Program, expanding PSAC's role in capital project scoring, project selection, and the annual program review; and creating an automatic allocation category for awareness and education projects.

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

**June 2010:** Council approved Resolution # 65-2010 to initiate a three year pilot phase of the Walk Safely Milwaukie Program.

**May 2010:** Council provided staff neighborhood feedback regarding the proposed WSMP and requests staff revisit expected revenues and refine program elements.

**February 2010:** Staff introduced WSMP concept to Council and requested Council direction for use of new revenues expected under HB 2001B.

### **Background**

The Walk Safely Milwaukie Program seeks to promote improved walking conditions and pedestrian safety by empowering Milwaukie's neighborhoods to identify and implement projects that will make walking in Milwaukie a safer, more comfortable and commonplace experience.

As outlined in the full program document, the pilot WSMP is guided by principles developed in the 2007 TSP: to improve livability and safety while integrating quality design. The four benchmarks of the Walk Safely Milwaukie Program are:

- To empower Neighborhood District Associations (NDAs) to effectively fund high priority pedestrian projects and programs
- To increase the involvement of residents in neighborhood planning by providing tools and resources to develop meaningful solutions
- To create conditions that increase the sense of safety, ease and enjoyment for pedestrians and bicyclists on local streets
- To improve the safety of pedestrian crossings at arterial and collector streets without compromising auto mobility.

Staff has begun to roll-out and refine the program. CD staff has briefed Planning, Engineering, and Public Works departments and is working closely with Community Services on public outreach. The Public Safety Advisory Committee was briefed at their August meeting. Briefings for each NDA were conducted in September.

Members of the Public Safety Advisory Committee raised concerns with staff regarding the program in terms of the level of PSAC's involvement, the transparency of the project selection process, and what was perceived to be an adversarial approach to project selection. Staff met with PSAC at their September 23 meeting to better understand their concerns. Staff returned to PSAC on October 28 with proposals to make adjustments to the program in four areas, as follows.

*1. Capital Project Scoring*

- Provide opportunity for PSAC to review project proposals and preliminary technical scores, with an opportunity for PSAC to suggest changes to scores.
- Re-define the "Integrates Education and Outreach" criteria to more closely tie to WSMP efforts and be more objective.

*2. Awareness & Education Project Scoring*

- Create a small, non-competitive category: one small awareness & education project per NDA (up to \$500 per NDA).
- Add "3 NDA rule" – if a project is jointly sponsored by three or more NDAs, it would automatically be funded.

*3. Project Selection*

- Require PSAC approval of selected slate of projects (an "up or down" vote).

- If PSAC votes no, a mini-committee (made up of the CD/PW Director, the Chair of PSAC, and a City Council designee) would develop a revised recommendation, which would be brought back to PSAC.

#### 4. Joint Review

- Include the opportunity for PSAC to make a joint report to City Council with staff, as part of the annual program review, with an assessment of program design, concerns, recommendations, etc.

The revised program document, included as an exhibit to the attached Resolution, reflects those changes. It also includes an adjusted project selection timeline to allow for the extra steps to more fully engaged PSAC in the process.

The planned time-line for this year’s process—which would allocate funds in both the current budget and those anticipated in next year’s budget (a total of approximately \$145,000)—is:

December/Jan.:	Training/technical assistance events
February 15:	NDA's submit "Walk Safely Report"
February PSAC:	Staff and PSAC discuss Reports & provide feedback to NDA's
March 30:	Project proposals due
April PSAC:	Review proposals and discuss preliminary scores
May PSAC:	Staff presents proposed project list for PSAC vote
June:	Re-fine project slate (if necessary)
June PSAC:	PSAC votes on revised project slate (if necessary)
June-August:	Project design, contracting and implementation
Sept-Oct. & April-June:	Construction

Per Resolution # 65-2010, the WSMP has an annual funding target of \$100,000 for fiscal years '11-'12 and '12-'13. The current year budget includes \$47,000 for WSMP activities. A small portion of the \$47,000 available for the WSMP this budget year was expended in support of the Walk and Bike to School event on October 6.

### **Concurrence**

A program management team has been formed including the Directors of Community Development, Planning, Engineering, and Community Services. PSAC voted to support the program changes as described above and move forward with the program on a one-year basis. Some members still expressed a preference that PSAC have the final say on project allocations. However, the group as a whole felt it would be best to complete a cycle and then PSAC would have an opportunity to make recommendations for changes as part of the annual review, if necessary.

### **Fiscal Impact**

None. Funding for current year and funding target for next year, as set by the original Resolution, are unchanged.

### **Work Load Impacts**

Program adjustments will not significantly change the needed level of staff support for the program.

### **Alternatives**

Staff believes the changes as presented respond effectively to PSAC's desire to be more directly involved in all phases of the program. Alternatives to that approach would include making PSAC the final decision maker or placing that responsibility with City Council. Given PSAC's charge as an advisory committee, staff believes that the more appropriate alternative to a staff-driven process would be placing that authority with City Council.

### **Attachment**

1. Resolution

ATTACHMENT 1

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

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

**WHEREAS**, the City Council adopted Resolution 65-2010 establishing the Walk Safely Milwaukie Program to improve livability, support pedestrian safety and raise the level of “walkability” of Milwaukie; and

**WHEREAS**, City’s Transportation System Plan (TSP) describes both the magnitude of the problem and the community’s desire to make their streets more walkable; and

**WHEREAS**, a Walk Safely Milwaukie Program will empower neighborhoods to identify and implement projects to make walking in Milwaukie a safer, more comfortable, and commonplace experience; and

**WHEREAS**, some adjustments to the program have been requested by the City’s Public Safety Advisory Committee.

**NOW, THEREFORE, BE IT RESOLVED** that the City adopt a revised three-year pilot of the Walk Safely Milwaukie Program, the revised program being attached hereto as Exhibit A.

Introduced and adopted by the City Council on November 16, 2010.

This resolution is effective on \_\_\_\_\_ .

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

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

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

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

EXHIBIT A



November 2010

# **Walk Safely Milwaukie Program**

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## **Mission Statement**

***The Walk Safely Milwaukie Program (WSMP) empowers Milwaukie's neighborhoods to identify and implement local projects and other citizen-led activities to make walking in Milwaukie a more comfortable and commonplace experience.***

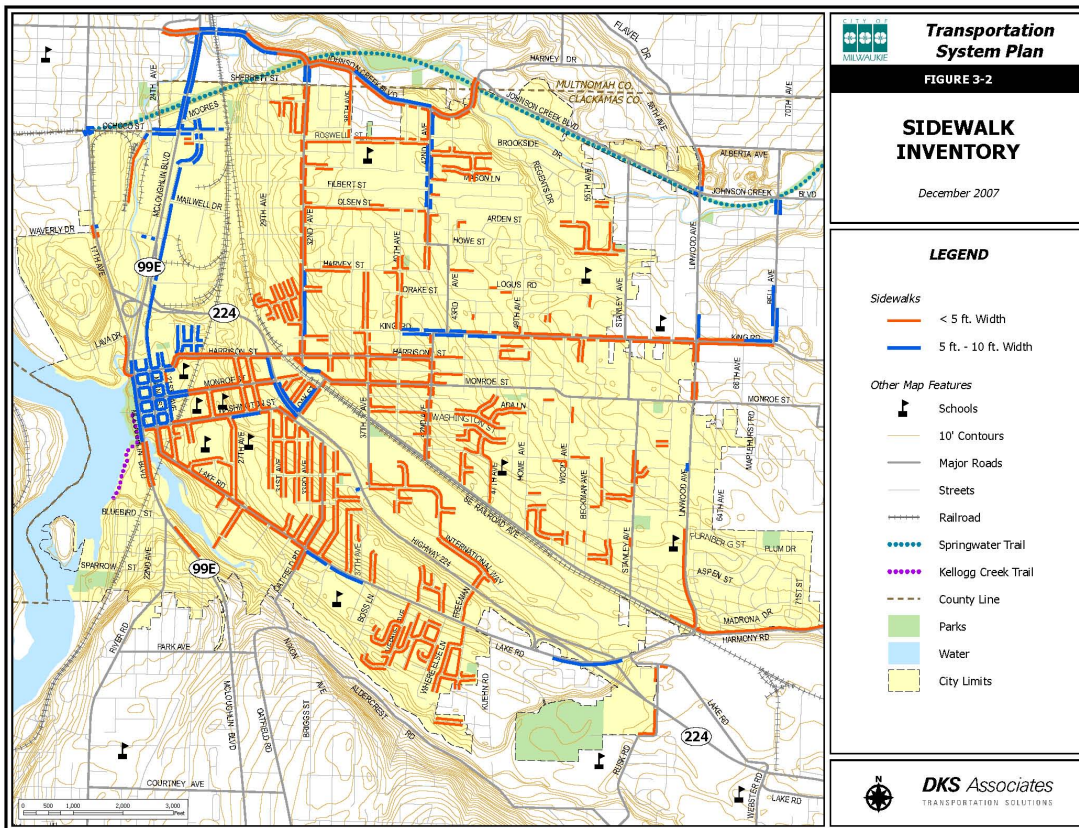
### **1. Existing Conditions & Need**

**Milwaukie's residential streets face increasing levels of motorized traffic – a pattern that will only worsen with time.** All across the region, interactions between automotive, bicycle, and pedestrian traffic has become increasingly strained, presenting safety concerns for all road users, but particularly for pedestrians. In Milwaukie specifically, neighborhood concern about speeding, cut-through traffic, unsafe driving, and failing intersections is longstanding. Many Milwaukie streets have inadequate sidewalks, street lighting, and safe crossings. These factors reduce the feeling of safety for pedestrians, which, in turn, decreases citizens' interest and ability to walk – whether for exercise, pleasure, or transportation. The social quality of Milwaukie's neighborhoods is correspondingly weakened.

For years, Milwaukie's neighborhoods have voiced concern over this situation, and sought means for doing something about it (see Appendix A). In 1997, the City adopted a Neighborhood Traffic Management Program (NTMP) that was intended to address neighborhood traffic issues and pedestrian safety concerns. Until this year, little to no funding has been available to fund this program, due to the serious gap between funding availability for streetscape improvements and the almost incalculable need throughout Milwaukie's neighborhoods. During the 2008-2009 fiscal year, for example, neighborhoods received only about \$10,000 in total, which funded a few, small traffic calming and pedestrian safety projects identified through a collaborative process between NDA representatives, the Public Safety Advisory Committee, and the City Engineering Department.

Yet the City's recently completed Transportation System Plan (TSP) clearly describes the magnitude of the problem and the communities desire to make their streets more walkable. The TSP's Prioritized Master Plan Project List identifies 44 high and medium unfunded priority projects – 19 of which (or 43 percent) would improve the function and safety of non-motorized transportation. Chapter 11 of the TSP suggested funding a Neighborhood Pedestrian and Traffic Safety Program at the level of \$300,000 per year and identified numerous strategies for achieving the goal (the neighborhood traffic management "Tool Box").

Milwaukie has a fragmented and disconnected network of sidewalks, which makes walk trips, especially those of any distance, uncomfortable. The TSP notes that neighborhoods to the northeast of Highway 224, in particular, lack adequate pedestrian facilities. Many residential areas in this part of the city have no sidewalks whatsoever, and there are many intersections with partial or no ADA ramps. Sidewalk gap coverage is illustrated by the Sidewalk Inventory in the TSP (figure 3-2, reproduced below).



The issue goes beyond sidewalk gaps, however. In the Island Station NDA, neighbors have complained for years about pedestrian safety and high traffic speeds on River Road. The Ardenwald, Lewelling and Linwood NDAs have seen, and expect to see, additional cut-through traffic on collectors in their neighborhoods as Clackamas County and the city of Portland continue to add population. The Lake Road neighborhood has been waiting more than ten years for the transformation of Lake Road into a more pedestrian and bike-friendly boulevard – a project that has taken so long because of its total reliance on federal funding, and one which will still be difficult to get to on foot or bike for many Lake Road residents. The Hector Campbell NDA has voiced a mix of opinions about adding sidewalks – but most in the neighborhood would prefer that walking to the King Road Commercial Center was easier and safer. Only the Historic Milwaukie NDA has a fairly complete sidewalk network; however, this neighborhood has also been outspoken about driver behavior between downtown Milwaukie and Highway 224, and the impact of this behavior on neighborhood livability.

In short, all of the Milwaukie neighborhoods have been united in their concern about the impact of traffic near their homes, whether the leading concern is safety, noise, inconvenience, the slowness of project development, or a more general dissatisfaction with streets that meet the needs of cars while leaving neighbors to fend for themselves. The City has enacted policies consistent with neighborhood views, but has never had enough money to make much of a dent in the problem. The WSMP is designed to finally address this shortcoming.

## **2. Traffic Calming vs. Walkability**

**As defined in the 1990's (and perhaps as is currently conceived by many neighbors), the problem of walking in Milwaukie's neighborhoods, is principally a traffic problem.** The thinking goes that if there were less traffic, or if traffic were "calmer", then pedestrians would naturally emerge.

On the one hand, the presence of traffic – especially traffic that is high volume, fast, and seemingly oblivious to the local surroundings – is a deterrent to walking. However, there are many, many streets in Milwaukie where traffic is most decidedly not a problem, but where Milwaukians don't feel comfortable walking regardless.

The WSMP recognizes that good walking environments require more than simply the absence of intimidating traffic. These characteristics include:

- Destinations within walking distance
- Supportive physical features of the streetscape (is the "walk zone" safe and comfortable?)
- An "interest factor" (is the walk interesting; can more than one route be selected; what are the chances of running into a neighbor?)
- The "people factor" (are others out walking also?)
- Safe/comfortable crossings (since one very difficult street crossing can dissuade the decision to walk at all).

The WSMP will calm traffic where possible but also broaden the range of ideas, efforts and comprehension of what makes a walkable city. Traveling on foot between neighborhood destinations enhances livability and promotes health and well being *while at the same time signaling to drivers to slow down*. Pedestrian safety projects and traffic calming devices that improve walking conditions within neighborhoods have the potential to decrease traffic speeds and vehicular noise levels. As a result, these projects can strengthen community identity and pride, put more eyes on the street, and potentially deter crime and other unwanted activity.

Walkable communities promote increased health and well-being for individuals and families, while providing residents opportunities to save money and take small steps toward protecting the environment. Walking burns as many calories as jogging yet is far less stressful and is appropriate for all ages. Walking is inexpensive transportation and can decrease our ecological footprint. As communities walk, neighbors become better acquainted, fostering stronger communities and increasing neighborhood safety. *The simple presence of people within the vicinity of local streets has proven to decrease traffic speeds, making roadways safer for all users.*

The following section on WSMP goals and eligible activities acknowledges the importance of traffic calming within the larger objective of improving "walkability" and livability. However, traffic calming alone won't necessarily get neighbors thinking together about key pedestrian improvements, nor make it easier for baby strollers to navigate tough crossings, nor make a walk trip more convenient from home to store, nor bind neighbors together with local businesses or schools in support of walkability. Projects and initiatives that aren't traffic calming focused and do not occur on high

volume streets can still be desirable under the WSMP concept, and may have, in fact, even greater benefits to a neighborhood.

### **3. Program Benchmarks & Eligible Activities**

#### **a. Benchmarks**

**The WSMP is founded on the understanding that both the built environment *and* social context affect walking behavior.** The WSMP promotes education *and* engineering to improve the conditions and awareness in neighborhoods that are necessary to increase the propensity of walking. The walkability of a given streetscape is determined by the relationship between the street's physical features, urban design qualities, *and* individual reactions to those features and qualities. The extent to which individuals feel that a street is a safe and desirable place to walk largely determines its walkability. And the extent to which neighborhoods feel like they have influence over the gradual and positive transformation of their streets should improve neighbors' engagement with each other, their immediate environment, and the City itself.

The four benchmarks of the Walk Safely Milwaukie Program therefore, are:

- To empower Neighborhood District Associations (NDAs) to effectively fund high priority pedestrian projects and programs
- To increase the involvement of residents in neighborhood planning by providing tools and resources to develop meaningful solutions
- To create conditions that increase the sense of safety, ease and enjoyment for pedestrians and bicyclists on local streets
- To improve the safety of pedestrian crossings at arterial and collector streets without compromising auto mobility.

#### **b. Eligible Activities**

**To achieve the 4 benchmarks and demonstrate the success and value of the WSMP, it is essential that neighborhoods have a high level of control over the desired improvements, but also that such improvements actually bring the desired effects to the neighborhood.** The WSMP will not be able to, nor should it, fund every idea from every corner of Milwaukie. The Eligible Activities, as proposed in the Pilot phase of the program, are grouped into three categories:

1. Pedestrian Amenities and Local Street Calming
2. Street Design and Collector/Arterial Street Calming
3. Awareness and Education

#### **Pedestrian Amenities and Local Street Calming**

Many neighborhood and local streets would benefit from devices that would favor non-motorized traffic and improve the pedestrian experience in and around the street. These devices invite pedestrians to use streets as public spaces and, in doing so, both calm and deter traffic indirectly. These can be low-cost, community-building elements that

change the physical geometry of the street to promote its use by people outside of their cars. Examples include;

- New and improved sidewalks
- Adding and retrofitting ADA ramps
- Street-side seating
- Street trees
- Drinking fountains and other water features
- Community notice boards
- Play equipment-and other kid-friendly improvements
- Sculpture and Art
- Street Painting
- Median landscaping, gardens, and water quality features

Some locations on neighborhood and local streets call for street design and calming devices that influence both pedestrian and driver behavior equally. They promote walking while actively slowing or deterring traffic. Examples include;

- Shared streets – streets without curbs where bollards, chokers, and/or landscape elements define vehicle and pedestrian areas
- Center median with or without pedestrian refuge
- School safety improvements such as beacons at crossings
- Raised, lighted, decorative, or painted crosswalks or other intersection treatments, such as paving alternatives
- Entry treatments – use of landscaping to delineate and enhance a neighborhood entrance.

### Street Design and Collector/Arterial Street Calming

Collector and arterial streets, by their nature, cater more to driver mobility, but need not sacrifice pedestrian safety. The following calming devices focus primarily on drivers, but also improve the pedestrian experience by providing safe crossings and refuge areas and managing access to heavy use streets from local neighborhoods. Examples include:

- Traffic circles
- Full/partial closure of local or skinny streets to prevent thru traffic by means of a physical barrier
- Diverters – a median or other barrier such as a curb extension, that forces traffic to turn in a particular direction thereby reducing cut-through traffic and collisions.

Finally, some devices are directed entirely at the driver. They intend to manage, slow, or deter traffic without direct or intentional impact on pedestrian volumes or safety. Examples include:

- Improved signage
- Speed bumps, humps, cushions or tables
- Traffic signals and signal timing changes
- Speed radar trailer and/or enhanced police enforcement
- Improved major street performance, i.e., provision of adequate capacity and connectivity on alternative arterials and collectors.

### Awareness and Education

The more unsafe a roadway feels for pedestrians, the less likely we are to walk between short destinations. The absence of pedestrians gives drivers the impression of security and predictability, leading to increased speeds and a greater likelihood of reckless driving behavior. This can become a self-reinforcing effect, further deteriorating pedestrian safety and the likelihood that neighbors will choose to walk.

Encouraging social and cultural solutions to traffic problems is based, in part, on the concept that most residents are both drivers and pedestrians. Everyone has a stake in shifting the traffic dynamic within all neighborhoods to balance livability with mobility. A deeper understanding of how each of us is responsible for the character and quality of our neighborhoods is a key step in encouraging drivers to consider the context and implications of their driving behavior.

***A neighborhood walking culture is the most basic and effective form of traffic calming because the presence of pedestrians makes drivers accountable for their driving behavior.*** At the same time, a walking culture improves the social character and vitality of neighborhoods. As more residents are supported in their choice to walk between destinations, the use of local streets is diversified; bikers, cars, dogs, kids, joggers, and the elderly all begin to share the street environment. This highly varied environment reminds drivers that neighborhood streets are unpredictable, people-oriented spaces, and that their driving style and speed should reflect this.

The WSMP therefore seeks to empower neighborhoods to promote walkability and livability by raising awareness and educating neighbors about the interactivity of streets, drivers, pedestrians, cyclists and neighbors. Eligible Awareness and Education activities could therefore include:

- Citizen traffic calming workshops, trainings, and toolkits
- Walking Audits/Checklists and surveys to determine existing conditions
- Neighborhood Pace Car bumper sticker campaigns
- Neighborhood speed watch
- Neighborhood Traffic Treaties
- Events and programming such as International Walk and Bike to School Day
- Incentives that encourage businesses and other institutions to connect to the street with seating, outdoor art, or play structures.
- Cycling classes or safe walking route information and mapping resources.

- Requiring “Share the Road” classes for drivers that have received particular types of traffic violations.

Awareness and educational programs are relatively low-cost measures and should be undertaken in partnership between interested neighbors, other NDAs, schools, religious institutions, community coalitions and the City itself. The WSMP is structured to support and encourage social programming as a complimentary element to the construction of physical pedestrian amenities and traffic calming devices.

#### **4. Responsibilities**

**To achieve the four benchmarks, the WSMP requires the successful collaboration of several responsible parties.**

Milwaukie’s NDAs are responsible for keeping abreast of traffic concerns in their neighborhood by walking regularly, listening to neighbor concerns, recording observations, and regularly reporting on traffic and walking conditions to the City through a **Walk Safely Report to the Public Safety Advisory Committee (PSAC)**. NDAs are also responsible for submitting project proposals to PSAC, and justifying these projects, in writing, according to the established Project Ranking Criteria.

The Public Safety Advisory Committee is responsible for acting as an intermediary between NDAs and City staff, providing a forum for communication between these entities, and working in an advisory capacity as project proposals are developed and reviewed. PSAC has the responsibility to approve the final project list. PSAC also works with staff to jointly report on the program and suggest changes as part of the program audit.

The City of Milwaukie’s Community Development Department is responsible for supporting the NDAs in the development of a regular report on traffic conditions; providing consultation and resources to assist in program and project development; and determining if educational and enforcement solutions have been adequately considered or implemented prior to capital project implementation.

The City of Milwaukie’s Engineering Department is responsible for reviewing and providing appropriate capital project recommendations in response to NDA Walk Safely Reports; advising and staffing the WSMP program at PSAC; evaluating proposed capital projects according to the established Project Ranking Criteria; explaining if any project proposals run afoul of safe or necessary traffic engineering; developing cost estimates to accompany capital project proposals; and designing, bidding, and managing small projects awarded funding.

The Community Development/Public Works Director is responsible for awarding, on an annual basis, WSMP funding and determining the use of any unallocated WSMP funds at the end of each fiscal year. The CD/PW Director shall also make an annual report to the City Council on the Program.

The Milwaukie City Council is responsible for reviewing the benefits of the Program and the wisdom of allocating city funds to the Program. The Council may also, in their role as City leaders, help the NDAs and City Departments collaborate and communicate about projects, goals or issues that arise in the Program.

## 5. Project Identification, Criteria and Allocation of Resources

### a. Project Identification

**The WSMP recognizes that neighbors’ best understand the problems facing their streets and the opportunities available to improve the pedestrian environment.**

The WSMP project selection process empowers neighborhoods to effectively communicate pedestrian needs and traffic concerns to the City and to propose community-based solutions to these needs and concerns.

This process is proposed to run annually according to the following sequence:

- **Ongoing:** City staff will provide trainings, educational opportunities, and resources to NDAs and other interested community groups aimed at broadening citizen understanding of: “walkability”; traffic issues; the costs, benefits, and drawbacks associated with potential solutions; and how various pedestrian amenities and traffic calming approaches can affect driver/pedestrian behavior.
- **By Feb 15: NDAs develop and submit a Walk Safely Report** which will outline the neighborhoods’ perspective on current driving and walking conditions, trends, priorities and recommended potential improvements. The report is to be submitted to PSAC for their review. The Report may or may not be updated annually, at the NDA’s discretion.
- **Feb PSAC Meeting: PSAC and City Staff discuss and provide recommendations to the Walk Safely Report.** PSAC and staff recommendations shall be relayed to each NDA.
- **By March 30: NDAs submit project proposals.**
- **April PSAC meeting: City staff present draft scoring.** PSAC provides recommendations and suggests changes to scores.
- **May PSAC meeting:** City staff present funding recommendations for PSAC approval. With PSAC approval, final funding decisions could be made at this time. If PSAC does not approve recommendations, WSMP mini-committee is formed (CD/PW Director, the Chair of PSAC, and a City Council designee)
- **June PSAC meeting** (if necessary): WSMP mini-committee presents final funding decisions.

The specific dates may be adjusted to accommodate City budget cycles or other changes in the future.

### b. Capital Project Ranking Criteria

**Designation as a Pedestrian or Bicycle Route: Does the proposed project improve non-motorized mobility on a designated pedestrian or bicycle route?**

*Scoring:*

- 3 = Project is located at the confluence of two existing or proposed ped/bike routes
- 2 = Project is located on one existing or proposed ped/bike route
- 1 = Project is near or will improve non-motorized access to an existing or proposed ped/bike route

**Safe Routes to Schools: Preference will be given to projects that promote safer routes within the vicinity of schools.**

*Scoring:*

- 3 = Project is within 500ft of a school or part of a Safe Routes to School “action plan”
- 2 = Project is within 1000ft of a school
- 1 = Project is more than 1000ft from a school, but improves safe non-motorized access to a school

**Proximity to Parks and Community Amenities: Preference will be given to projects that are within 500 feet of parks, multi-family housing, churches, elderly housing, commercial centers, or any facility whose primary function is to serve the handicapped.**

*Scoring:*

Add 1 for each amenity

**Collision Rate: Preference will be given to projects that respond to a known safety concern or area of accident history.** Collision Rate = (Number of Collisions x 1,000,000)/(Number of Years of Data x Annual Average Daily Traffic).

*Scoring:*

- 3 = Project site has collision rate above 0.7
  - 2 = Project site has collision rate between 0.3-0.7
  - 1 = Project site has collision rate between 0-0.3
- Additional 2 pts available if a non-motorized/motorized traffic incident has been reported at this location

**Traffic Speed: Priority will be given to projects on streets where driver speeds jeopardize pedestrian safety.**

*Scoring:*

- 3 = 85-percentile speed is more than 10 MPH over posted speed
- 2 = 85-percentile speed is 5-10 MPH over posted speed
- 1 = 85-percentile speed is less than 5 MPH over posted speed

**Promotes Non-motorized Use of Streetscapes: Preference will be given to projects which are creatively designed to promote non-motorized transportation in and around the street.**

*Scoring:*

- 6 = Project is designed primary to enhance the experience and/or safety of non-motorized traffic, but will effectively deter/slow motorized traffic
- 4 = Project is designed to enhance the experience and/or safety of non-motorized traffic with no effect on motorized traffic
- 2 = Project is designed to deter/slow motorized traffic primarily, but may improve the pedestrian experience and/or safety secondarily.

**Neighborhood Support: Preference will be given to projects with broad-based neighborhood support and to those that provide matching funds.**

*Scoring:*

- 3 = 40 or more signatures (1 per address) from 4 or more streets in support
  - 2 = 30-39 signatures (1 per address) from 3 or more streets in support
  - 1 = 20-29 signatures (1 per address) from 2 or more streets in support
- Additional two points available based on level of financial match pledged by sponsoring-NDA.*

**Integrates Education and Outreach: Priority will be given to projects that integrate meaningful community-based education and outreach.**

*Scoring:*

1 point if project is identified in a "Walk Safely Report"

1 point if project has a connection to a previous or concurrent Awareness & Ed. effort

**Data-Supported: Preference will be given to projects identified within the TSP prioritized Bike or Pedestrian Master Plan Project List**

*Scoring:*

3 = Project is "high" priority within the TSP

2 = Project is "med" priority within the TSP

1 = Project is "low" priority within the TSP

**Project Cost: To be determined by Engineering Department. This information is advisory and not included in project scoring process.**

Note: Traffic calming or control methods shall not be used on emergency routes if emergency vehicles cannot achieve required response times as established by the Fire Department.

### **c. Awareness and Education Projects**

Each NDA will automatically receive funding for one small Awareness and Education project (up to \$500). Review of such proposals by staff shall be only to verify eligibility of the activity in terms of program goals.

Additional Awareness and Education projects and larger projects shall be ranked by staff evaluators. The following guidelines are intended as pass/fail criteria to guide evaluators.

**Promotes Safe Walking:** Preference will be given to program proposals which demonstrate, with a high level of confidence, an ability to effectively promote safe walking through socio-cultural means, especially those that provide incentives, motivation, or resources to increase safe walking.

**Calms Traffic:** Preference will be given to program proposals which contain elements aimed at decreasing traffic volumes and speeds. Traffic calming program elements should strive to positively influence driver behavior through education, incentives, and encouragement.

**Community Involvement:** Preference will be given to program proposals that can demonstrate the project's ability to improve neighbor relations and build community, and those that contain significant public outreach elements.

**Community Support:** Preference will be given to proposals that offer demonstrable support of community members in the form of pledges to match City funds with other funds, volunteer time, or other in-kind contributions.

**Project Partners:** Preference will be given to program proposals that are supported by a wide variety of community institutions and those that complement or connect with other WSMP efforts or similar regional programs.

**Well-Planned:** Preference will be given to projects that are the most appropriate action to address need, where appropriate consultation was sought from organizations or experts during program planning, and where program concept is well developed and organized.

**Strong Leadership:** Preference will be given to projects that demonstrate committed leadership and organization.

**New Leaders:** Preference will be given to projects that are supported by individuals that are becoming involved with their community or NDA for the first time, particularly youth.

**Document Success:** Preference will be given to program proposals that integrate tools for monitoring and measuring successes.

**Project Cost:** Includes cost of program elements (i.e. outreach materials, staff time etc) necessary to support applicant in actualizing the proposed program. This information is advisory and not included in project scoring process.

**3 NDA Rule:** If an Awareness and Education project is sponsored by three or more NDAs, it will be included in the project slate to be presented to PSAC.

#### **d. Resource Allocation**

The WSMP is designed for use by all Milwaukie NDAs, and will be most successful if allocations, over time, flow into all parts of the City. However, as noted in Section 2, the various NDAs come to the program with different needs and uneven levels of prior investment. *The WSMP should allocate resources as fairly as possible, with the geographic distribution of funding being one such factor to consider. Over time, if inequities appear between the level of awards between participating NDAs, this factor will receive greater weighting than others.* During the pilot period, however, the following factors will be considered equally in determining resource allocation:

- Overall Project Score – Numerical rankings based on criteria described above.
- Cost/Availability of Resources – Choices will be made based on funds available in that given year, such as a determination of the relative emphasis on capital projects versus Awareness and Education projects.
- Cost Effectiveness -- The total benefits of the project versus the WSMP contribution.
- Geographic Equity – If possible, the Program should award each NDA with funding for a highly ranked, lower-cost project at least every other year. Larger cost projects may not follow this guideline.

The Community Development and Public Works (CD/PW) Director of his/her designee shall present a draft resource allocation slate of projects to PSAC for an “up or down” vote. If PSAC votes “no” on the proposed resource allocation, the CD/PW Director, the PSAC Chair, and a City Council designee will work together to revise the project list. The revised project list shall be brought back to PSAC for approval.

## **6. Project Implementation**

**Relatively small-scale traffic calming projects will be designed by the City's Engineering Department.** Larger projects would most likely be designed under contract to the City. All construction, except for very small-scale projects, would be contracted through a competitive bid process. Contract work is overseen and managed by the City's Engineering and Streets Department staff. Project inspection is carried out by city staff or independent third party contractors under City staff supervision. City staff provides contracting guidelines to ensure that requirements are clear, procedures for documenting and correcting unacceptable work are in place, and all performance requirements are reflected in contracts.

Awareness and Education projects would be carried out largely by NDA members, with support from City staff. Expenditure and use of grant funds would be governed by the same rules as regular NDA disbursements. NDAs would be committed to provide the City an A&E Project Report at the conclusion of projects, typically in the next year's Walk Safely Report.

## **7. Reporting**

**The Public Works and Community Development Director will provide a report to City Council after the first year that significant funds are available, expected to be FY 2011-12.** This report will be developed jointly with the Public Safety Advisory Committee and include a summary of travel and walking conditions as reported by Milwaukie neighborhoods in their Walk Safely Reports, a listing of proposed projects and rankings, and a description of all funded projects, including their status.

Following completion of the Three Year pilot period, the Public Works and Community Development Director will return to Council with a second report, again to be developed jointly with PSAC, including similar information as above and recommending continuation, termination or revision of the Program. NDA input will be solicited on project outcomes and possible revisions.

## **8. Annual Program Budget**

Funds will be budgeted on an annual basis, based on new income realized by augmentation of the City's Streets Fund (State Gas Tax Fund) due to implementation of State House Bill 2001. Budgeting determination for WSMP will be made only after deducting those new revenues necessary to maintain basic street maintenance services and adequately fund basic operations.

## **9. Authority**

**Under City Council Resolution < >**

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To: Honorable Mayor and City Council  
From: Bill Monahan, City Manager  
Date: November 12, 2010  
Re: Walk Safely Milwaukie Program

The packet materials for the discussion of the Walk Safely Milwaukie Program did not include the draft minutes of the October 28, 2010 PSAC meeting. At that meeting, the Committee voted to recommend that the City proceed with the program and then review/audit the program (with staff) after one year.

A copy of the draft minutes is attached along with the memorandum prepared by Kenny Asher that was discussed by the PSAC. Page 2 of the memorandum illustrates a change that the PSAC made to the four modifications that staff prepared to respond to concerns voiced earlier by PSAC. The four modifications were proposed by staff after City Council endorsed the program. It is now necessary that Council determine if the four modification recommended by staff and PSAC are appropriate so the program can proceed.

Attachments:

1. Draft minutes of the October 28 PSAC meeting
2. October 28 memorandum prepared by Kenny Asher (as modified following PSAC action)

# ATTACHMENT 1

Public Safety Advisory Committee Meeting

October 28, 2010

Present:

Dave Hedges, Chair – Campbell Neighborhood Association  
Bob Jordan, Chief of Police  
Ray Bryan – Historic Milwaukie Neighborhood Association  
Mary Weaver – Campbell Neighborhood Association  
Don Wiley – Linwood Neighborhood Association  
Susanna Pai – Lake Road Neighborhood Association  
Pepi Anderson – Lewelling Neighborhood Association  
Joanne Bird – Island Station Neighborhood Association  
Brad Albert – City Engineer  
Kenny Asher - Community Development/Public Works Director  
Alex Campbell – Community Development  
Bill Monahan – City Manager

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The meeting was called to order at 6:15 p.m.

Dave asked if everyone had read the minutes from the two previous meetings. The group agreed to accept the minutes.

Dave hasn't yet heard from the Mayor regarding his letter.

Chief – the group had discussed having a student representative on PSAC. The School Resource Officer thought it would be a great idea to have the high school students apply/compete for the position.

We had an armed robbery at the Walgreens recently – an off-duty officer was a witness and got the license plate number. The suspect was arrested shortly thereafter.

Mary had asked the Chief to comment on a story that was in the news recently where an officer was sitting in a photo radar van in Arizona and got shot and killed. The Oregon Statutes require the photo radar van to be occupied by an officer. The vehicle also has to be an actual police vehicle. We're doing an audit of the whole system. The statistics are showing that the results are favorable. The audit will be made public when it is complete.

Automatic license plate reader – there's a Chiefs of Police conference in Florida that the Captain and a Sergeant are attending. There is new technology available now - we're going to look into it and see if it's cost effective. Possibly sharing it with another agency.

Chief will be attending a Halloween Party at a local church – raising money by having pies thrown at him.

The K-9 we were looking into is no longer available – another agency got him. We are still looking for one.

We still haven't settled the latest Union agreement – it will be going to arbitration soon.

Walk Safely Milwaukie Program – Kenny handed out a list of potential amendments. Alex explained the changes that were made. Mary went over some of her concerns/suggestions. There was a discussion regarding the PSAC's role in the decision making process. Some members felt it shouldn't be a competition between the NDA's. The PSAC members felt that the audit should be done together with City staff. Everyone agreed that was a good idea. Ray made a motion proceed with the project as is and then review/audit the program jointly with staff after one year. Pepi seconded the motion. Everyone agreed except for Dave - he abstained.

Ray – Light Rail - the final environment impact statement was just published. You can look at it on Metro's website. On November 15<sup>th</sup> the Milwaukie Light Rail meeting will be concerning the section of the design under Highway 224 to Kellogg Creek.

Elk Rock Island – Chief is talking with the Commander of Central Precinct and they are working on an agreement so that Portland will take primary responsibility for calls. If it's a non-emergency call Portland will respond. If it's an emergency they will ask Milwaukie to respond. If it's a fire related call they will send Portland Fire because they have boats that can access the island. A written agreement will take a while. Susanna asked who citizens should call – the Chief said either Portland Police or LOCOM and asked to be transferred.

Mary found a website - [www.walkscore.com](http://www.walkscore.com) – where you can put in your address and it will print out a score of the area.

She asked if we could discuss the PSAC's section in the new City website at the next meeting.

Joanne wanted to thank the City for placing the speed trailer in her neighborhood.

Brad handed out copies of the final version of the school district zones/signage.

Meeting was adjourned at 8:18 PM

\*\*Next regular meeting will be on December 2<sup>nd</sup>.

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# ATTACHMENT 2



## Memorandum

**To:** PSAC Chair David Hedges & PSAC Committee

**From:** Kenny Asher, CD/PW Director  
Alex Campbell, Res. & Ec. Dev. Spec.

**CC:** B. Monahan, B. Jordan, J. Herrigel, B. Albert, N. West

**Date:** October 28, 2010

**Re:** Expanding PSAC's Role & Other Possible Revisions to the Walk Safely  
Milwaukie Program (WSMP)

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Thank you for your committee's support of the Walk Safely Milwaukie Program. The funding that City Council has dedicated to improving the livability and walkability of Milwaukie's neighborhoods, along with your committee's involvement, will be instrumental in making this program a success.

It is our view that for the program to meet its goals and benchmarks, capital project selection, in particular, must be held to a clear and objective set of criteria. As importantly, the NDAs must have confidence that those criteria will drive the decision-making process. We expect that WSMP funding will be in high demand across all the neighborhoods, and that existing needs will persist even once the program is well established.

We heard several concerns voiced at PSAC, including the concern that the program design could lack credibility without sufficient transparency in the decision-making process. In addition, we heard committee members say that as representatives of the neighborhoods, the committee should participate in project evaluation and selection. In addition, members of the committee have suggested that some elements of the program could be structured to encourage greater NDA collaboration.

These points have caused us to reevaluate the program design. We are now prepared to suggest modifications that we believe would strengthen the program. The steps below would expand PSAC's responsibilities and input, provide an additional check and balance at the allocation step, and increase overall transparency. It stops short of making PSAC a decision-maker at the project level.

We propose improvements to the adopted Program in four areas:

**1. Capital Project Scoring.** Project submissions would be circulated to both PSAC and City staff. City staff's preliminary scores would be shared with PSAC and PSAC members would have the opportunity to ask questions and/or suggest revisions to the technical scores. This would give staff the benefit of the PSAC "boots on the ground" perspective, while providing some additional transparency and accountability to the scoring process.

In our review of the selection criteria, seeking to insure that all of the standards are, indeed, clear and objective, we also propose the following changes:

- Provide full points (3) under Safe Routes to Schools for any project identified as part of an adopted Safe Routes to Schools “action plan”, regardless of location.
- Replace scoring under “Integrates Education and Outreach” with: +1 point if project is identified in a Walk Safely Report; and +1 point if project has a connection to a concurrent or previous WSMP Awareness & Education project.

**2. Awareness & Education (A&E) Project Scoring.** Acknowledging that the ranking criteria in relation to these projects are inherently more subjective, and given that the program as a whole would greatly benefit from NDAs taking advantage of this part of the program, we are proposing to adopt Mary Weaver’s suggestion of establishing a non-competitive category, under which any NDA could request and receive funding for one small (up to \$500) awareness and education project.

We propose leaving in place the possibility for larger A&E projects, which would compete with each other and capital projects. However, in the case of a larger A&E project that had formal support from three or more NDAs, the project would be automatically funded. (The “3 NDA rule.”)

The establishment of a non-competitive category mitigates some of the competitive aspects of the program, and the addition of the 3 NDA rule would provide a direct inducement to collaboration.

(We agree with Mary’s additional suggestions regarding tracking and record-keeping related to A&E projects, and plan to incorporate these measures as a matter of practice regardless of any other changes.)

**3. Project Selection.** The allocation of funding would be presented to PSAC prior to being made “final.” The committee, by majority vote, would either approve or reject the slate of projects as ranked and proposed for funding.

If the slate were rejected, revising the slate of projects would fall to a three person committee of the CD/PW Director, the Chair of PSAC, and a City Council designee. The revised slate would then be presented to PSAC for approval.

**4. Program Audit.** Each year under the program as adopted, the CD/PW Director makes a presentation to the City Council on Program status, accomplishments, etc. The PSAC would also make a presentation to Council at the same meeting, as an independent “watchdog” over the administration of the program. Any concerns with how the Program is being managed could be raised to the City Council directly, on an annual basis, with recommendations for improvements. This would obviously give the committee a larger presence and voice regarding the Program and its administration.

PSAC preferred that they work with staff to develop a joint report. The motion which was passed was to support the proposed changes-- with the caveat that the program audit be jointly developed and presented by PSAC and staff.



To: Mayor and City Council

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

From: Tim Salyers, Code Compliance Coordinator

Subject: Ordinance Reinstating the Prohibition of Recreational Vehicles Parking in the Right-of-way in Residential Areas.

Date: October 19, 2010

#### Action Requested

Adopt an ordinance, creating a new code section 10.20.060 d and amending sections 10.04.320 and 10.04.380 of the Milwaukie Municipal Code regarding parking of recreational vehicles and private pleasure crafts, amending definition of "right-of-way" and "street."

#### History of Prior Actions and Discussions

**May 18, 2010-** City Council adopted Ordinance #2015 revising section 19.500, which eliminated 19.503.22G.

**October 18, 1994-** City Council adopted Ordinance #1773, the original recreational vehicle code.

#### Background

The Code Enforcement and Planning departments recently worked together to revise the recreational vehicle code section of the Milwaukie Municipal Code, Chapter 19.500 Off-Street Parking and Loading. During that process, it was determined that section 19.503.22G which stated, "No recreational vehicles or private pleasure crafts shall be parked or stored in the public rights-of-way," did not belong in the off-street parking code since it was an on-street parking issue. For this reason, this section was removed

from the code update. Unfortunately, at that time staff neglected to place this section in another area of code.

The proposed ordinance would enter this neglected section into Title 10, Vehicles and Traffic (the on-street parking code). This ordinance is a “housekeeping” ordinance to fix the omission and reinstall the code section in its proper place.

The ordinance also revises some definitions in Title 10 to help enhance the effectiveness of enforcement for this section. The definitions of ” right-of-way” and “Street” or “highway” have been clarified.

#### Concurrence

The Planning Director, City Attorney’s office, and police department all concur with the reinsertion of this code and the changes to the definitions.

#### Fiscal Impact

None

#### Work Load Impacts

Code Enforcement has been conducting enforcement for numerous years on this issue.

#### Alternatives

Deny the code amendment and request staff to continue researching options for addressing this issue.

#### Attachments

Ordinance

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CREATING A NEW CODE SECTION 10.20.060 D AND AMENDING SECTIONS 10.04.320 AND 10.04.380 OF THE MILWAUKIE MUNICIPAL CODE REGARDING PARKING OF RECREATIONAL VEHICLES AND PRIVATE PLEASURE CRAFTS, AMENDING DEFINITION OF “RIGHT-OF-WAY” AND “STREET”**

**WHEREAS**, there exists a need to prohibit parking of recreational vehicles and private pleasure craft in residential areas of the City to maintain safety of residential streets; and

**WHEREAS**, a recent code amendment repealed that prohibition.

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

Section 1. A new section 10.20.060D of the Municipal Code of Milwaukie which will read as follows is hereby adopted:

10.20.060 D. It shall be unlawful for an owner, operator or other person in charge of a recreational vehicle or a private pleasure craft, as defined in Section 19.103, to park or store or permit or cause such vehicle to be parked or stored upon a public right-of-way within a residential zone.

Section 2. Section 10.04.320 of the Municipal Code of Milwaukie is amended to read as follows: (underlined language added)

“10.04.320 RIGHT-OF-WAY

“Right-of-way” means:

- A. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other; or
- B. An area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also “street”.

Section 3. Section 10.04.380 of the Municipal Code of Milwaukie is amended to read as follows: (~~language stricken through is deleted~~, language added):

10.04.380 STREET OR HIGHWAY

“Street” or “highway” means the entire width between the ~~boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic~~ right-of-way lines for vehicular, bicycle and pedestrian traffic and includes the terms “road,” “roadway,” “highway,” “lane,” “place,” “avenue,” “alley” and other similar designations.

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

\_\_\_\_\_