

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

CALL TO ORDER

Mayor Ferguson called the 2091st 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, Planning Director Katie Mangle, Engineering Director Gary Parkin, Associate Planner Ryan Marquardt

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Student of the Month Clarissa Patubo

Principal Mark Pinder introduced Milwaukie High School Student of the Month Clarissa Patubo.

B. Christmas Fleet Proclamation

Mayor Ferguson read a proclamation naming December 9 through December 21, 2010 as Christmas Ships Parade Weeks in the City of Milwaukie. Jesse Heitman, Christmas Fleet President, was present to accept the proclamation.

C. Milwaukie Poetry Series Third Season Report, 2009 - 2010

Tom Hogan, Milwaukie Poetry Series Committee Chair and Ledding Library Board member, reported on the Series' Third Season. He thanked the Council, Library Board and Poetry Committee for their support for this highly successful program. He reviewed this year's schedule that included readings, open mics, and writing workshops.

Councilor Loomis thanked Mr. Hogan and expressed appreciation for the Poetry Committee's coordination with Milwaukie High School.

Councilor Stone believed this program was a great addition to Library services and a benefit to the community.

Councilor Chaimov added that the Series was a treasure to the town and a draw to our community.

Councilor Barnes was pleased about how much Mr. Hogan had done for the City and hoped the City Council could help in any way possible.

Mr. Hogan replied that continued Council support of the Series made it possible. Although poets do not read for the honorarium, they do appreciate it. Sponsoring writers' workshops was important for the community and Milwaukie High School. The Poetry Committee worked hard to maximize support throughout the area, and he appreciated the team effort.

Mr. Zumwalt, Library Board member, thanked Mr. Hogan on behalf of the Library staff, Board, and citizens. Mr. Hogan took his love of poetry and turned it into a winner.

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MINUTES

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Mr. Hogan closed with a poem by Oregon Poet Laureate Paulann Peterson.

D. Update on Proposes Sunnybrook Boulevard Extension

Mr. Parkin provided the City Council and community with an update on the plans for the Sunnybrook Boulevard Extension Project between 82nd Avenue and Harmony Road. This project was not in the City limits, but it had traffic and environmental impacts that extended into Milwaukie. The Sunnybrook Extension began as a small part of the larger project that proposed to widen Harmony Road from 82nd Avenue to Hwy 224 including a bridge over the railroad tracks at Linwood Avenue. As that project progressed through the environmental impact study, the cost was too great, and it lacked community support. Eventually, it was withdrawn, and a smaller project was sought. This spring Clackamas County hired a consultant to develop plans for just the Sunnybrook Extension piece. The Sunnybrook Extension was currently at 15% design. The smaller plan would preserve more trees and terminate in a roundabout that was yet to be designed. Clackamas County plans to have the project at 30% design by spring 2011.

Councilor Barnes was concerned that this road project had been a major issue with all of the neighborhoods, regardless of its scope. She asked if the signal timing had been changed on 82nd Avenue.

Mr. Parkin believed that was still on the list of things to do. He understood the intent was to change the signal timing in the entire corridor to improve traffic.

Councilor Barnes had been told it would take an hour to adjust the timing. She was concerned about traffic queuing during rush hour at Linwood Avenue and commented on the suggestion to have 2 traffic lanes going over the railroad tracks.

Mr. Parkin said the City brought that to the County's attention, but nothing had been done. He was told it was too expensive to add a lane with available funds.

Councilor Barnes said that Chris Runyard, who had done extensive restoration work in the Three Creeks area, had clearly stated his concern with a potentially larger footprint. The City of Milwaukie needed to tell the County this was not acceptable. All the Neighborhood Associations agreed that this project is not acceptable.

Mr. Parkin added Clackamas County was weighing the option of widening 82nd Avenue to 7 lanes.

Councilor Stone referred to a letter that stated Milwaukie's opposition to the project for several reasons. It needed to be clear Milwaukie's position had not changed. She agreed with Councilor Barnes on signal timing. She felt traffic reports were sometimes inaccurate. She did not see how one could forecast for a project and traffic congestion when not all options had been considered.

Mr. Parkin said it was an EIS requirement that intersection timing be considered. The County did not feel it was sufficient for the needed traffic capacity.

Councilor Loomis had a different opinion and supported part the project. He was concerned about bike and pedestrian safety.

Mayor Ferguson wanted to ensure the County would follow through on its commitment to report back to the City Council.

CONSENT AGENDA

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

- A. **Resolution 84-2010**: A Resolution of the City Council of the City of Milwaukie, Oregon, Certifying Election Results for the November 2, 2010 General Election;
- B. **Resolution 85-2010**: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Gary Klein to the Milwaukie Riverfront Board;
- C. **Resolution 86-2010**: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Jason Loomis to the Milwaukie Riverfront Board; and
- D. **Resolution 87-2010**: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Mike Stacey to the Milwaukie Riverfront Board.

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

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Proposed Procedural Amendments Regarding Issuance of Tree Permits (MMC 16.32) – Ordinance

Mr. Marquardt provided the staff report in which the City Council was requested to adopt Milwaukie Municipal Code (MMC) Title 16 amendments regarding procedural administration of the City's tree permits. These regulations were for trees in the public right-of-way only and did not affect those on private property. He reviewed a summary of 4 changes: transfer authority from the Planning Director to the Community Development Director, clarify the hearing and appeal process, authorize tree removals required for construction of right-of-way improvements, and add authority to require replanting. Staff recommended adopting the ordinance as proposed.

Councilor Stone questioned why an arborist's report was not required.

Mr. Marquardt replied the current language required an arborist's report. Recognizing the report was not always appropriate, the amendment would allow the Community Development to require a report if he/she felt an expert opinion was needed.

Councilor Elect Miller was concerned about the change from a 15-day to a 5-day notice period. He felt appeals should go to the Planning Commission instead of going directly to the City Council. The cost of filing a Planning Commission appeal was \$250 while a City Council appeal was \$500. If the Council appeal fee were waived he would not have a problem with it going directly to Council. He was concerned with the notification distance and suggested going to 1,000 feet for removal of a street tree in a neighborhood. He wanted to know who would make the determination that a tree had lost its value or was dying and could not be saved. He felt an arborist should make that determination.

Councilor Barnes asked how much an arborist's report would cost. She did not think she would need a report to tell her a tree was dead.

Mr. Miller guessed it would cost about the same as the appeal.

Councilor Chaimov suggested City Council hold off on adoption until staff addressed Councilor-Elect Miller's concerns.

Mayor Ferguson said he would like to see appeals come to Council to expedite the process but did not think the higher appeal fee should be charged.

Councilor Stone agreed with Mayor Ferguson.

Councilor Loomis would like to look into fees and agreed with Councilor Barnes on requiring an arborist's report.

It was moved by Mayor Ferguson and seconded by Councilor Barnes to continue consideration of adoption of the Proposed Procedural Amendments Regarding Issuance of Tree Permits ordinance to the City Council meeting on January 18. Motion passed with the following vote: Councilors Loomis, Barnes, Chaimov, and Stone and Mayor Ferguson voting "aye." [5:0]

B. Utility Billing Policies and Practices

Mr. Parks reported staff had completed the commercial account audit, and the residential accounts were 40% complete. Communications with residential accounts was suspended until after the holidays. The Citizens Utility Advisory Board (CUAB) discussed all the elements of the report and offered feedback. By a 4-0 vote, the Board approved all of the staff recommendations with a couple of exceptions. They wanted 5-8 day's notice on the door hangers. They also wanted to defer any action on the winter average change until after the Clackamas County Service District #1(CCSD1) issue was resolved. They had already put in place the winter average that would be in effect until June and July. This was an information item only, but if Council wanted to move forward to monthly billing Mr. Parks needed to prepare an implementing resolution for the next City Council meeting. The \$1 surcharge on the existing resolution was due to expire at the end of December. The CUAB voted 4-0 to continue the surcharge until Council could come to long-term agreement with CCSD1 and establish a rate. As they moved forward, he anticipated monthly billing to begin in January with further review of issues including tenant/landlord relationships, winter averaging, vacation/snow bird procedures, vacancies, and delinquent and shut off notices. Leak adjustments had been implemented, and penalties and discounts would come back for further action.

Councilor Loomis looked forward to monthly billing.

Councilor Chaimov was prepared to proceed as approved by CUAB.

Councilor Barnes liked the monthly bill although the winter average still needed a clearer explanation. She disagreed with the CUAB on continuing the surcharge and looked forward to online payments.

Councilor Stone questioned recovering the bad debt to pay for the additional costs of monthly billing.

Mr. Parks replied currently they were writing off \$50,000 to \$60,000 in debt annually. The goal would be to see that drop by 35-40%. The vast majority of the write-offs came from the landlord issue. The monthly bills could include other information to maximize return on the added expense. By using technology costs could be further reduced using online payments and paperless billing.

There was City Council consensus for Mr. Parks to move forward.

C. City Manager Report

Mr. Monahan provided information for the upcoming City Council goal setting session on December 15.

Mr. Monahan discussed options for filling the vacant Finance Director position. He discussed an alternative idea of working with the City of West Linn to share resources that would give Milwaukie the benefit of a senior level management Finance Director/Assistant Finance Director. He noted that the City of West Linn was on a biennial budget, and Milwaukie may want to move toward the similar budget cycle.

There was City Council consensus for Mr. Monahan to continue discussions with the City of West Linn.

D. Council Reports

Councilor Loomis thanked Citywide Tree Service for its participation in the Winter Solstice Event.

Councilor Chaimov attended Public Safety Advisory Committee (PSAC) meeting where the Walk Safely Milwaukie Program and photo radar were discussed.

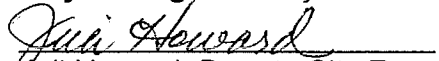
Councilor Barnes will attend a meeting with other educators to discuss school funding Issues and shortfalls.

Mayor Ferguson recognized Mr. Monahan for his work and thanked him for meeting with him weekly. He reviewed meetings and events he had attended and announced number of upcoming events.

ADJOURNMENT

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

Mayor Ferguson adjourned the regular session at 8:46 p.m.


Juli Howard, Deputy City Recorder

REGULAR SESSION

**REVISED
AGENDA**

**MILWAUKIE CITY COUNCIL
DECEMBER 7, 2010**

MILWAUKIE CITY HALL
10722 SE Main Street

2091ST 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 Clarissa Patubo**
 - B. **Christmas Fleet Proclamation** 2
Introduced by Mayor Ferguson
 - C. **Milwaukie Poetry Series, Third Season, 2009 – 2010** 3
Introduced by Milwaukie Poetry Series Chair Tom Hogan
 - D. **Update on Proposed Sunnybrook Boulevard Extension** 11
Staff: Gary Parkin, Engineering Director
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.) 17
 - A. **Certification of November 2, 2010 General Election Results – Resolution** 18
 - B. **Riverfront Board Reappointment of Gary Klein – Resolution** 26
 - C. **Riverfront Board Reappointment of Jason Loomis – Resolution** 27
 - D. **Riverfront Board Reappointment of Mike Stacey – Resolution** 28
4. **AUDIENCE PARTICIPATION** (The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie Municipal Code, only issues that are “not on the agenda” may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal Code, “all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous.” The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)

- 5. **PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*
 - A. **None Scheduled**
- 6. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)* **29**
 - A. **Procedural Amendments to Milwaukie Municipal Code (MMC) Title 16 Regarding the Issuance of Tree Permits – Ordinance** **30**
Staff: Ryan Marquardt, Associate Planner
 - B. **Utility Billing Policies and Practices** **44**
Staff: Andy Parks, Interim Finance Director
 - 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.

2.

PROCLAMATIONS,
COMMENDATIONS,
SPECIAL REPORTS,
AND AWARDS

PROCLAMATION

WHEREAS, commencing December 9, 2010 and ending on December 21, 2010, with a special performance in Camas, Washington, on December 4, 2010, the Christmas Ship Parade will be sailing the Columbia and Willamette Rivers, and;

WHEREAS, 2010 marks the fifty-sixth year that the annual Christmas Ship Parade has made its voyages part of the Portland Metro area's annual holiday tradition; and

WHEREAS, the Columbia and Willamette River Christmas Ship Fleets average between fifty-five and sixty boats; and

WHEREAS, the boat owners who participate are volunteers who donate their time, resources, and money to continue this holiday tradition enjoyed by generations of families; and

WHEREAS, the Willamette Fleet will visit the City of Milwaukie on December 10, December 13, December 15, December 17, and December 18, 2010; and

WHEREAS, the unique characteristics of the Milwaukie riverfront permit those wishing to view the Christmas Ship Fleet to enjoy unparalleled sights and sounds of the boats; and

WHEREAS, the response by those viewing the ships at the Milwaukie riverfront is heard and appreciated by the volunteers who give of their time and resources; and

WHEREAS, the City of Milwaukie is deeply honored to serve as a destination for the Christmas Ships Parade and expresses its appreciation to the volunteers who continue this tradition year after year.

NOW, THEREFORE, I, Jeremy Ferguson, proclaim December 9, 2010 through December 21, 2010 as

CHRISTMAS SHIPS PARADE WEEKS

in the City of Milwaukie and encourage citizens to greet the ships and their owners as they arrive each night at the Milwaukie Boat Ramp and to experience this very special holiday tradition so enjoyed by generations of families.

IN WITNESS WHEREOF, I hereunto set my hand this
7th Day of December, 2010

ATTEST:

Jeremy Ferguson, Mayor

Pat Duval, City Recorder



Report to Milwaukie City Council

Re: Milwaukie Poetry Series, Third Season, 2009-2010

From: Tom Hogan, Chair
Milwaukie Poetry Series Committee
Ledding Library Board

Date: November 4, 2010

This is a report to the Milwaukie City Council and City Manager regarding the Milwaukie Poetry Series and its Third Season, 2009-2010. What a stellar year it's been! Much thanks to the Milwaukie City Council and the City of Milwaukie for its ongoing support. Thanks also to the Ledding Library Board and Director and the Milwaukie Poetry Committee for their support and hard work in putting on the events of the Series. It's wonderful teamwork.

The first priority is sponsoring the series of monthly poetry readings by established local poets of their own works. The second Wednesday of the month September through June continues to work and appears has become established in the poetry community as the evening of the MPS. There are so many wonderful local poets in the metropolitan area that we were able to schedule a stellar season. The readers for this last season were: John Morrison, Lex Runciman, Don Colburn, Scot Siegel, Kathleen Halme, Penelope Schott, Sage Cohen, BT Shaw, poet in May and Paul Merchant. I can truly say as I've gotten to know them that their credentials, experience, background and skill is strikingly impressive.

Part of the goal of the Series is to encourage participation and expand interest in poetry. Consequently we sponsored six Open Mic reading. This is an opportunity for people to read and share their own work or other people's poetry. Attendance is in the 20-30 person range with at least 10 readers each time. This included a Friends of William Stafford Birthday Celebration on January 8 and an Open Mic during April to celebrate National Poetry Month. We also sponsored the sponsored the third annual Poetry Picnic as part of Milwaukie Daze on July 24, which featured 12 readers and was another big success. We plan to continue sponsoring Open Mic events and the Poetry Picnic again. We also continue to support the poetry readings on First Friday as part of the Arts a la Carte.

Writing workshops are another goal of the Series. We sponsored a writing workshop by Paulann Petersen in April and David Biespiel in June. We plan to continue and expand sponsoring workshops in the coming Season.

We continue to expand the publicity and e-mail invitations for each reading. We provide a broadside for each reading and feature the poet's work in the library. The Pond House is an

excellent venue for the readings and has been filled to capacity or nearly so for every reading, even on dark and stormy nights. The comments from both poets and patrons are very positive about the Pond House. A DVD is made of each reading and provided to the poet, the library and to cable access. We set up a Face Book page and are continuing to develop this. A web site is being developed by Hannah Wells and we're very excited about it!

We continued the relationship with Milwaukie High School and the Milwaukie Arts Academy. We sponsored a workshop by Paulann Petersen again this year at the Milwaukie Arts Academy attended by 42 students. We also sponsored another Senior Project by a student in the MAA who did a reading at the Pond House. The Youth Open Mic events are usually on the fourth Wednesday of the month, invariably 20-25 in attendance and lasting at least 90 minutes. A student coordinator evolved, Heidi Balough, and the students decided on their own to continue during the summer, which they did! I was proud and impressed by that. We'll continue to sponsor as many youth events as desired.

The Series creates a video of each reading which is shown regularly on both Milwaukie Cable Access and Willamette Falls Cable. The Milwaukie cable station has continued the practice of running a poetry marathon of the readings on Memorial Day and Labor Day. Thank you to the staff of WFTV. Many poets have told me they saw their reading or someone told them about seeing the reading on TV. Videos can be checked out at the Library.

We've also entered a beginning relationship with Paul Merchant at the William Stafford Archives at Lewis and Clark. One of their goals is archiving poet's work and readings. We've sent him copies of the videos of the readings here as a record of poets in Oregon.

The Fourth Season has just begun with a reading by John Witte on Sept. 8 and Vince Wixon on Oct. 13. The Committee decided this year to expand the area of invitations and some of the poets this year are outside the metropolitan area, such as Corvallis, the University of Oregon in Eugene and Ashland. This has proved to be very positive so far expanding the Milwaukie Series to different areas of the State.

Financially we came in \$3284.64, \$216 under budget. We have done some fundraising and continue to look for creative ways to supplement the support from the City.

We extend a grateful thanks to the City Council and the City of Milwaukie for its continued support of the MPS. There is so much more that I could say! Also thanks to the City Council for honoring Paulann Petersen, the Oregon, Poet Laureate, with a resolution and plaque. It's a great honor for me to serve as the Project Director. We anticipate continuing the readings as well as sponsoring the other items in this report. We also plan to participate as much as possible in arts consortiums in the community, such as the Oregon Literary Coalition. Broadsides, schedules and pictures are attached. Thank you again!

Respectfully submitted,
Tom Hogan
Project Director

The Milwaukie Poetry Series

- The Third Season -

7 p.m. ~ Ledding Library Pond House
2215 SE Harrison Street, adjacent to Ledding Library
Scheduled for the second Wednesday of each month.

September 9, 2009 ~ John Morrison

October 14, 2009 ~ Lex Runciman

November 11, 2009 ~ Don Colburn

December 9, 2009 ~ Scot Siegel

January 13, 2010 ~ Kathleen Halme

*February 10, 2010 ~ Penelope
Scambly Schott*

March 10, 2010 ~ Sage Cohen

April 14, 2010 ~ B. T. Shaw

May 12, 2010 ~ Judith Arcana

June 9, 2010 ~ Paul Merchant



John Morrison
3334 NE 25th Avenue
Portland, OR 97212
August 23, 2010

Milwaukie City Council
10722 SE Main Street
Milwaukie, OR 97222

Dear Milwaukie City Council:

I've been active in the writing community of the metropolitan area for many years as a poet, arts administrator, and teacher. I want to thank you for the important, vibrant role the Milwaukie Poetry Series (MPS) plays in broadening our growing poetry community.

Over the last three years, I've been fortunate enough to be in the audience for several readings. Many of these poets have already achieved a national reputation. Something special happens at the Pond House. The long-format allows the poet to read deeply into their work and discuss it thoughtfully. In fact, the engaged, attentive audience leaves the poet no choice but to share, in commentary, about the generative events that led to a poem or the poetic influences that shaped it. Poets answer questions about their process and obsessions in a way to communicate to both the practitioner and the poetry lover.

As a Pond House reading unfolds, we see beyond the single poem to the larger context of a poet's work and the poetry pulls the whole room closer together. Each time I've attended, and also the evening I read last fall, the room was full, and warm, and welcoming.

In terms of poetry, the MPS is consistently one of the best celebrations of poetry we have in our area. And consistency matters. Many reading series come and go. So often, outside a university setting, a series simply cannot sustain itself for more than a few years. To see that a series for the general public is continuing into its fourth year with an energy and a line-up of readers equal to its inaugural season is inspiring. I look forward to another great year and, I hope, many more.

Thank you,

John Morrison
jcmorrison@earthlink.net

Dear Tom,

If I were to address the Milwaukie City Council & the Ledding Library Board, I'd want to say first of all that in its short history, the Milwaukie Poetry Series has become one of the premier literary series of its kind in the Portland area. It has offered a consistently high quality slate of local readers, and I'm going to guess that it consistently draws more audience than the space comfortably holds. At a recent event at Broadway Books in northeast Portland, I was approached by two individuals who had attended my reading last fall; each of them had good things to say about the Milwaukie Series. Though I'm not often in the Portland area, this mention of the Milwaukie Series has happened to me several times since I read. And I have had encouraging feedback from those who have seen the readings via local cable as well. Clearly these events draw well, and their influence reverberates.

To me, the Poetry Series has become part of Milwaukie's infrastructure. The Series works to enrich the lives of Milwaukie residents in unique ways. Each reading constitutes a kind of farmer's market for the psyche and the intellect. A good poem – one we can actually hear and connect with – lifts us out of the normal bustle and haste. The world reappears as the various, nuanced, curious, and vital place it truly is. And this set of recognitions occurs directly, personally, whenever one poem connects with an audience member. Tom Hogan knows this, and he's worked hard in mostly invisible ways to make the Milwaukie Poetry Series the success it has become. My guess is that even he is not fully aware of how many people look forward to these readings, whether in person or via television.

The modest cost for the Milwaukie Poetry Series pays off in terms of cultural prestige for the City; it gives Milwaukie bragging rights. And it pays off in the individual lives of audience members, people who feel themselves affirmed in their complexities, enlarged, and perhaps therefore more generous in all their dealings as citizens.

Lex

Tom,

As a poet, I've been lucky to read in a number of venues, mainly in the Portland area but elsewhere too. Every one is different, distinct in its own way, because of geography, logistics, tradition, timing, audience, format, even weather!

My reading last November in the Milwaukie Series was special, one of the best reading experiences I've had. There is no obvious or spectacular reason for this; it was a lovely surprise to me, in fact. But let's start with a certain welcoming spirit that was unmistakable from the moment I arrived, greeted by you and other "regulars." A good reading finds a happy medium between formal and informal, and the Milwaukie Series has found that. Unpretentious but serious. Unhurried but not slack or leisurely. Intimate but not cramped. Room for questions and discussion afterward, but not drawn out.

The Milwaukie Series takes poetry and poets seriously, and that is encouraging in the best sense. Encouraging. Thank you for that.

The printing up of the little broadsides with my poem, "Indulgence," was a beautiful touch and much appreciated. Your introduction was accurate, generous, not windy.

What I'm trying to say is that I had a wonderful feeling after my reading, and rode that "high" for a while. I can't believe that others didn't feel that same lift.

I hope the Series will continue and thrive and keep encouraging readers and writers of poetry.

Thanks for your good work on this.

Don Colburn
Portland, OR

August 13, 2010

To Milwaukie City Council and the Ledding Library Board:

I am delighted to write in support of the Milwaukie Poetry Series in which I participated as a reader in January of this year. The series is a treasure and deserves to be funded to the greatest extent possible.

It is thoughtfully, professionally, and efficiently run.

Tom Hogan and the Series Committee chose a stylistically diverse group of serious poets. It was an honor to be selected to participate. I know of no other comparable poetry series in the metro area. What other organization offers ten months of free readings by accomplished poets? The cordial atmosphere of the Pond House is an ideal venue for public arts programming. I was pleased when after my reading I spoke to an accountant and a carpenter who said it was the first poetry reading they had ever attended. The MPS builds community.

Over the years I have participated in running a number of university and public library reading series and know the work involved, the detailed preparation needed to make a series seem to run effortlessly. Sustaining a thriving MPS into its fourth year is quite an accomplishment. Tom Hogan and company are to be commended for the substantial effort they have put into building a truly successful series.

Please feel free to contact me if I may be of further assistance. Thank you.

Sincerely,

Kathleen Halme

kathleen@bluehole.org

Penelope Scambly Schott
507 NW Skyline Crest Road
Portland, Oregon 97229

503-291-0159
penelopeschott@comcast.net

July 30, 2010

Tom Hogan
15599 SE Oatfield Road
Milwaukie, Oregon 97267

Dear Tom,

I want to thank you for all your work creating and hosting the Pond House poetry series. I have been to almost all the readings for the last two years and have heard poets whose work I already admired and some wonderful poets whose work was new to me. This is consistently the strongest reading series in the Portland area. I appreciate getting to hear one reader read for a significant length of time. Also you have developed a good audience of people who listen and enjoy. It's always a pleasure to attend.

I look forward to next year's series.

Warmly,

Penelope



To: Mayor and City Council

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

From: Gary Parkin, Engineering Director

Subject: Update on Proposed Sunnybrook Blvd Extension

Date: November 10th for the December 7, 2010 Regular Session

Action Requested

None. This is an informational report to discuss Clackamas County plans for Sunnybrook Blvd Extension Project between 82nd Avenue and Harmony Road.

History of Prior Actions and Discussions

March 2010: Staff report on County plans to improve Harmony Road between 82nd and Linwood Ave with improved street lighting, signal improvements and some additional sidewalks.

May 2009: Clackamas County reports that the Environmental Impact Study (EIS) for the Harmony Road project is discontinued. The discussion on a reduced scope focuses on plans that continue to call for the Sunnybrook extension between 82nd Avenue and Harmony Road (although narrower than originally scoped).

January 2009: Clackamas County and Clackamas Community College (CCC) representatives report on Harmony Road Campus, a lowering of the project scale, the Harmony Road project will incorporate the college campus, the park, and the neighborhood.

September 2008: Staff report on the status of the EIS for the Harmony Road project.

January 2008: Staff report on project recommendation from the Harmony Road Project's Policy Review Committee to develop more alternatives and provide more specific project impact information including traffic impacts.

December 2007: Staff report on the project alternatives recommended for further study by the Public Advisory Committee assembled for the project EIS.

July 2007: Staff report on the status of the Harmony Road project EIS. The scoping phase was just completing.

Background

In 2007-08, Clackamas County's Sunnybrook extension project received extensive review during the Environmental Impact Study (EIS) for the Harmony Road project. The Harmony Road project was proposed to provide improved traffic flow for the Harmony Road corridor between 82nd Ave and Highway 224, including Sunnybrook Blvd. The proposed widening of the existing entry drive to the Aquatic Center from a narrow two-lane drive to a three or five-lane street, and extending the street to Sunnybrook Blvd, became a lightning rod in the Milwaukie community because of environmental and traffic impacts in the City. The County ended the EIS process in May of 2009 prior to its completion.

In June 2009, the City positioned itself against the project because of concerns about traffic and environmental impacts (see attachment 1). The additional traffic directed to the already congested Harmony/Linwood intersection and the lack of community acceptance were the primary factors to the City's non-support.

In Nov 2009, the City requested the project be removed from the Regional Transportation Plan (attachment 2).

In May 2010, Clackamas County restarted the project focusing on extending Sunnybrook Blvd from 82nd Blvd to Harmony Road calling it the Sunnybrook Blvd West Project. The project has been reduced in scope from the Harmony Road EIS in that it is limited to designing the Sunnybrook Extension and looks at a narrower 2-lane roadway.

In a November 2010 study session, the Clackamas County Board of County Commissioners (BCC) was presented with a 15% design update on the Sunnybrook Blvd West Project (see attachment 3 for plan). The presentation focused on the reduced environmental impact of the project, showing that with a narrower roadway and new alignment the number of trees to be removed could be reduced, from 218 trees (larger than 8" diameter) to 86 trees. Traffic information was not presented at this meeting. It was stated that a traffic study will be part of the 30% design.

Next steps for the project:

Design development to the 30% level.

A public open house in the winter of 2011.

An update to the City in the winter of 2011.

Update to the BCC when 30% design is complete in the spring of 2011.

Fiscal Impact

None.

Concurrence

This report is for information only.

Work Load Impacts

None

Alternatives

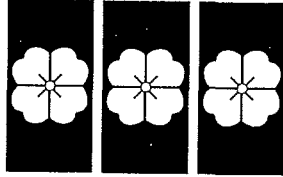
N/A

Attachments

1. Letter to BCC
2. Letter to TPAC and JPACT
3. 15% Sunnybrook Blvd West project map

ATTACHMENT 1

C I T Y O F



MILWAUKIE

June 2, 2009

Lynn Peterson, Chair
Board of County Commissioners
2051 Kaen Road
Oregon City, OR 97045

Chair Peterson,

Thank you for attending the Milwaukie City Council meeting on May 5th to present the County's latest concept for the Sunnybrook extension. As was clear from the meeting, the project has raised a chorus of concerns in Milwaukie, even as it has been refined to its current dimensions. The City of Milwaukie will certainly receive downstream impacts from any road built in the Three Creeks Natural Area, including vehicular traffic, stormwater runoff, and related habitat degradation.

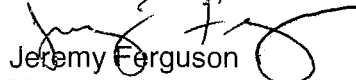
Milwaukie is committed to stewarding our local natural resources through projects like the restoration of fish passage at the mouth of Kellogg Creek, habitat protection in the City's riparian corridors (including Mount Scott Creek, Kellogg Creek, and Minthorn Creek), and adopting best practices to manage storm water and improve water quality. Remember that unlike most communities, Milwaukie's drinking water comes from our groundwater, so the connection between our community's health and the health of the environment is a very real one to Milwaukie citizens.

While we appreciate the County's efforts to improve its overall approach to the Sunnybrook extension project, the Milwaukie City Council believes that the projects' benefits do not outweigh its impacts to our community. Given the many sensitivities that exist in Milwaukie's neighborhoods and environmental community, we would respectfully request that the Board of County Commissioners not commit to the current project design without including Milwaukie in the decision making process.

Together I am sure we can find the best solution to determine not just what kind of access to build for the Harmony Campus, but when to build it. We trust that the County and City are equally committed to protecting and conserving natural resources as well as upholding the values that so many of our citizens expressed at the May 5 meeting.

I look forward to your response to the City's request for concurrence, and will make time to meet with you on this matter as it is of great concern to our community and Council.

Yours Sincerely,


Jeremy Ferguson
Mayor

MILWAUKIE CITY HALL
10722 SE MAIN STREET
MILWAUKIE, OREGON 97222
PHONE: (503) 786-7555 • FAX: (503) 652-4433

RS PAGE 14



November 19, 2009

Dear Members of TPAC and JPACT:

Over the past several months and years, the City of Milwaukie has shared its concern with Clackamas County over the County's proposed Sunnybrook Extension project.

The City is a longtime supporter and neighbor of the Clackamas Community College Harmony Campus. The City would like to see expanded educational offerings and economic development at the Harmony Campus site. However, the Milwaukie City Council does not believe that these benefits, which we understand depend on this new road, outweigh the environmental and livability impacts that would result from its construction.

The City of Milwaukie is "downstream" from this site. One of the lowest performing intersections in the City will be directly impacted by this project (Harmony/Railroad/Linwood), and Milwaukie's groundwater (which supplies our drinking water) and urban canopy both rely on the natural functions of the site. Even in its narrowed dimension, the City of Milwaukie will bear the brunt of the new road's downstream traffic congestion, stormwater runoff, and habitat degradation.

The City of Milwaukie therefore respectfully requests removal of the Sunnybrook Extension Project from the Regional Transportation Plan. This Extension will cause added congestion to the City of Milwaukie, have an adverse impact on the environment and the project design will not demonstrably mitigate traffic issues in the Clackamas Regional Center. This week the Council formally adopted a policy in regards to this issue.

The City of Milwaukie is in favor of an alternative access plan for the college and hopes that all jurisdictions can work concurrently on finding a reasonable solution.

Respectfully Submitted,
Milwaukie City Council

SUNNYBROOK WEST EXTENSION
BASIS OF DESIGN
ROADWAY ALIGNMENT EXHIBIT
15% DESIGN REVIEW 1/12/23/10



Exhibit B

3.

CONSENT AGENDA

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CERTIFYING ELECTION RESULTS FOR THE NOVEMBER 2, 2010 GENERAL ELECTION.

WHEREAS, Section 13 of the Charter requires the certified elections results be made a part of the record of proceedings of the City Council; and

WHEREAS, the election results from the November 2, 2010 General Election have been certified by the Office of the Clackamas County Clerk and Multnomah County Elections; now, therefore;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON THAT:

Section 1: The certified election results, attached hereto as Exhibit "A" and incorporated herein, are hereby made a part of the record of proceedings of the City Council.

Section 2: This resolution is effective immediately upon adoption.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon, on December 7, 2010.

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis LLC

City Attorney



CLACKAMAS COUNTY

Office of County Clerk

SHERRY HALL
CLERK

2051 KAEN ROAD, 2ND FLOOR
OREGON CITY, OR 97045
503.650.5686
FAX 503.650.5687

VIA USPS AND BY FAX

City of Milwaukie
Attn: Pat DuVal, City Recorder
10722 SE Main Street
Milwaukie, OR 97222


FAX 503.652.4433

Dear Pat:

Attached please find the elections abstract for the November 2, 2010 General Election. This includes that part of Milwaukie which is in Multnomah County.

Dated: November 22, 2010

SHERRY HALL
COUNTY CLERK

By: 

Steve Kindred
Elections Manager

Board Of Property Tax Appeals
2051 Kaen Road, 2nd Floor
Oregon City, OR 97045
503.655.8662
FAX 503.650.5687

Elections Division
1710 Red Soils Court, Suite 100
Oregon City, OR 97045
503.655.8510
FAX 503.655.8461

Recording Division
2051 Kaen Road, 2nd Floor
Oregon City, OR 97045
503.655.8551
FAX 503.650.5688

Records Management Division
270 Beavercreek Road, Suite 200
Oregon City, OR 97045
503.655.8323
FAX 503.655.8195

CITY OF MILWAUKIE: Mayor
Vote For 1
01 = Jeremy Ferguson
02 = WRITE-IN

VOTES PERCENT

VOTES PERCENT

4,599 94.22 03 = OVER VOTES
282 5.78 04 = UNDER VOTES

0
3,153

	01	02	03	04
0051 51	546	33	0	400
0053 53	414	18	0	309
0054 54	417	27	0	230
0056 56	340	29	0	268
0057 57	496	28	0	386
0058 58	378	22	0	270
0060 60	499	34	0	343
0062 62	513	39	0	363
0063 63	517	28	0	273
0064 64	479	24	0	311



CERTIFIED COPY OF THE ORIGINAL
SHERRY HALL, COUNTY CLERK

BY: Sherry Hall

CITY OF MILWAUKIE: Councilor, Position 2

VOTES PERCENT

VOTES PERCENT

Vote For 1

- 01 = David Hedges
- 02 = Chris Stark
- 03 = WRITE-IN

3,257 66.54
1,597 32.63
41 .84

04 = OVER VOTES
05 = UNDER VOTES

1
3,138

	01	02	03	04	05
0051 51	399	197	3	0	380
0053 53	276	137	8	0	320
0054 54	270	150	5	0	249
0056 56	249	117	3	1	267
0057 57	366	209	5	0	330
0058 58	281	122	1	0	266
0060 60	346	167	5	0	358
0062 62	394	181	6	0	334
0063 63	363	139	5	0	311
0064 64	313	178	0	0	323



CERTIFIED COPY OF THE ORIGINAL
SHERRY HALL, COUNTY CLERK

BY: Sherry Hall

CITY OF MILWAUKIE: Councilor, Position 4

VOTES PERCENT

VOTES PERCENT

Vote For 1

- 01 = Russ Stoll
- 02 = Mike Miller
- 03 = WRITE-IN

1,442 27.59
 3,752 71.79
 32 .61

04 = OVER VOTES
 05 = UNDER VOTES

0
 2,808

	01	02	03	04	05
0051 51	215	444	4	0	316
0053 53	110	336	4	0	291
0054 54	129	301	2	0	242
0056 56	126	273	3	0	235
0057 57	144	461	2	0	303
0058 58	86	362	1	0	221
0060 60	146	410	3	0	317
0062 62	170	426	7	0	312
0063 63	163	373	3	0	279
0064 64	153	366	3	0	292



CERTIFIED COPY OF THE ORIGINAL
 SHERRY HALL, COUNTY CLERK

BY: Sherry Hall

Mayor CITY OF MILWAUKIE
Vote For 1
01 = Jeremy Ferguson
.02 = WRITE-IN

VOTES PERCENT

VOTES PERCENT

0 03 = OVER VOTES
0 04 = UNDER VOTES

0
0

01	02	03	04
0	0	0	0

0601 601

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.



Tim Scott, Director of Elections
Multnomah County, Oregon

		VOTES PERCENT					VOTES PERCENT	
Councilor, Position 2 CITY OF MILWAUKIE								
Vote For 1								
01 = David Hedges		0						
02 = Chris Stark		0					04 = OVER VOTES	
03 = WRITE-IN		0					05 = UNDER VOTES	

		01	02	03	04	05		

0601 601		0	0	0	0	0		

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.



Tim Scott, Director of Elections
Multnomah County, Oregon

Councilor, Position 4 CITY OF MILWAUKIE

VOTES PERCENT

VOTES PERCENT

Vote For 1

01 = Russ Stoll

0

02 = Mike Miller

0

03 = WRITE-IN

0

04 = OVER VOTES

0

05 = UNDER VOTES

0

01 02 03 04 05

0601 601

0 0 0 0 0

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.



Tim Scott, Director of Elections
Multnomah County, Oregon

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING GARY KLEIN TO THE MILWAUKIE RIVERFRONT BOARD.

WHEREAS, a vacancy exists on the Milwaukie Riverfront Board; and

WHEREAS, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

WHEREAS, Gary Klein possesses the necessary qualifications to serve on the Milwaukie Riverfront Board.

Now, therefore, the City of Milwaukie, Oregon, resolves as follows:

Section 1: That Gary Klein is reappointed to the Milwaukie Riverfront Board.

Section 2: That his term of appointment shall commence immediately and shall expire on October 30, 2014.

Section 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on December 7, 2010.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING JASON LOOMIS TO THE MILWAUKIE RIVERFRONT BOARD.

WHEREAS, a vacancy exists on the Milwaukie Riverfront Board; and

WHEREAS, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

WHEREAS, Jason Loomis possesses the necessary qualifications to serve on the Milwaukie Riverfront Board.

Now, therefore, the City of Milwaukie, Oregon, resolves as follows:

Section 1: That Jason Loomis is reappointed to the Milwaukie Riverfront Board.

Section 2: That his term of appointment shall commence immediately and shall expire on October 30, 2014.

Section 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on December 7, 2010.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REAPPOINTING MIKE STACEY TO THE MILWAUKIE RIVERFRONT BOARD.

WHEREAS, a vacancy exists on the Milwaukie Riverfront Board; and

WHEREAS, Milwaukie Charter Section 26 provides that, “the mayor, with the consent of the council, shall appoint the various committees provided for under the rules of the council or otherwise and fill all vacancies in committees of the council from that body,” and

WHEREAS, Mike Stacey possesses the necessary qualifications to serve on the Milwaukie Riverfront Board.

Now, therefore, the City of Milwaukie, Oregon, resolves as follows:

Section 1: That Mike Stacey is reappointed to the Milwaukie Riverfront Board.

Section 2: That his term of appointment shall commence immediately and shall expire on October 30, 2014.

Section 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on December 7, 2010.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

City Attorney

6.
OTHER BUSINESS



To: Mayor and City Council

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

From: Ryan Marquardt, Associate Planner

Subject: Proposed procedural amendments regarding issuance of Tree Permits (MMC 16.32)

Date: November 30, 2010 for December 7, 2010 Regular Session

Action Requested

Adopt the proposed amendments to Title 16 regarding procedural administration of the City's tree permits. See Attachment 1, Ordinance.

History of Prior Actions and Discussions

- November 16, 2010: City Council considered amendments to the tree cutting ordinance at a worksession. The Council directed staff to prepare the proposed amendments, with some modifications, for adoption.
- June 1998: City Council adopted Ordinance #1836 as interim regulations to regulate tree cutting. This ordinance is still in effect as adopted.

Background

The City has regulated tree cutting in the right-of-way since 1998 when Ordinance #1836 was adopted. These regulations require that a permit be obtained by anyone who wishes to remove a tree from the right-of-way, trim more than 20% of a tree's canopy volume, or remove more than 10% of the root system.

Staff requests that Council adopt limited amendments to the existing right-of-way tree regulations that would fix procedural problems that make the code difficult to implement. The amendments do not affect the City’s overall policy regarding pruning and removal of trees in the right-of-way. The goals of the procedural amendments are to:

- Make efficient use of City resources in processing tree permits.
- Establish a process that is clearer for the public and staff to understand.
- Establish a more environmentally responsible policy toward maintaining the urban forest canopy.

The proposed amendments are summarized below. The recommended additions and deletions to the municipal code are shown in Attachment 1, Exhibit A.

1. *Transfer authority for implementation from “Planning Director” to “Community Development Director”*

The tree removal permitting process is a hybrid that could involve both the Planning and Engineering Departments. The Planning Department’s involvement is beneficial for the public notice and process, while the Engineering Department’s involvement is beneficial in terms of technical expertise in forestry and right-of-way management. It is more appropriate to identify the Community Development Director as the decision authority, as this Director oversees both departments. This would allow delegation of different aspects of the right-of-way tree permit process to the appropriate department.

2. *Clarify the hearing and appeal processes*

The recommended amendments clarify and expedite the tree permit hearing and appeal process. First, the amendments would allow any person to request a meeting with the decision-maker before a decision is made on the permit. This meeting would ensure that community input would be heard and incorporated into the decision. The current code allows for a hearing on a tree permit, but does not specify who holds the hearing or the hearing procedures.

Secondly, the amendments would make the administrative tree removal permit decision appealable to the City Council within 5 days of a decision. Staff believes the current code’s appeal process is too lengthy in that it allows for appeals to both the Planning Commission and then City Council.

3. *Authorize tree removals that are required for construction of right-of-way improvements*

Adding this criterion would clarify the permit review process when a tree is proposed for removal due to the construction of right-of-way improvements. The permittee would be required to demonstrate that the improvements could not reasonably be modified so as to allow the tree to remain.

4. *Add authority to require replanting*

Establishing the authority of the City to require replanting will help maintain Milwaukie's tree canopy over time.

At the worksession on November 16, 2010, City Council directed staff to draft the proposed amendments, with some modifications. The modifications have been incorporated into the amendments as described below.

- Stronger emphasis on Chapter 16.32 as a tool for tree preservation.

Staff added a new purpose statement in MMC 16.32.050. The purpose statement reads:

"The purpose of this chapter is to encourage preservation of trees located in the public right-of-way. Trees within the public right-of-way are a public resource that beautify the streetscape and provide ecosystem services such as reducing the urban heat island effect, reducing stormwater flows, and stabilizing soils. The City may allow the removal or pruning of trees in some situations including, but not limited to, removing hazards, avoiding damage to public and private property, and allowing for construction of right-of-way improvements. Preference should generally be given to authorizing the minimal amount of disturbance to the tree that is necessary to address the situation. The intent of this chapter is also to mitigate the authorized removal of trees within the public right-of-way by replanting new trees in the public right-of-way wherever practicable."

- Replanting should be a requirement.

This suggestion has been incorporated in two sections. First, it is addressed in the last sentence of the purpose statement (see above).

Second, the first sentence in the proposal for MMC 16.32.020.E has been changed from: "The Community Development Director *may* require tree replanting as a condition of approval for a major pruning or removal permit"

to “The Community Development Director *shall* require tree replanting as a condition of approval for a major pruning or removal permit wherever practicable.”

This language is clear in setting the expectation that replanting is required without being overly rigid to require replanting in all cases. The replanting of a tree at a site may not be practicable due to circumstances such as maintaining clear vision areas at intersections, planned right-of-way improvements, or space along the property’s frontage.

- More stringent penalty for illegal tree cutting.

Council expressed concern that the penalty for violating the tree cutting ordinance was too low. A small monetary fine may create an incentive for a property owner to remove a tree and pay a small fine instead of seeking approval of a tree permit. To address this, staff proposes a new penalty section in MMC 16.32.040.

The proposed penalty section establishes a penalty of up to \$1,000 for a violation of the tree cutting ordinance. This is an increase in the current penalty of up to \$500. The final amount of the fine would be determined by the Municipal Judge if a party is found guilty of violating the tree cutting ordinance.

Concurrence

The Community Development Department, Engineering Department, Community Services Department, and Planning Department all concur with the proposed changes to Milwaukie Municipal Code.

Fiscal Impact

This proposal would have a minimal fiscal impact. Potential savings could result from a simplified hearing and appeal process and more efficient evaluation of the tree permits the City receives.

Work Load Impacts

The work load for most tree permits would remain the same, though the staff time required for permits where a hearing is requested could be reduced substantially. Staff currently spends an average of 3 hours on a typical tree permit. For a recent application that included a hearing request, staff spent an estimated 80 hours. Under the proposed

code amendments, this may have taken substantially less time to achieve roughly the same outcome. One of the goals of the proposed amendments is more effective use of City resources.

The need to improve the right-of-way tree cutting process has been on the Planning Department's list of code problems to fix for several years. A small amount of staff time is required for the code adoption and republication process.

Alternatives

- Direct staff to modify the recommended amendments and bring the ordinance for adoption at a future date.
- Deny the recommended amendments.

Attachment

1. Ordinance
Exhibit A: Underline and strikeout version of amendment to Title 16
Exhibit B: Clean copy amendments to Title 16

ATTACHMENT 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING PORTIONS OF CHAPTER 16.08, ADMINISTRATION, AND CHAPTER 16.32, TREE CUTTING, REGARDING THE PROCESSING OF PERMITS FOR TREE CUTTING IN THE PUBLIC RIGHT-OF-WAY.

WHEREAS, the City of Milwaukie passed Ordinance 1836 on June 2, 1998, creating interim regulations on tree cutting in the public right-of-way ; and

WHEREAS, the interim regulations remain in effect, and have procedural problems that hinder the City's ability to efficiently process permits for tree cutting; and

WHEREAS, the City desires to have a clear and efficient review of tree cutting permits, and to maintain the City's tree canopy over time; and

WHEREAS, the City has prepared amendments to the appropriate portions of the Milwaukie Municipal Code to further these objectives;

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

Section 1. Chapter 16.08, Administration, and Chapter 16.32, Tree Cutting, are amended as described in Exhibit A (underline/Strikeout amendments), and Exhibit B (clean copy amendments).

Section 2. All sections not amended as described in Exhibits A and B remain as written.

Section 3. This ordinance shall be effective on the 60th day following the date of adoption.

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

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

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

City Attorney

Exhibit A

Underline and Strikeout Changes

CHAPTER 16.08 ADMINISTRATION

16.08.010 ENFORCEMENT AUTHORITY

The Public Works Director and the Community Development Director ~~Planning Director~~, or their designees, shall have the power and duty to enforce the provisions of the environmental protection part of the Community Development Ordinance. They have the authority to establish forms, require information of applicants and take other reasonable measures in order to administer effectively the requirements of the environmental protection part.

16.08.020 APPEALS

- A. An administrative decision from Chapter 16.32 may be appealed to City Council. An appeal Appeals may be made from administrative decisions of the Public Works Director or Community Development Director either of these directors from other chapters within this title may be made to the Planning Commission. A decision of the Planning Commission may be appealed to the City Council.
- B. Whenever an appeal is made to the Planning Commission or Council, a public hearing shall be held. Notice shall be given to owners and residents of property within 5 lots of the subject property at least 10 days prior to the hearing.
- C. An appeal of a decision by the Public Works Director, Community Development Director ~~Planning Director~~ or Planning Commission must be made in writing within 15 days of the day of decision.
- D. The Planning Commission or Council shall receive all information in written and map form prior to the hearing on the appeal.

16.08.030 FEES

A fee, as established by resolution of the City, shall be paid to the City upon filing of a required report or appeal. Such fees shall not be refundable.

CHAPTER 16.32 TREE CUTTING

16.32.005 PURPOSE

The purpose of this chapter is to encourage preservation of trees located in the public right-of-way. Trees within the public right-of-way are a public resource that beautify the streetscape and provide ecosystem services such as reducing the urban heat island effect, reducing stormwater flows, and stabilizing soils. The City may allow the removal or pruning of trees in some situations including, but not limited to, removing hazards, avoiding damage to public and private property, and allowing for construction of right-of-way improvements. Preference should generally be given to authorizing the minimal amount of disturbance to the tree that is necessary to address the situation. The intent of this chapter is also to mitigate the authorized removal of trees within the public right-of-way by replanting new trees in the public right-of-way wherever practicable.

16.32.010 DEFINITIONS

The following definitions shall apply for terminology, used in this chapter:

“Canopy” means area of the tree above the ground, including the trunk and branches, measured in mass or volume.

“City” means the City of Milwaukee.

“Cutting” means the falling or removal of a tree, or any procedure that naturally results in the death or substantial destruction of a tree. “Cutting” does not include normal trimming or pruning, but does include topping of trees.

“Dangerous tree” means the condition or location of the tree presents a clear public safety hazard or an imminent danger of property damage, and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

“Dead tree” means the tree is lifeless.

“Drip line” means the perimeter measured at the outermost canopy.

“Dying tree” means the tree is diseased, infested by insects, deteriorating, or rotting, and cannot be saved by reasonable treatment or pruning, or must be removed to prevent the spread of infestation or disease to other trees.

“ISA” means the International Society of Arboriculture.

“Major pruning” means removal of over 20% of the tree’s canopy, or injury or cutting of over 10% of the root system, during any 12-month period.

“Owner” means and includes, for the purposes of this chapter, any person with a freehold interest in land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner’s consent.

“Person” means any individual, firm, association, corporation, agency, or organization of any kind.

“Pruning” means trimming or removing any part of the branching structure of a plant in either the crown, trunk, or root areas based on standards of the ISA.

“Relative Value.” Relative value may be calculated using the methods described in the ISA’s “Guide for Plant Appraisal.” The values reflect the value to the public as a whole, rather than to the individual property owner. For example, a tree growing in full public view may have a high public value but be of low value to the property owner.

“Removal” means the cutting or removing of 50% or more of the crown, trunk, or root system of a plant; the uprooting or severing of the main trunk of the tree; or any act which causes, or may reasonably be expected to cause, the tree to die, including without limitation damage inflicted upon the root system by machinery, storage materials, or soil compaction; substantially changing the natural grade above the root system or around the trunk; excessive pruning; or paving with concrete, asphalt, or other impervious materials in a manner which may result in the loss of aesthetic or physiological viability.

“Root zone” means the area of the ground around the base of the tree measured from the trunk to 5 feet beyond the outer base of the branching system.

“Street tree” means any tree located within a street right-of-way.

“Topping” means the severe cutting back of the main stem and/or limbs to buds, stubs, or laterals large enough to assure terminal role within the tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.

“Tree” means any living woody plant characterized by 1 main stem or trunk and many branches, or a multistemmed trunk system with a definitely formed crown.

16.32.020 PERMIT FOR MAJOR PRUNING OR REMOVAL OF STREET TREES OR TREES IN PUBLIC RIGHT-OF-WAY

A. Applicability

No person shall conduct major pruning or removal of any tree in a public right-of-way, without first receiving a permit issued by the City. Tree pruning, as defined in this chapter, shall not require a permit.

B. Review Process.

1. A permit application for major pruning or tree removal shall be submitted to the Planning Department on forms provided by the Community Development Director ~~Planning Director~~.
2. The applicant shall post notice of the major pruning or removal permit application on the property in a location which is clearly visible to vehicles traveling on a public street and to pedestrians walking by the property.
3. The notice shall state that the tree removal permit is pending for trees on the property marked by a yellow plastic tagging tape, shall include the date of posting, and shall state that any person may request a meeting with the Community Development Director ~~that a hearing be held on the application by filing a written request for a hearing~~ within 14 days of the date of the posting. The purpose of the meeting is to provide an opportunity to raise questions or concerns about the major pruning or removal prior to issuance of the administrative decision on the permit.
4. The applicant shall mark each tree proposed to be removed by tying or attaching yellow plastic tagging tape to the tree 4 to 6 feet above mean ground level at the base of the trunk.
5. On the date that the property is posted, the applicant shall send a letter to the neighborhood district association for the area, to notify the association of the major pruning or removal request.
6. The applicant shall file an affidavit stating that the property has been posted, the trees have been marked, and notice has been mailed pursuant to section 16.32.020 or subsection 16.32.020.B.
7. The major pruning or tree removal permit shall not be issued for 14 days from the date of filing of the affidavit to allow for the filing of a request for a meeting ~~hearing~~. The applicant shall maintain the posting and marking for the full 14 days. When a meeting with the Community Development Director is requested, the Community Development Director shall not issue the permit decision until the meeting can be held.

C. Approval Standards

The Community Development Director ~~Planning Director~~ shall issue a permit for major pruning or removal of trees in a right-of-way, only if the following criteria are satisfied:

Proposed Code Amendment

1. The proposed work will be done according to ISA standards, and qualified persons will perform the work-
2. 1 or more of the following criteria are satisfied:
 - a. It is determined ~~by the arborist~~ that the tree is dead or dying and cannot be saved, according to current ISA standards.
 - b. The tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or adjacent sites, and that extraordinary maintenance is required to prevent damage to such improvements or property.
 - c. The tree has lost its relative value as a street tree due to damage from natural or accidental causes, or for some other reason it can be established that it should be removed.
 - d. The tree has been determined ~~by a certified arborist~~ to be unsafe to the occupants of the property, or adjacent property, or the general public.
 - e. Major pruning or removal is necessary to accommodate improvements in the right-of-way, and it is not practicable to modify the proposed improvements to avoid major pruning or removal.
- D. All work performed on street trees pursuant to a permit issued by the Community Development Director ~~Planning Director~~ under this section shall be done within a 60-day period from the issuance of said permit, or within a longer period as specified by the Community Development Director ~~Planning Director~~.
- E. The Community Development Director shall require tree replanting as a condition of approval for a major pruning or removal permit wherever practicable. Replanted trees shall be planted within the right-of-way fronting the property for which the tree permit was issued. The replanted tree shall be a species appropriate for the location where it is planted, as determined by the Community Development Director. In addition to the tree maintenance requirements of section 8.04.110, the abutting property owner shall be responsible for maintaining a replanted tree in a healthy condition for 3 years following replanting.

16.32.030 PERMIT EXEMPTIONS

A. Dangerous Tree

If a tree is determined to be a dangerous tree, the Community Development Director ~~Planning Director~~ may issue an emergency removal permit. The removal shall be in accordance with the ISA standards and be the minimum necessary to eliminate the imminent danger.

B. Maintenance

Regular maintenance or pruning which does not require removal of over 20% of the tree's canopy, tree topping, or disturbance of over 10% of the root system during any 12-month period.

C. Tree cutting anywhere but in a public right-of-way.

16.32.040 PENALTY

Any person, firm, or corporation violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not to exceed one thousand dollars (\$1,000.00).

Exhibit B

Clean Copy Amendments

CHAPTER 16.08 ADMINISTRATION

16.08.010 ENFORCEMENT AUTHORITY

The Public Works Director and the Community Development Director, or their designees, shall have the power and duty to enforce the provisions of the environmental protection part of the Community Development Ordinance. They have the authority to establish forms, require information of applicants and take other reasonable measures in order to administer effectively the requirements of the environmental protection part.

16.08.020 APPEALS

- A. An administrative decision from Chapter 16.32 may be appealed to City Council. Appeals from administrative decisions of the Public Works Director or Community Development Director from other chapters within this title may be made to the Planning Commission. A decision of the Planning Commission may be appealed to the City Council.
- B. Whenever an appeal is made to the Planning Commission or Council, a public hearing shall be held. Notice shall be given to owners and residents of property within 5 lots of the subject property at least 10 days prior to the hearing.
- C. An appeal of a decision by the Public Works Director, Community Development Director or Planning Commission must be made in writing within 15 days of the day of decision.
- D. The Planning Commission or Council shall receive all information in written and map form prior to the hearing on the appeal.

16.08.030 FEES

A fee, as established by resolution of the City, shall be paid to the City upon filing of a required report or appeal. Such fees shall not be refundable.

CHAPTER 16.32 TREE CUTTING

16.32.005 PURPOSE

The purpose of this chapter is to encourage preservation of trees located in the public right-of-way. Trees within the public right-of-way are a public resource that beautify the streetscape and provide ecosystem services such as reducing the urban heat island effect, reducing stormwater flows, and stabilizing soils. The City may allow the removal or pruning of trees in some situations including, but not limited to, removing hazards, avoiding damage to public and private property, and allowing for construction of right-of-way improvements. Preference should generally be given to authorizing the minimal amount of disturbance to the tree that is necessary to address the situation. The intent of this chapter is also to mitigate the authorized removal of trees within the public right-of-way by replanting new trees in the public right-of-way wherever practicable.

16.32.010 DEFINITIONS

The following definitions shall apply for terminology, used in this chapter:

“Canopy” means area of the tree above the ground, including the trunk and branches, measured in mass or volume.

“City” means the City of Milwaukie.

“Cutting” means the falling or removal of a tree, or any procedure that naturally results in the death or substantial destruction of a tree. “Cutting” does not include normal trimming or pruning, but does include topping of trees.

“Dangerous tree” means the condition or location of the tree presents a clear public safety hazard or an imminent danger of property damage, and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

“Dead tree” means the tree is lifeless.

“Drip line” means the perimeter measured at the outermost canopy.

“Dying tree” means the tree is diseased, infested by insects, deteriorating, or rotting, and cannot be saved by reasonable treatment or pruning, or must be removed to prevent the spread of infestation or disease to other trees.

“ISA” means the International Society of Arboriculture.

“Major pruning” means removal of over 20% of the tree’s canopy, or injury or cutting of over 10% of the root system, during any 12-month period.

“Owner” means and includes, for the purposes of this chapter, any person with a freehold interest in land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner’s consent.

“Person” means any individual, firm, association, corporation, agency, or organization of any kind.

“Pruning” means trimming or removing any part of the branching structure of a plant in either the crown, trunk, or root areas based on standards of the ISA.

“Relative Value.” Relative value may be calculated using the methods described in the ISA’s “Guide for Plant Appraisal.” The values reflect the value to the public as a whole, rather than to the individual property owner. For example, a tree growing in full public view may have a high public value but be of low value to the property owner.

“Removal” means the cutting or removing of 50% or more of the crown, trunk, or root system of a plant; the uprooting or severing of the main trunk of the tree; or any act which causes, or may reasonably be expected to cause, the tree to die, including without limitation damage inflicted upon the root system by machinery, storage materials, or soil compaction; substantially changing the natural grade above the root system or around the trunk; excessive pruning; or paving with concrete, asphalt, or other impervious materials in a manner which may result in the loss of aesthetic or physiological viability.

“Root zone” means the area of the ground around the base of the tree measured from the trunk to 5 feet beyond the outer base of the branching system.

“Street tree” means any tree located within a street right-of-way.

“Topping” means the severe cutting back of the main stem and/or limbs to buds, stubs, or laterals large enough to assure terminal role within the tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.

“Tree” means any living woody plant characterized by 1 main stem or trunk and many branches, or a multistemmed trunk system with a definitely formed crown.

16.32.020 PERMIT FOR MAJOR PRUNING OR REMOVAL OF STREET TREES OR TREES IN PUBLIC RIGHT-OF-WAY

A. Applicability

No person shall conduct major pruning or removal of any tree in a public right-of-way, without first receiving a permit issued by the City. Tree pruning, as defined in this chapter, shall not require a permit.

B. Review Process.

1. A permit application for major pruning or tree removal shall be submitted to the Planning Department on forms provided by the Community Development Director.
2. The applicant shall post notice of the major pruning or removal permit application on the property in a location which is clearly visible to vehicles traveling on a public street and to pedestrians walking by the property.
3. The notice shall state that the tree removal permit is pending for trees on the property marked by a yellow plastic tagging tape, shall include the date of posting, and shall state that any person may request a meeting with the Community Development Director within 14 days of the date of the posting. The purpose of the meeting is to provide an opportunity to raise questions or concerns about the major pruning or removal prior to issuance of the administrative decision on the permit.
4. The applicant shall mark each tree proposed to be removed by tying or attaching yellow plastic tagging tape to the tree 4 to 6 feet above mean ground level at the base of the trunk.
5. On the date that the property is posted, the applicant shall send a letter to the neighborhood district association for the area, to notify the association of the major pruning or removal request.
6. The applicant shall file an affidavit stating that the property has been posted, the trees have been marked, and notice has been mailed pursuant to section 16.32.020 or subsection 16.32.020.B.
7. The major pruning or tree removal permit shall not be issued for 14 days from the date of filing of the affidavit to allow for the filing of a request for a meeting. The applicant shall maintain the posting and marking for the full 14 days. When a meeting with the Community Development Director is requested, the Community Development Director shall not issue the permit decision until the meeting can be held.

C. Approval Standards

The Community Development Director shall issue a permit for major pruning or removal of trees in a right-of-way, only if the following criteria are satisfied:

1. The proposed work will be done according to ISA standards, and qualified persons will perform the work.
2. 1 or more of the following criteria are satisfied:

Proposed Code Amendment

- a. It is determined that the tree is dead or dying and cannot be saved, according to current ISA standards.
 - b. The tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or adjacent sites, and that extraordinary maintenance is required to prevent damage to such improvements or property.
 - c. The tree has lost its relative value as a street tree due to damage from natural or accidental causes, or for some other reason it can be established that it should be removed.
 - d. The tree has been determined to be unsafe to the occupants of the property, or adjacent property, or the general public.
 - e. Major pruning or removal is necessary to accommodate improvements in the right-of-way, and it is not practicable to modify the proposed improvements to avoid major pruning or removal.
- D. All work performed on street trees pursuant to a permit issued by the Community Development Director under this section shall be done within a 60-day period from the issuance of said permit, or within a longer period as specified by the Community Development Director.
- E. The Community Development Director shall require tree replanting as a condition of approval for a major pruning or removal permit wherever practicable. Replanted trees shall be planted within the right-of-way fronting the property for which the tree permit was issued. The replanted tree shall be a species appropriate for the location where it is planted, as determined by the Community Development Director. In addition to the tree maintenance requirements of section 8.04.110, the abutting property owner shall be responsible for maintaining a replanted tree in a healthy condition for 3 years following replanting.

16.32.030 PERMIT EXEMPTIONS

A. Dangerous Tree

If a tree is determined to be a dangerous tree, the Community Development Director may issue an emergency removal permit. The removal shall be in accordance with the ISA standards and be the minimum necessary to eliminate the imminent danger.

B. Maintenance

Regular maintenance or pruning which does not require removal of over 20% of the tree's canopy, tree topping, or disturbance of over 10% of the root system during any 12-month period.

C. Tree cutting anywhere but in a public right-of-way.

16.32.040 PENALTY

Any person, firm, or corporation violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not to exceed one thousand dollars (\$1,000.00).

To: Mayor and City Council
From: Andy Parks, Interim Finance Director
Subject: Utility Billing Policies and Practices
Council Meeting: December 7, 2010

Action Requested:

No action is requested at this meeting. Information is presented to update and advise the Council on the status of various utility billing related issues. Future requested action is dependent upon feedback provided by the Citizens Utility Advisory Board (CUAB) and Council. Council action, e.g., a resolution and or ordinance, is anticipated December 21, 2010.

Background:

In March 2010 we retained the services of Nancy McClain, a seasoned finance officer that has managed the finances of several cities, Clackamas County and City County Insurance Services, to perform a limited review of the City's utility billing system, processes and procedures, and oversight and direction provided staff responsible for utility billing.

Since receipt of the report staff have initiated and substantially completed an audit of all utility accounts, reviewed audit findings, identified policy, procedure and process issues and initiated improvements where possible. Additionally, staff has presented and discussed various elements of the attached synopsis with the Citizens Utility Advisory Board (CUAB) and Council during the past several months, including but not limited to transitioning to a monthly billing process as soon as possible. All elements of the attached synopsis are being discussed with the CUAB December 1, 2010 with recommendations anticipated from that meeting and or subsequent meetings. Staff is also seeking feedback and comment from the Council on these matters.

Fiscal Impact:

Initially, monthly utility billing is anticipated to cost an additional \$15,000 - \$25,000 annually. A portion of the additional cost is anticipated to be recovered through reduced write-offs of bad debt.

Memo:

To: Citizens Utility Advisory Board

From: Andy Parks, Interim Finance Director

Date: November 23, 2010

Re: Response to findings and recommendations to utility billing review

As you may recall in March 2010 we retained the services of Nancy McClain, a seasoned finance officer that has managed the finances of several cities, Clackamas County and City County Insurance Services, to perform a limited review of the City's utility billing system, processes and procedures, and oversight and direction provided staff responsible for utility billing.

I've prepared a synopsis of the efforts and progress we have made during the past several months to address the findings and recommendations included in the report. Additionally, following the synopsis are discussion and recommendations related to the following policy issues that have direct impact on billing for services that we desire to review with and seek approval of the CUAB and City Council:

- Monthly billing
- Tenant/landlord accounts
- Winter averaging – wastewater accounts
- Vacation/snowbirds
- Vacancies
- Delinquent notices
- Shut-off notices
- Leak adjustments
- Penalties
- Discounts vs additional fees for payment method

We look forward to discussing these issues with you and addressing your questions.

Report Findings by Category and Issue	Status
Staffing/Direction/Supervision	
Who is responsible for utility billing	<p>Finance director is responsible for utility billing and collections</p> <p>Finance staff are taking direction from the finance director related to billing and collection issues</p> <p>Finance staff are coordinating as necessary with other departments to ensure accounts are billed accurately and timely</p> <p>The finance director is communicating with the city manager on issues that involve application of policy that may generate communication to his office and or the Council</p>
What staff should address customer complaints and concerns regarding utility billing and utility services	<p>Finance staff are responsible to coordinate and provide customer service including addressing all customer complaints and concerns regarding City utility billing</p> <p>Continuing internal dialogue regarding customer service interface for utility service issues, e.g., coordinating repairs</p>
Policy and procedures	
Fees and charges	Finance department will develop utility rates and charges including deposits based in part upon information provided by public works and engineering. All fees, charges, amounts of deposits, etc., will be approved by City Council.
Inconsistent application of policies and procedures	<p>Policies have been reviewed and revised with several presented to the Citizens Utility Advisory Committee (CUAB) and City Council with formal action pending, including:</p> <ul style="list-style-type: none"> • Tenant/landlord accounts • Winter averaging - wastewater accounts • Vacation/snowbirds • Vacancies • Delinquent notices • Shut-off notices • Leak adjustments • Penalties • Discounts vs additional fees for payment method

Software	
Software capabilities not fully utilized resulting in several manual processes	Several changes have been made to eliminate manual intervention. Automating the service/work order process is pending (see below)
Security to rate tables	Security has been tightened to eliminate access unless there is a change that is directed by the finance director.
The use of the systems work order or service order system is limited	Process improvements are pending Training by Incode, our software vendor, is scheduled for December 14-16
Meter reads provided to City directly from vendor without meter reads from City to meter reader	City now provides download of meters to be read with current meter read information to vendor and vendor provides meter read data that is uploaded by vendor
Lack of flowcharts to document procedures	Flowcharts will be drafted prior to onsite training
Delinquent account collection	
City has a multi-step process including mailing late notice, delivering and placing a door hangar shut-off notice and shutting off service – a minimum balance threshold was used	Delinquent account balance thresholds have been revised. If an account is less than \$100 past due, an active delinquent account is not subject to additional communications, site visits or fees. Accounts with delinquent account balances of \$100 or more receive late notice, door hangar and shut-off for non-payment. Periodic evaluation of this threshold amount will occur going forward. Finance is proposing elimination of door hangar with mailed shut off notice
Recommendations	
Finance department set up structure of supervision, roles, responsibilities for billing collection process	Completed
Develop processes that address: Rentals/landlords Accounts that should have minimum charges Consider other types of customer classifications	Processes drafted for consideration by CUAB and Council
Become a team	Continuing effort; finance team engaging public works, community development, engineering, and code enforcement

Finance meeting with public works to define roles and responsibilities	Initial meetings defining significant roles and responsibilities complete Additional meetings to refine responsibilities pending CUAB and Council review of major policy issues
Address issues of perceived inaccurate billings	Full internal audit – commercial complete (\$182k net), residential audit 30% complete, complete February 2011
Resolve manual process issues with software vendor	Majority of manual processes resolved, work/service order process pending
Consider implementing monthly utility billing	Recommendation to move to monthly billing pending final approval by CUAB and Council (preliminary discussions indicated support)
Finance with assistance from public works review all charges for late fees, shut-off, and re-connect fees – recovery of costs	Fees reviewed internally by finance with supporting information provided by public works, recommendation pending review and approval by CUAB and Council
Review and adjust winter average methodology if necessary	Minor modifications to process have been implemented. Any significant adjustment is pending decisions related to long-term agreement with CCSD #1
Finance should take the lead to review use of specialty lien program	Preliminary discussions with code enforcement staff, minor change to file liens internally pending full review of this issue
Consider deferring implementation of account deposit on delinquent accounts and new accounts pending implementation of other process improvements	Deferred pending implementation of other process improvements
Ensure staff receive training on the use of the billing system, processes and procedures	Software training scheduled December 14-16, will include incorporation of process and procedure changes

Background Information:

Billing Methodology Summary

Generally, the City’s major infrastructure systems; water, wastewater, street and storm-water require significant capital investment and their operating and maintenance costs are generally stable with limited incremental costs resulting from consumption.

The City, where possible within its rate structure, encourages conservation and reduced consumption. Specifically with water and wastewater, the City’s rate structure recovers a significant portion of costs through consumption costs. This billing methodology generally results in reduced consumption as consumers can realize savings by reducing consumption. The reduced consumption reduces the City’s investment in infrastructure and maintenance costs.

The City’s street utility revenue strategy for streets is similar in that a fixed charge, i.e., “base rate” is charged in the form of a street fee to each property, based on estimated “trips”. A variable component is charged for consumption via a local gas tax and state and federal taxes.

The storm water system billing methodology allocates costs based on square footage of impervious service, with all single-family homes, regardless of size, treated equally. Additionally, the City provides incentives in the form of credits for on-site handling of storm-water.

Fees and Charges

Residential

	Bi-monthly	
	<u>Base Charge</u>	<u>Consumption</u>
Wastewater	\$20.07	\$2.84 per CCF (hundred cubic feet)
WW surcharge	-	1.00 per CCF
Water	7.80	1.77 per CCF
Street	6.70	-
Storm	<u>19.80</u>	-
Total	\$54.37	\$5.61 per CCF

Non-residential

	Bi-monthly	
	<u>Base Charge</u>	<u>Consumption</u>
Wastewater	\$20.07	\$ 3.98 per CCF (hundred cubic feet)
WW surcharge	-	1.00 per CCF
Water	7.80	1.77 per CCF
Street		.70 per daily trip generated
Storm	<u>19.80</u>	<u>19.80</u> per 2,706 sq. ft. impervious area
Total	\$54.37	

Average residential consumption: approximately 16 CCF per bi-monthly billing cycle
Average bi-monthly bill: approximately \$144

Number of customers:
Residential accounts 6,427
Multi-family residential accounts 246
Commercial accounts 550

Average number of shut-off account notices per month: 180
Average number of shut-offs per month for non-payment 24
Adjusting account balance threshold to \$100 16 (-33%)

Fee for delinquent notice: \$ 10
Fee for shut-off notice: \$ 30
Fee for actual shut-off: \$ 0
Fee for actual turn-on: \$ 0
Fee for after hours turn-off \$120

Number of accounts using ACH: 406 (5.6%)
Number of accounts making payments via online banking: est. 500 (5.9%)

Monthly Billing

We are finalizing preparations to implement monthly utility billing in January 2011. Primary benefits include smaller more frequent bills, earlier detection and resolution of leaks, earlier identification of troubled accounts, and the ability to communicate City activities, events, etc., with all residents and businesses very cost effectively and efficiently.

We issued a Request for Quotations to outsource bill printing and mailing services. We received four submittals. Prior to selecting the vendor a site visit of their printing and mailing facilities in NE Portland was performed. The selected vendor is Cascade Form Systems, Inc. with a total estimated cost per bill, including return envelope and double sided statement, with graphics, is \$.219. Additionally, the vendor is capable of mailing e-bills, eliminating paper and postage costs. Also, postage charges to the City, outside of the services provided by CSFI will be the lowest possible bulk rate provided by the USPS due to the sorting capabilities demonstrated. The vendor has also submitted a quote for a double-sided newsletter of less than \$.10 each. The newsletter can be mailed hard copy or electronically with the utility bill without increasing postage costs.

The total cost of the outsourced monthly billing, approximately \$17k per year excluding postage, is approximately the same as the current costs to print and mail bi-monthly bills. Postage costs currently are \$.44 per piece and will decline to \$.33 per piece. So there will be an additional cost for postage of approximately \$8,600.

Estimated additional costs associated with the increased number of payments processed is \$15,000 - \$25,000. With the implementation of online payments, charge card payments via phone, marketing use of ACH payments, and improved use of the automation features of the software, no additional staffing is anticipated. We have verified our staffing requirements are adequate via comparison with other municipalities with similar billing and payment alternatives as we plan to implement with the monthly billing program.

A portion of the additional costs of monthly billing are estimated to be offset by reduced write-off of accounts. The benefits noted in this document are viewed as worth the net additional cost (approximately \$10,000-\$20,000 per year) to improve the City's billing and collection system.

Recommendation:

- Approve implementation of monthly utility billing
- Approve a resolution to adjust the current bi-monthly fees and charges to monthly fees and charges.

Tenant/landlord accounts

A common issue among utilities is the increased costs associated with managing tenant occupied properties and the increased write-offs of bad debt relative to owner occupied properties. Owner occupied properties generally require account set-up only once upon change of ownership, which is much less frequent than tenant occupied properties. Write off of bad debt for owner occupied homes are \$0 as customers pay their utilities to avoid a lien for non-payment.

Currently the City is experiencing write-offs of approximately 1% of billing. When owner-occupied billing and professionally managed properties (these accounts also have a very low write-off %) are excluded write-offs for tenant occupied properties is estimated to be greater than 5% of billings.

The loss from write-offs is approximately \$60k per year. Alternatives to reduce write-offs:

- A. Increase frequency of billing and reduce amount of each bill, i.e., implement monthly billing.
- B. Require deposits for tenant occupied properties that do not have a good credit history.
- C. Require the property owner to be ultimately responsible for municipal utility charges.

There are additional costs to the City associated with requiring and maintaining deposits. Also, charging deposits can be an additional barrier to securing housing for many renters.

Property owners of rental housing typically require security deposits. Additionally, the City bills property owners base fees while properties are vacant.

The City's billing system has the capability to provide duplicate billings and notices to the property owner of tenant occupied properties.

Recommendations:

- Implement monthly billing
- Change the City code to require home-owners to be responsible for all City utility charges.
- Implement charges to tenant occupied properties to recover costs associated with providing duplicate billing and notices to property owners.

Winter averaging - wastewater accounts

As noted above, the City bills wastewater via two components; base charge and consumption. Residential customers' consumption is established via a "winter averaging" methodology that adjusts consumption off accounts for estimated irrigation water. The methodology uses average winter consumption and applies this consumption throughout the year.

This methodology is considerably different than that proposed to be used by Clackamas County Service District #1 (CCSD). CCSD uses an Equivalent Dwelling Unit (EDU) based methodology. With this methodology each residential unit is assumed to have consumption of 10 CCF per month, including vacant properties. CCSD's billing methodology for commercial and industrial accounts, although EDU based, is more consistent with the City's current methodology, as they charge a flat fee for the first EDU (10 CCF) and a consumption fee for each additional EDU or portion thereof.

Given the significant differences of the billing structures and the proposal presented by CCSD, staff suggests maintaining its existing structure pending negotiation of a long-term agreement with CCSD.

There are other winter averaging issues that warrant mention. As noted above, there are customers that have extended vacancies during winter months. During these months customers have limited water consumption. The limited consumption results in year-round reduced consumption charges.

Recommendation:

- Implementation of a minimum monthly winter average of five CCF per month is suggested. The minimum will address the various vacancy issues noted above and will also begin to address the gap between CCSD's EDU billing methodology (10 CCF per month) and the City's consumption based methodology.

Vacation/snowbirds

Previous to the recent review of billing processes and policies billing for City services were suspended for customers that contacted the City indicating they were going to go on vacation or would be away for an extended period of time. The City did not turn off the water service when suspending billing. Audit findings included instances where a customer's account was not reactivated although consumption was reported.

Following a review of billing processes and policies and the City's billing methodologies (discussed below) staff discontinued the practice of suspending billing for vacations or extended vacancies. The primary findings that led to our decision include:

- A limited number of individuals were aware of the program.
- The practice is inconsistent with the policy and practice of charging multi-family residential property owners fixed charges based on the number of units regardless of vacancy, and
- The billing methodologies recover a portion of costs through fixed charges regardless of actual consumption.

Recommendation:

- Please see Vacancies below

Vacancies

As noted above the costs associated with the operation and maintenance of the City's utilities; water, wastewater collection and treatment, street, and storm water, all continue whether or not customers use these services, i.e., they each have significant costs associated with providing those services, whether they are actually used or not.

Consistent with this reality, although the City recovers a significant portion of its water and wastewater costs through consumption charges, the recovery of base fees is essential to recover fixed costs associated with the various systems.

Our internal audit findings note inconsistencies in the application of charges to vacant properties.

Recommendation:

- We recommend a consistent policy and further that the policy be to charge all properties that have been developed and have been issued an occupancy permit, the minimum base fees for City utilities, whether occupied or vacant. This generally has been the practice although there are several examples where this was not the case.

Delinquent notices

Notices are currently sent to customers with past due charges. Customers that receive notices are charged \$10 for each notice. We have implemented a "threshold" of \$100 past-

due balance to receive the past due notice. We have also reviewed the cost of sending notices, including securing quotes to outsource printing and mailing of the notice, including City staff time. Cost recovery can be attained with a fee of \$5.

Recommendation:

- Adjust fee to \$5.

Shut-off notices

Shut-off notices are currently delivered by public works staff and placed on front door (notice is commonly referred to as “door hanger”). The shut-off notice is provided after a customer does not make payment or payment arrangements after receiving a delinquent notice. Customers are charged a fee of \$30 for the shut-off notice.

The door hanger method is a costly process to perform and takes City staff away from their main responsibility, i.e., maintenance of the various systems. An estimated one-man day per month is used to deliver door-hangers. The benefit of the delivery of the notice by a City employee is they may be able to ascertain if there is a vacancy.

We have contacted various municipal utilities and private sector utilities to ascertain their final shut-off notice procedures. Municipal entities continue to send door-hangers while private sector or other regulated public utilities send notice via the mail. The notices provided by private sector or other regulated public utilities have markings such as **URGENT** visible on the front of the envelope. The utilities do not charge a specific fee for shut-off notices, rather they typically charge fees to delinquent accounts as a percentage of the account balance with a minimum.

Consistent with the delinquent account notice we have established a minimum threshold for shut-off notices of \$100. The threshold has reduced the number of shut-off notices by approximately 45% and a reduction in the number of shut-offs by approximately 33%.

Recommendation:

- Discontinue door-hangers and implement notice of pending shut-off via U.S. Mail. Reduce fee for this service from \$30 to \$5. The \$5 fee is consistent with the costs associated with mailing a delinquent notice.
- Implement a \$30 fee for actual shut-off and turn-on to restore service. We have received a quote of \$550 for a day per month to perform shut-off and turn-on services. This equates to an estimated \$27.5 - \$35 per shut-off/turn-on. Public works staff time to perform shut-off/turn-on is estimated to cost approximately \$25 each. Additionally, City administrative staff time is estimated to cost approximately \$5 per account.

Leak adjustments

Upon review, the City did not have a consistent practice, policy or procedure to adjust water and or wastewater accounts for water metered but not used by the customer. To

encourage timely repair of leaking pipes and recognizing that water production costs are much less than the amount billed (due to fixed costs of infrastructure being recovered through consumption charges), several municipalities contacted adjust consumption for verified leaks upon timely repair.

An interim leak adjustment methodology implemented by staff is to adjust billing for wastewater one-hundred percent of the estimated metered water that did not go into the collection system and one-half of charges for water upon timely repair of leaks. The leak adjustment methodology implemented has received favorable reaction from customers. During the internal utility audit several accounts were identified where customers requested leak adjustments. In many instances, there was no leak adjustment made, including no adjustment to wastewater treatment. Consistent with the treatment of under-billed accounts, we have reviewed these accounts and have made leak adjustments to qualifying accounts dating back three years.

Recommendation:

- Adopt a policy that provides discretion to finance director and city manager to adjust accounts for leaks up to fifty percent (50%) for water and one-hundred percent (100%) of wastewater charges for water consumption that is estimated to have resulted from leaks that have been verified to have been repaired.

Penalties

The City presently charges fees for late notices and shut-off notices. The City does not charge interest on delinquent accounts. Private sector and publicly related utilities generally charge interest on delinquent balances with a minimum charge, and per a review of several municipal websites, municipalities are also charging interest on delinquent charges.

Recommendation:

- After implementing monthly billing evaluate delinquent account balances and consider interest charges with minimum fees at that time.

Discounts vs additional fees for payment method

The cost associated with process billings by payment type, least to most, is as follows:

- ACH (automatic withdrawal from customer account to City account)
- Payment via on-line banking with automated posting to City account
- Payment via mail to lock-box
- Payment via mail to City Hall or drop box at City Hall
- Payment via on-line banking without automated processing
- Charge card payments made via automated system
- Charge card payments made directly with staff, either in person or via phone

The costs of ACH transactions are less than .15% of average bill.

Visa payments made via phone with staff – estimate of up to 5% of average bill.

Currently approximately 5.6% of customers use ACH. It is easily the most efficient and cost effective method of collecting payments. The most costly collection method is charge card payments processed by City staff. In addition to merchant banking fees staff time necessary to process payments is significantly greater than other methods.

Presently, the City does not offer incentives nor does it charge additional fees to make payments via methods that result in savings or additional costs to the City. Per review of municipal utilities, private sector, and publicly regulated utilities there are an increasing number of cities that charge an additional fee for charge card payments. Publicly regulated utilities did not charge an additional fee or offer discounts for certain types of payments.

As the City implements online utility information, account maintenance and payment capabilities, it is likely that additional online payment activity, including charge card payments, will occur, resulting in additional merchant banking charges to the City.

Recommendations:

- After utility billing has been implemented for three-four months, evaluate payment types, associated costs, and alternatives to recover costs.
- After implementation of monthly billing and evaluation of payment types, consider a discount of up to 2% to encourage customers to pay with ACH, in lieu of charging customers additional fees to recover costs.