

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION
OCTOBER 6, 2009

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

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

Staff Present: City Manager Mike Swanson, City Attorney Bill Monahan, Resource and Economic Development Specialist Alex Campbell,

Urban Renewal Feasibility Study Briefing

Mr. Campbell introduced Jeff Tashman and what kinds of investments might be necessary, size of the urban renewal area.

Mr. Tashman said the Scope of work developed with staff and RFP was well-thought-out. They looked at development and parking standards and how those might support or inhibit new development. They projected what kind of development could happen, increment, and estimated revenues and what kind of debt that could support. All recommendations have been done on a technical professional level it was a first look with no public involvement. Their assumptions were only for the purpose of saying if this was feasible and real decisions were made in planning process. They considered a large study area then worked with staff on the definition delineation of opportunity sites including sites that are essentially Greenfield sites like Murphy and McFarland. They include sites that are more redevelopment sites where there is current use of the property but they are being underused. They are characterized by a size that would allow for a significant mixed use development. They made some judgments about how development could occur. They looked at projected population, employment projections, and a general sequence of when development might happen. He showed a summary chart to Council that gave an idea of the scale that was happening. The scale was modest 160,000 square feet of retail, 60,000 square feet of mixed use, 150,000 square feet of office, total of 575 housing units, and lodging with the idea of a hotel developing on the Kellogg Treatment Plant site. They needed to get to how much assessed value would this development contribute. He discussed the real market value. They looked at the whole study area which seemed quite large. When they measured the acreage and the assessed value it exceeded the urban renewal legal limits and they thought there were reasons for looking for smaller area. The main reason was that opportunity sites identified by consultant and staff occurred in some but not all sub areas. There were no opportunity sites in Island Station or the industrial area to the north. They thought there was a desire on the part of the City to focus on the downtown and not spread the effort too thin by including other areas that were not downtown in nature. They came up with a refined study area. If it is decided to do urban renewal decisions will need to be made on the area. The areas he showed on a map of were the areas for the sake of the study and focused on the areas directly related to the downtown. They looked at Island Station and they were sensitive to that area. The limits on size

and assessed value are by state law 25%. The area was under 15% of size and 11% assessed value. If in the future it was decided that it was an urban renewal area it was not as large as it could be and the City could expand this area or create another one.

He didn't base the study on the largest area that they could legally do. He briefly discussed tax increment financing. Staff had advised them that they were looking to revise parking standards for the downtown area so they added to scope feasibility analysis of some example projects on example sites using proposed parking standards and the impacts on design and financial feasibility.

Mr. Campbell added they also looked at the public area requirements and what share of total development costs those would represent at the example sites.

Mr. Tashman they found the proposed requirement in their judgment was that in areas like the downtown core that would be served by light rail it was possible to develop multi-family units without parking for all units. There would be projects that would work without parking and some that wouldn't work with parking. With office development they found some onsite parking was necessary from market standpoint. The other conclusion about redevelopment on those sites was that none of them would pencil out today or tomorrow because of the market conditions. The final point was on rehab projects for new uses when the downtown is being turned around those kinds of projects led the way followed by increasing rents and more activities that support new development. They put together the projections of new development on opportunity sites over a 20-year period with a substantial financing capacity from urban renewal of \$63.1 million or \$40 million in today's dollars. The capacity would be very limited at the beginning, which was the challenge, but it would increase over time. He referred to a graph that showed how much could be borrowed with bond issues being sold every three years or so. Under those projections through 2016 the total bonding capacity was \$6 million. As opportunity sites are developed we begin to have more capacity. Priority projects were those which were short- to mid-term. Rationale was that urban renewal projects should stimulate private development and create tax increment revenue stream from taxable projects. The debt and revenues are created by redevelopment of opportunity sites. If they don't develop the revenues would not be there. It would take public investment to get those early projects going. The focus would be to focus money on the projects that begin getting sites such as Murphy and McFarland developed. There are other projects that are critical for downtown, but they are not proposing to use urban renewal funds for those because those funds are needed for the opportunity sites. The other projects they determined as critical are light rail, Riverfront Park, and South Downtown Plaza which were critical amenities for those living and working downtown. Staff is still reviewing the deliverable methodology, actual projections for boundary of urban renewal district, project prioritization, impact of PAR and parking standards. Staff will work on those reports and products.

Mr. Campbell said the intention of staff was to give the City Council an opportunity to ask questions and do some additional research from Council and Fire District concerns.

Mr. Tashman discussed the projects in more detail.

Mayor Ferguson asked for Council to hold questions and asked Mr. Campbell to come to another session to answer the questions as well as share additional research done by staff.

Wastewater Partnership Agreement

Mr. Swanson said it will appear for possible action on 10/20. He wanted to know if there were any questions that Council had.

Councilor Chaimov understood scope of obligation of signatory. He asked about the Label fiduciary duty and did not understand the first point.

Mr. Swanson responded the fiduciary duty could be removed and explained they were engaged with a number of issues with WES. One of the purposes of the bylaws was to make recommendations consistent with operations of the County. It seemed some of issues discussed related directly to those issues and if approved at this time would be approving a new process. He felt it could be dealt with by making bylaws effective prospectively.

Councilor Chaimov asked why that would be a bad thing?

Mr. Swanson responded that it may not be a bad thing.

Councilor Stone said when she read the bylaws the duties of the advisory committee did not include rate setting. She thought that it needed to be specified and it should be in there.

Mr. Swanson said that he thought the partnership input would lead to a rate when the BCC made its decisions.

Chris Storey said that Mr. Swanson was correct. The recommendation was to deal with treatment infrastructure which was a component. CCSD1 would also consider conveyance issues and general district obligations that would factor in to rate.

Mr. Eder added this agreement dealt only with waste water treatment as opposed to conveyance. Nothing in this agreement got in the way of affecting local systems.

Councilor Chaimov asked 2.2(a) Fiduciary duty, what did that mean?

Mr. Storey said it was residual of the previous agreement with the idea to follow the law, which was the intent of that paragraph. There was discussion from the City of West Linn to change that to say something else at the partnership meeting this week.

Councilor Stone asked how votes were awarded to the different partner cities?

Mr. Eder this was the product of a process that began nearly 2 years ago with a public task force that had representation from the region. The discussion had to do with how decisions were made. There were 2 districts and multiple parties in the district. The agreement was a weighted voting system that would equalize the 2 districts and would include Milwaukie as a founding member if endorsed by the City. The process of discussion was to evaluate how to fairly allocate votes.

Mr. Swanson explained both districts had 4 votes.

Councilor Barnes TriCity would probably vote together.

Mr. Eder said that Council may be surprised of voting outcome and depended on the issue.

Councilor Stone asked about the criteria of approving a new member, section 4.2(b).

Mr. Storey said there was a long discussion and the intent was to prevent a City from taking on a wholesale customer and passing on the cost of treatment to the rest of the system without consulting the system.

Mr. Swanson said there may be changes after the partnership meeting this week.

Mr. Eder said several cities have endorsed this and so most likely it will go through the process if people have conditions or recommended changes would come back to those cities who had already voted.

Mayor Ferguson were there any other questions from West Linn

Councilor Barnes asked the status of Damascus

Mr. Storey responded that they voted to endorse the agreement along with Happy Valley, River Health, CCSD1 and Oregon City. Gladstone was meeting next week.

Regional Committee Assignments

Held over

Council Goal Setting

Held over

Mayor Ferguson announced executive session.

Mayor Ferguson adjourned the work session at 6:08 p.m.

Pat DuVal

Pat DuVal, City Recorder

WORK SESSION

AGENDA

WORK SESSION MILWAUKIE CITY COUNCIL OCTOBER 6, 2009

MILWAUKIE CITY HALL

Second Floor Conference Room
10722 SE Main Street

A light dinner will be served.

WORK SESSION – 5:30 p.m.

Discussion Items:

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>	<u>Page #</u>
1.	5:30 p.m.	Urban Renewal Feasibility Study Briefing	Alex Campbell & Consultant	1
2.	6:10 p.m.	Wastewater Partnership Agreement	Mike Swanson	3
3.	6:30 p.m.	Regional Committee Assignments	Mayor Ferguson	
4.	6:40 p.m.	Set Goal Setting Session	Mayor Ferguson	
5.	6:45 p.m.	Adjourn work session		

Information

Executive Session: The City Council may meet in executive session 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.

Public Notice

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the one previous to it.
- For assistance/service per the Americans with Disabilities Act (ADA) please dial TDD (503) 786-7555.
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.



To: Mayor and City Council

Through: Mike Swanson, City Manager &
Kenneth Asher, Community Development & Public Works Director

From: Alex Campbell, Resource & Economic Development Specialist

Subject: Urban Renewal Feasibility Study Briefing

Date: September 23 for October 6, 2009 Work Session

Action Requested

None. Staff seeks to share key findings from Consultant work.

History of Prior Actions and Discussions

Sept. 2009: Council approved amendment to Tashman Johnson contract to provide for additional study of downtown development standards and development feasibility.

April 2009: Council provided background briefing on feasibility study and urban renewal mechanics.

Feb. 2009: Council approved urban renewal study contract with Tashman Johnson.

Oct. 2008: Council directed staff to develop an urban renewal work plan.

June 2008: Council directed staff to look into urban renewal to support critical public infrastructure investments in downtown.

Dec. 2007: Council directed staff to consider steps to re-balance the relative financial burden of downtown PAR/streetscape improvements.

Background

The City's contract with Tashman Johnson is for feasibility-level analysis urban renewal potential in Milwaukie. Contractor work elements include:

- Development of revenue projections for Tax Increment Financing ("TIF").
- Review and input on possible urban renewal projects, with the understanding that a central element of any plan must be a tool to better balance public and private contributions to the cost of streetscape improvements (Public Area Requirements) in downtown.
- Support of City's public education efforts.

A contract amendment was developed and approved to improve the City's understanding the extent to which key City standards, such as off-street parking requirements and Public Area Requirements, currently restrict opportunities for development or redevelopment in the downtown.

This work session will provide the consultant team the opportunity to present key findings of their work to City Council. Staff anticipates reviewing the final consultant deliverables in light of Council's input and returning with a recommendation to Council on how, when, and if to move forward with an effort to develop and actual urban renewal plan, including the extensive public involvement and stakeholder outreach that would entail.

Concurrence

The Planning Department Director and Community Services Director participated in meetings with consultant team members on issues such as project priorities and development standards review.

Fiscal Impact

No action requested.

Work Load Impacts

No action requested.

Alternatives

No action requested.

Attachments

None.



TO: MAYOR AND COUNCIL
FROM: MIKE SWANSON, CITY MANAGER
DATE: SEPTEMBER 22, 2009
RE: WASTE WATER TREATMENT CAPACITY ADVISORY COMMITTEE BYLAWS

ACTION REQUESTED

The action requested is a discussion and direction from the Mayor and Council regarding the City's position on whether or not to adopt the attached bylaws of the Waste Water Treatment Capacity Advisory Committee. (Committee)

BACKGROUND

I will not recount the history of the Committee. The City's representative, Councilor Barnes, has been very diligent in informing the Mayor, Council, and staff after each meeting.

What began as a proposal for a partnership that would assume some decision-making responsibilities has become an advisory committee. The Committee bylaws before you represent a change in function from the draft agreements of an earlier date. The Committee is now proposed as an advisory body to the Board of County Commissioners acting in its capacity as the governing body of Clackamas County Service District No. 1 (CCSD1) and the TriCity Service District.

The time has come to determine what, if any role, the City of Milwaukie will play in the future of the Committee. I have scheduled this discussion for your October 6, 2009 work session and a decision for your October 20, 2009 regular session.

Without going into a full discussion of the issues presented, I will focus on two. First, CCSD1 and the City are presently engaged in a dispute on rates. Adopting these bylaws at this time would create the possibility of an argument that would remove the rate issue from the CCSD1 governing body temporarily and place it in the hands of the Committee Membership. The legal issues about which the City feels very strongly would be lost under a new arrangement. Nothing requires that the Board of County Commissioners do anything but receive the rate recommendation from the Committee. In other words, it could accomplish what it desires today by punting to the new process.

Second, Section 2.2(a) imposes a "*Fiduciary Duty*" on the Members. That is the highest duty owed under the law, and it is not appropriate to require that level of duty on a body whose only task is to make recommendations. Some may argue that the phrase is qualified by the language that follows, but its presence is disturbing. The Board makes the decision, and its staff manages the project and finances. If the Committee is a body without authority, I do not recommend that it assume any legal duty more appropriately placed on the Board of County Commissioners.

It seems as if there are three possible recommendations. One is to approve; one is to disapprove; and one is to withhold formal action until the above two issues are solved to the City's satisfaction. I recommend the latter option.

In addition, I understand that West Linn is submitting a list of changes that it deems necessary. I will forward you a copy of those questions. Perhaps some of our concerns may be similarly dealt with. I want it clearly understood that my recommendation should not be misinterpreted to mean a rejection of the partnership concept. Rather, I believe that the document as presented still falls short and may not be timely from our perspective.

Unfortunately, this recommendation, if adopted, may mean that the City will not be allowed to participate in the Kellogg Task Force. However, the issues outlined above seem weighty enough that adoption is not presently advisable.

Waste Water Treatment Capacity Advisory Committee

Bylaws

The Board of Commissioners of Clackamas County in its roles as the governing body of Clackamas County, of Clackamas County Service District No. 1, and of the Tri-City Service District (BCC), desires to form a permanent advisory committee composed of interested partners regarding the planning, construction, management, and financing of wastewater treatment infrastructure in Clackamas County. This committee shall be the Wastewater Treatment Capacity Advisory Committee (the "Committee").

Article 1. Committee Scope and Composition.

Section 1.1 Purpose. The Committee shall:

- (a) Review, discuss and make recommendations on proposed operational and multi-district capital improvements to the region's wastewater treatment system, programs, and capacity;
- (b) Review and make recommendations regarding expenditures of funds relating to the same; and
- (c) Perform other projects as assigned by the Board, as such may be suggested by the Director of WES or requested by the Committee and approved by the BCC or as otherwise provided for in these bylaws.

Section 1.2 Membership. The following geographical areas and municipal entities shall have representation on the Committee:

- (a) Unincorporated Clackamas County within the boundaries of CCSD#1;
- (b) City of Damascus;
- (c) City of Gladstone;
- (d) City of Happy Valley;
- (e) City of Milwaukie;
- (f) City of Oregon City; and
- (g) City of West Linn.

Section 1.3 Appointment. The governing political body of each city shall appoint one representative and one alternate to the Committee. The BCC shall appoint the representative for the unincorporated areas pursuant to the terms and procedures of the advisory committee policy of Clackamas County.

Article 2. Term and Responsibilities.

Section 2.1 Term. The Committee will have an indefinite term or until dissolved by mutual agreement of the Members or by the BCC.

Section 2.2 Duties and Rights. Each member shall have the following duties and/or rights:

- (a) *Fiduciary Duty.* Each Member agrees that the Committee shall make recommendations and request actions consistent with operations of the County Service Districts as a collective public service utility business.
- (b) *Access to Meetings and Records.* All meetings and records of the Committee shall be held, maintained and/or made available consistent with Oregon Public Meetings Law and Oregon Public records Law, as applicable.
- (c) *Master Planning.* The Committee shall review and make recommendations on regional waster treatment system master plans regarding existing and future wastewater treatment capacity.
- (d) *Collective Investment Strategy.* The Committee shall review and make recommendations on collective investments and/or expenditures for land, capital facilities, and equipment as necessary to implement the Master Plans.
- (e) *Environmental Compliance.* The Committee shall review and make recommendations about environmental management and permitting where regional interests intersect with existing jurisdictional responsibilities.
- (f) *Rate Evaluation.* The Committee shall review and make recommendation to the BCC on wholesale wastewater treatment rates to be assessed to all areas.
- (g) *Future Membership.* The Committee shall discuss criteria and make recommendations on the addition and conditions of any future members who apply to the BCC for membership to this agreement or Committee. Consideration for membership in this agreement and Committee shall follow the process and shall meet the minimum criteria as outlined in Article 4.
- (h) *Non Treatment Capital Facilities.* The Committee may make recommendations to the BCC to lend or advance funds for the purposes of construction of non-treatment wastewater capital facilities, i.e. water reuse, biosolids programs, temperature control infrastructure, industrial pretreatment programs, etc. The Committee shall include in its recommendations how the funds are to be secured and the repayment terms including principal, interest, and related expenses.

Article 3. Decisions and Procedures

Section 3.1 Voting. The appointed members to the Committee shall be allocated votes as set forth below:

- (a) The Cities of Gladstone, Oregon City and West Linn shall be awarded 1 and 1/3 votes each.
- (b) Unincorporated ratepayers of CCSD#1 and the cities of Damascus, Happy Valley, and Milwaukie shall be awarded 1 vote each.

Section 3.2 Recommendations to the BCC. The Committee will vote on all Committee recommendations to the BCC. All Committee recommendations will be on the basis of a majority of a quorum of its members. A quorum shall be members holding at least 5 eligible votes. The Committee shall provide a report to the BCC regarding its recommendations for investments or expenditures for new assets or recommendations for investments or expenditures for new assets or recommendations to change wholesale rates. Minority reports and recommendations may be sent to the Board at the request of one or more Members.

Section 3.3 Voting Revisions. If the membership of the Committee changes due to the addition of new members or withdrawal of any members the Committee shall, as part of its actions reallocate votes on the Committee in an appropriate manner to recognize the new member or loss of a member and redefine a majority.

Section 3.4 Meetings. The Committee will meet quarterly, or by agreement of a majority of members holding at least 5 eligible votes, or at the request of the BCC. Additional meetings may be called by the Chair as he/she deems necessary.

Section 3.5 Staffing. The Water Environment Services staff will perform as County staff liaisons to the Committee. The staff will determine the agenda and the Executive Director or his/her designee will Chair the Committee. The Executive Director shall not have a vote regarding the recommendations of the Committee. The Executive Director will place items on the agenda as determined by the business needs of the Wastewater Treatment System and upon request by any member of the Committee.

Article 4. New Membership.

Section 4.1 Process.

- (a) Prospective new members must submit a written request for admission to the Committee and provide evidence of their ability and willingness to meet the criteria set forth below. The Committee will review this written request for admission and

forward a recommendation to the BCC prior to any decision regarding the prospective new member.

- (b) Entities that meet the criteria for membership, as set forth below, may petition for admission on the Committee. The BCC may require additional information from the prospective new member before making a final decision on membership.
- (c) The BCC shall be the sole entity in approving membership to the Committee. The BCC will receive a recommendation from the Committee about the addition of new members prior to any final decisions on membership.

Section 4.2 Criteria. To be approved as a new member by the BCC a prospective new member must:

- (a) Accept, without reservation or conditions all agreements, by-laws, and procedures governing the wastewater treatment system that are in place at the time of their entry on the Committee;
- (b) Have a minimum of 5,000 ratepayers who obtain wastewater treatment from a County or City service district;
- (c) Agree to share in the cost of major improvements or expansion of existing and/or new or additional wastewater treatment facilities and related infrastructure; and
- (d) Be required at the discretion of the BCC, upon recommendation from the Committee contribute capital or physical assets as part of their share in the cost of major improvements or expansions of existing and/or new or additional wastewater capacity.