

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
MARCH 18, 2008**

6966

CALL TO ORDER

Mayor Bernard called the 2026th meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Mayor James Bernard and Councilors Deborah Barnes, Greg Chaimov, Joe Loomis, and Susan Stone

Staff present: City Manager Mike Swanson, City Attorney Bill Monahan, Community Development and Public Works Director Kenny Asher, Community Services Program Director Beth Ragel, Code Compliance Coordinator Tim Salyers, and Community Services Director JoAnn Herrigel

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARD

Mayor Bernard announced board and commission appointments and directed staff to prepare resolutions appointing David Aschenbrenner and Leslie Schockner to the Budget Committee, Andrew Tull to the Design and Landmarks Committee, Bob Hatz and Charles Bird to the Citizens Utility Advisory Board, and Tom Hogan and Ron Rasch to the Library Board.

It was moved by Councilor Chaimov and seconded by Councilor Stone to extend the terms of Mike Miller on the Budget Committee and Teresa Bresaw and Scott Churchill on the Planning Commission for 1 month. Motion passed unanimously. [5:0]

Urban and Rural Reserves

Metro Councilor Carlotta Collette reported people had been talking for a number of years about alternative ways to expand the urban growth boundary (UGB) that in the past had been contentious and left no one happy. Last year Metro had 2 pieces of legislation approved. One was that the process for designating the new UGB could be suspended for 2 years, and the other was a new approach to the UGB expansion. In the past it had not been that relevant to the City of Milwaukie because it was geographically limited. The new process could impact Milwaukie in positive ways. The roadmap described some of the ways Metro was working with local communities. The whole process came out of community involvement and working with local governments and county officials.

The first section, Focus Investments, was aimed at building vibrant downtowns and investments Metro could make or direct into the communities to help them achieve their goals. In the case of Milwaukie, it had its Downtown Plan, and Metro would love to partner in making it a reality. It also talked about what kind of investments needed to be made in infrastructure region-wide both in aging systems and systems that needed to be built. There were many things that came under the category of infrastructure including water, sewage treatment, roads, and schools. Metro was asked to take an inventory of infrastructure needs and look for ways the region could work together to help fund the needs everyone was facing. This fit with the UGB issue because at some

point growth could not expand into areas where infrastructure could not be built. The intent was that Metro would look at the needs and where investments could be targeted in urban and new communities and hopefully make decisions that had a little more basis on what could realistically be built.

The second track of this performance-based growth management was about having better computer modeling tools. Metro had a list of aspirations – what every community seemed to want – like a grocery store, plaza, fountains, coffee shops, wine bars, restaurants, transportation systems, walkable communities, parks, and open spaces. What were the things that meant a place where people wanted to live and hang out? Metro would put these amenities in its computer models and figure out the best places for targeting investments. Community might be built up around a transit station or a neighborhood that was currently underdeveloped like Gateway or Lents. What were some things that could be done to help that community grow? What were the major investments that would attract people to that community? Metro had just begun to build the model that would help determine which investments would pay back where and which would not. It would always be a recommendation. In all of these cases it was about what the community wanted, and not what Metro thought it should have. This process was even more focused on community goals and regional choices including cooperative funding and bringing in other sources of funding.

The third track was urban and rural reserves. In the past the regional boundary was expanded in places like North Bethany and the Stafford area. The new process looked at what investments needed to be made to achieve the desired communities within the urban growth boundary and then look at the other places where counties and communities want to expand. This process engaged representatives from the counties, various businesses, and cities on a steering committee. Metro and the counties would make the decisions on the urban and rural reserves process jointly. Each county had representatives on what was called the Core-4 and had begun meeting to make suggestions about what areas should be considered in the future for urban growth development. In the meantime those were being called urban reserves. Now Metro would begin looking at areas that would not be developed at all for 50 years, and those were the rural preserves for agricultural reasons or because they were natural habitat or special places. There was a study done in 2006 of the agricultural resources and the natural environment, and was the basis for some of the decision making around the rural preserves. The process will complete its work in about 2009.

The final process was the Regional Transportation Plan (RTP) that had to do with building a transportation system that was also part of the new and existing communities. The idea was to integrate all the approaches and bring communities to reality. The first of the toolkit had to do with financial incentives.

Mayor Bernard was involved in last UGB expansion and was concerned about what at one time was the abandonment of the inner city core to blight yet that was where the infrastructure existed. He preferred this process.

Councilor Collette was one of the co-leads on the investment process as well as performance-based growth management. The intent was to free up some money to invest in existing communities rather than building fantasy communities on the outer edges for which infrastructure was too expensive to build.

Councilor Stone asked when public involvement would occur.

Councilor Collette responded there was an elaborate public involvement plan, and she showed a timeline with milestones and input times throughout the process.

Ken Ray, Metro Senior Public Affairs Coordinator, elaborated on public involvement efforts specific to urban and rural reserves. This was a joint effort between Metro and 3

counties to integrate a comprehensive public outreach program in all the different phases of the process with existing communities and fringe areas.

Councilor Stone understood there was a public input process between winter and spring 2008.

Councilor Collette replied this meeting was part of that element.

Mr. Ray said the first step was to educate people about the process. Right now Metro was looking at the broad canvas followed by more refinement throughout the process.

Councilor Collette added each county had its own public involvement process, and Clackamas County just formed its team. She suggested connecting with County Commissioner Martha Schrader. Metro hoped the grassroots efforts were made both through the counties as well as the local governments.

Supplemental Draft Environmental Impact Statement (SDEIS) Update

Mr. Asher reported the drafting phase of the SDEIS was nearly complete, and the 45-day public comment period would follow in early May. There was a station location workshop at Milwaukie High School on March 19. He discussed Craig Flynn's comments about Metro's station area communities with an associated density of 45 persons per acre. Mr. Flynn extrapolated that Metro would like to see 20,000 people in every station area which would be of grave concern to Mr. Asher and many others across the region. There was such a recommendation in Metro's code, but Mr. Asher wanted to put that in context. Ms. Mangle was preparing a memo to set the record straight. Councilor Stone had referred to those as mandates in the work session, and there was a huge difference between a mandate and a recommendation. Metro had a requirement that cities have enough zoning capacity to accommodate a certain amount of growth. That got back to what Metro Councilor Collette just talked about. It was part of a regional plan to move growth into certain areas and keep it out of other areas through 2017. That number was 3,188 dwelling units throughout the entire City. That was the number the City of Milwaukie arrived at on its own and forwarded it to Metro saying that was how it wanted to comply. That was for the entire City not just downtown. The City today had approximately 10,000 households. That was not required growth; that was the zoning map. Milwaukie was already in compliance with the Functional Plan. Light rail had nothing to do with that. The Comprehensive Plan anticipated most of that growth happening downtown. A discussion started in the work session about revisiting the Downtown Plan. One of the things it helped do was to concentrate growth in those blocks so that it would not go out into the neighborhoods where there was less dense zoning in place. The City controlled zoning changes. Metro cannot and did not impose new zoning on any city with or without light rail. Every time the City changed its code it had to show it was still in compliance with the Plan. Metro did have recommended density targets. In station communities it was 45 persons per acre, and in town centers it was 40 persons per acre. That was housing and employment combined. They were just recommendations. North Main Village, for example, had a density between 61 and 88 depending on whether one was looking at the town homes or the condos. The recommendation was less dense than North Main Village. The point was that Mr. Flynn was correct in that Metro had that recommendation, but it had nothing to do with light rail per se except that it went up a little bit in station area communities. It did not force the City to do anything it would not otherwise do. The City was already in compliance with Metro's one requirement which was to accommodate through zoning the share of regional growth. That number was 3,188 dwelling units. Milwaukie met or exceeded that number.

Councilor Stone understood Mr. Asher to say the City had 10,000 households and asked if those were individual houses or did it include multi-family structures and each apartment. How did that work?

Mr. Asher replied it attempted to count homes and apartment units. The exact number would be in the staff memo, but it was close to 10,000. Those targets included employment density that could include office buildings. The point was to concentrate the most people where there were the greatest transportation access and options.

Dave Unsworth, TriMet, addressed transportation benefits, traffic issues associated with the project, and social, environmental, and economic elements, historic resources, park lands, land use economics, and displacement acquisitions. He reviewed the length of the corridor that included a couple of choices at Tacoma either the Tillamook Branch alignment or through Main Street with a park-and-ride potentially at Southgate called the Milwaukie Park-and-Ride. There were some station choices in the downtown and the question of going further south to Park Avenue. It was 6.4 miles to Lake Road and another .8 mile to Park Avenue. There were between 9 and 13 stations. Last week on March 12 there was a good discussion on station areas at Park and Bluebird. There were probably over 130 people at that meeting, and there were both negative and positive comments. There were a lot of people who wanted to drive to the stations. There would be a new transit bridge with 22,000 – 26,000 daily light rail riders. He discussed the potential Willamette River crossings. There were 3 options to the south. The locally preferred alternative (LPA) had 600 spaces at Tacoma, 600 at Southgate, a choice of a Harrison Street station, and a park-and-ride at Lake Road. This took it farther south with 1,000 spaces at Tacoma, none at Lake Road, a Bluebird elevated station, and a larger park-and-ride at Park Avenue. The Tillamook Branch alignment avoided a park-and-ride with Monroe Street and Lake Road stations. The selection of stations in downtown Milwaukie was a community discussion.

Mr. Unsworth reviewed the schedule. The Federal Transit Administration (FTA) would decide when the SDEIS was ready to publish, so this would likely be published May 2 or May 9. He discussed the various ways people could view the document. There would be a series of open houses, and the Steering Committee would hold a hearing at some point in the 45-day public comment period as would the local jurisdictions. He expected the decision to end up at the Metro Council in July. Once it was selected the project moved into preliminary engineering that went up to 30% engineering. That was when mitigation commitments were made.

All of this was compared to 2030 and included 1 million new people coming to the Portland/Vancouver area and associated traffic. The light rail alternative was being compared to all buses in 2030 as required by the federal partner. The number of people using transit to go downtown improved 9% to 17%. There was a jump of people using transit to go downtown for work trips anywhere from 13% to 24%. Vehicle miles traveled (VMT) was reduced by 46,000 to 69,000 per day. Vehicle hours of delay would be reduced 300 to 460 hours per day in the peak periods just in the corridor. The 2-hour peak volumes were reduced by 3%. No-build, bus, and light rail travel times were compared, and some were significant. From Milwaukie to Portland State University by transit it was 15 to 18 minutes faster on light rail. South Waterfront was 23 to 33 minutes faster on light rail. It was not as impressive to Pioneer Square in part because the express bus crossed the Hawthorne Bridge and went straight into that area, so light rail was traveling a greater distance in serving the South Waterfront and PSU. He discussed the traffic analysis zones and traffic impacts. He pointed out certain intersections that were in trouble including 32nd and Johnson Creek Boulevard and warranted a signal today. With light rail and more traffic it would still warrant a signal, and TriMet mitigation would indicate a signal. Milport was at the edge today, so a couple of things could be done to mitigate the intersection. The size of the lot could be

decreased, the Tillamook Branch line could be chosen, or there could be double lefts to steal a little green time in the north/south movement. The reason that intersection failed was because there was so much green time with the north/south movement that people going east and west had little green time. In TriMet's discussion with ODOT there was a possibility to steal some green time that would allow a slightly smaller park-and-ride than 600 spaces and probably about 520. Green time was when one was allowed to legally enter and cross an intersection. In downtown Milwaukie several intersections had issues today. Under the transit alternatives Harrison and Main would warrant a traffic signal and changes to lane configurations. Changes included relocation of the sewage treatment access plan. Mr. Unsworth discussed the at-grade options if light rail continued to Park Avenue. One was crossing over McLoughlin Boulevard, and the second was crossing at grade that would cost less and provide a better station area. ODOT raised concerns with grades, sight distances affected by the trestle, signal operations, and rail geometry. If that extension moved forward in the next phase, all of those things would be looked at. He pointed out access on SE 26th Avenue and Sparrow that today did not warrant a signal and was probably not a safe intersection if someone wanted to make a left on McLoughlin Boulevard. If light rail were brought down through that area, one solution was to close 26th Avenue, and the second was right-in and right-out only. At Park Avenue a 1,000 space park-and-ride was being considered. One early mitigation idea was that Oatfield Road and Park Avenue be signalized to alleviate some of the problem that already existed today. A number of lane configurations would be made, and there would be an acceptable level of service in 2030.

Mr. Unsworth discussed the historic resources which were properties that were older than 50 years and had some specific value to the community. Of the 81 properties examined 4 were deemed to be to be potentially adverse impact through a conversation with the State Historic Preservation Office in Salem. Royal Foods, ODOT, Derwey House, and the railway trestle. The Main Street option got into the front yard of the old ODOT rail facility. Because it was a historic building the whole site was considered historic; therefore the building was potentially adversely impacted. The Derwey House, a Dutch Colonial on Washington Street, was also deemed to be a historic site. The yard was touched but not the building. There was a proximity to the Union Pacific trestle and created what was considered a visual impact. He pointed out Robert Kronberg Park where there were 2 options. One was to go at the same level as the rail line heading south. With a grade separated option TriMet believed it would fit wholly within the UP right-of-way based on general land use maps generate by ARLIS. However, there may be a small sliver of property that would be taken. There may be a temporary construction easement to go south which would be mitigated. With the at-grade option McLoughlin Boulevard was crossed at an angle, and about 4,000 square feet of property would be taken from a 3.5-acre property. With that consideration there would be an impact on Robert Kronberg Park. In order to avoid that, the line could stop further north or the crossing could be above grade.

TriMet looked at 17 parklands in Clackamas County, and Milwaukie had Robert Kronberg Park and the Trolley Trail as well as a visual impact to Dogwood Park. Depending on the type of crossing .05 or .10 of the 3.5-acre Robert Kronberg Park would be impacted, and there could be a temporary easement for bridge construction. TriMet had been meeting with the North Clackamas Parks and Recreation District (NCPRD). The line would be parallel to the trail and would take about .08 of an acre. Dogwood Park would have a secondary visual impact. The Trolley Trail was 16-feet, and light rail would take up 34-feet of light rail. The roadway was 74-feet. TriMet has gone through the alternatives analysis.

Mr. Unsworth discussed land use and economics. With the dollars being spent in the region on this project there would be 11,000 to 13,000 family wage jobs for 1 year or about \$530 million in personal earned income. With a light rail line the project would end up acquiring some right-of-way with as few displacements as possible. The federal partners would have the project err on the side of disclosure. Several properties could be fully impacted and some would lose a sliver. Impacted sites were ODOT, Goodwill owned by Howard Dietrich, the Irv Leopold site, Harder Mechanical, a residence behind Milwaukie Lumber, an office building, the Cash Spot, the guitar shop, property on McLoughlin Boulevard, restaurants, and a series of businesses that would be the site of the 1,000-space park-and-ride. TriMet had a specific process for negotiating through displacement, and there were federal requirements.

Mayor Bernard asked if there was some coordination going on in the event the Kellogg Treatment Plant was decommissioned.

Mr. Asher replied there was no coordination going on with Clackamas County or WES preparing infrastructure for the reuse of that site.

Councilor Stone appreciated the handouts from the February 19 meeting. She asked if Mr. Unsworth would clarify his comments about decreasing the amount of time people were actually stuck in traffic and there would be an appreciable benefit of 300 to 460 hours. Did that mean in a year or when?

Mr. Unsworth replied those were the 2 afternoon peak hours in 2030.

Councilor Stone thought at the February 19 meeting and last week at the light rail meeting at Rose Villa she understood Ms. Wieghart to say there would be no appreciable decrease in congestion on McLoughlin Boulevard because light rail was here.

Mr. Unsworth agreed that Ms. Wieghart said that. He would rephrase it by saying light rail was not going to solve congestion. It cannot be solved, but an alternative could be provided that was fast, reliable, and did not get people stuck in traffic. As one got closer to capacity any incident had the ability to cause hours of delay. There was more demand on major thoroughways, and there was a need to get people off neighborhood streets and back onto the main streets. Light rail provided a real option to get places. It did not solve congestion but it did decrease congestion and 300 to 400 hours one was not stuck in traffic.

Councilor Stone asked how that was a daily figure when there were 24-hours in a day.

Mr. Unsworth replied most of the congestion occurred during peak hours. People were most often stuck in traffic during the a.m. or p.m. peak hours.

Councilor Stone understood collectively all the people in traffic were saving that many hours in the corridor. She wanted to see a model of what it really meant to have the light rail train going through this town, this neighborhood. She thought it seemed very disproportionate to our town. This was to downtown Portland with major high-rise buildings. She was very concerned about the size not to mention the noise and everything else associated with it.

Mr. Unsworth believed there would be some visual simulations for the next meeting. The first step was to look at enhanced photos.

Mr. Asher added noise and vibration would be addressed in the Study. Ms. Mangle will be here in 2 weeks to talk about how to get through an EIS and what to look for. It was prepared according to certain sets of standards and was not that user friendly, so staff was preparing a tutorial and a discussion of the adoption process.

Councilor Chaimov said last week 2 Councilors attended the Oak Grove station planning meeting. He asked if there was a procedural issue if 3 went to the meeting tomorrow night.

Mr. Monahan replied there might be the perception of the City Council making a decision when there was a quorum at any gathering or public setting where they were all receiving the same information. He suggested Council members attend at different times. If they were there at one time then Mr. Monahan suggested spreading throughout the room rather than congregating.

Mr. Unsworth added there would be a briefing document covering the salient points.

Steve Banta, TriMet Executive Director of Operations, discussed safety and security. In December he talked about ownership of the service TriMet provided and managing the service versus the system. Hopefully today when one rode the system one saw more of a presence whether it was maintenance, supervisors engaging with customers, and the initiative to increase Wackenhut deployment. TriMet was also contracting with a rider advocacy group, Victory Outreach, who rode MAX and was involved with youth intervention of gang activity. They were working to transition youth on the bubble to get them on the right side of where they ought to be. They engaged and discussed things with security forces and police departments, but they were an advocacy and managed independently of the safety and security contract. On March 12, TriMet opened the Westside precinct that was staffed with 1 sergeant and 1 officer from Hillsboro, 2 officers from Beaverton, and 1 officer from Washington County. That was the initial staffing for a 1-year pilot project. The work hours were varied, and the mission was to be on the system interacting with customers from a community policing standpoint. TriMet believed this would be a positive impact on the Westside. There was also an agreement to develop an eastside precinct that would initially be housed in the Gresham Police Department. The target start date was April 1, and there were a number of intergovernmental agreements that needed to be finalized. A lot of the work effort had already been discussed. It would initially start with a delegation of 6 officers. Two officers would be added on May 15 and 2 more on July 1 for a total of 10 on the eastside. The difference in numbers had to do with the amount of territory from Gateway to the end of line in Gresham. The Westside precinct was responsible for the area from the tunnel to the end of line in Hillsboro. TriMet was currently in discussions with other transit properties throughout the industry in developing a code of conduct as Chief Kanzler recommended holding customers accountable. It was framed in the term 'respect the ride' where people followed the rules in order to have safe and comfortable rides for all passengers.

Mr. Banta framed his use of the word 'ownership.' The rail and road supervisors one saw wearing the white shirts were separate from the transit police and security force. In February the TriMet General Manager authorized them to enforce code and fares. One of the many recommendations from Chief Kanzler was to assist with fair inspection, and that was being done. Prior to February there were about 30 hours of straight time work as it related to mission by supervisors to engage with the public. They were running numbers like 300 to 400 hours of overtime to accomplish that. That has now transitioned into normal work life for supervisors, and those numbers were actually reversed to 400 hours of straight time just in the normal duties of the supervisors engaging with the riders and customers and providing support to the operators to deal with some of the behaviors. The other responsibility for the success of fare enforcement was to increase the reliability of the ticket vending machines. TriMet worked diligently with the original equipment manufacturer to upgrade to today's configuration. They realized there were a number of printer failures that affected how a ticket was distributed, so every machine was being taken to the highest level of upgrade for the technology of that machine and adding additional printers would increase

reliability for the dispensing of tickets. They were changing from a mechanical printer to a thermal printer and paper which he had been told was more reliable and required less maintenance. They were still on target to have at least one machine at every platform fully functional at all times. There were a number of processes in place that automatically alerted the control center through the alarming system at the ticket vending machines when they were out. Then there would be an opportunity to dispatch the work repair effort to the required maintenance department for a quicker response. They also had the ability to check with the control center to find out if machines were not functioning. From that standpoint great strides had been made in being more responsive and reliable and give customers the opportunity to do the right thing by buying a ticket. There was an overall recognition of the importance of increased police presence on the east and west sides and hopefully in the future a Southside precinct in the Milwaukie area. He recognized Shelly Lomax and Vince Jarmar. He believed there had been some limited discussions on developing an agreement or understanding about partnering with Milwaukie and its stakeholders and how to move forward. The end date of operation in Milwaukie was far off, and it would be very early for him to predict operating conditions. He did not believe TriMet, Milwaukie, the Eastside, or Westside could independently resolve the issues, but he felt working together was the right approach to providing light rail to the citizens of Milwaukie.

Councilor Stone attested to the fact that the fare inspectors were doing their jobs. She did ride light rail to the auto show from her work. It would be interesting to see how it developed if light rail came to Milwaukie and how the Milwaukie police force was impacted.

Mr. Banta said many of the things TriMet and the jurisdictions are moving on were a result of conversations with Chief Kanzler. TriMet was listening.

Councilor Stone liked Chief Kanzler's notion of code of conduct and that it was posted and enforced. That would be a big step in making it safer.

Chief Kanzler said several months ago he provided a copy of a memo he prepared for TriMet General Manager Fred Hansen regarding his concerns. He was impressed with what TriMet had done to address issues and the positive steps it had taken. This work was a marathon and would not be done in a week. When he first came to Milwaukie he had a 5-year strategic plan for the department, and with the City Council's help and vision they were able to turn law enforcement around. There was a 28% reduction in the crime rate in 1 year. That came through a series of steps, and that was exactly what TriMet had demonstrated in the past couple of months by making the commitment to provide the resources to fix the problem. They had talked about a Southside precinct not only for Milwaukie but also the I-205 line.

Mr. Swanson commented 2 months ago Chief Kanzler produced his recommendation for the Safety Security Summit, and it was 100% of the answer. He did not want to lose sight of the work Chief Kanzler did in laying out that plan. There had been a lot of progress, and he acknowledged there was still some way to go. Everything he heard was in Chief Kanzler's 7-page plan and was proud a Milwaukie representative developed it. This was the kind of effort he hoped to see.

Chief Kanzler was proud of the partnership.

➤ **Geraldine White, Clackamas County**

Ms. White grew up in Milwaukie and attended Clackamas High School. Her mother graduated from Milwaukie High School and retired from the Ledding Library in 1978. Milwaukie was an important part of her life, and her family home was still here. She talked about why she was in favor of light rail. We were not doing something new. We were replacing something we never should have discontinued and that was the trolley

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system. The trolley system helped Milwaukie grow into a vibrant city 40 years ago. Right now she felt Milwaukie was dead, and Main Street looked like a ghost town. In the 1960's there was a bakery, a florist, clothing stores, a shoe store where she bought her children's shoes, Olson's, Perry's Pharmacy, Cooper's grocery store and meat market, a hobby shop, McNaughton's TV and repair, and Hamilton's furniture and appliance. All of those places were gone. She felt light rail was very important because it would revitalize Milwaukie. One of the best things right now was the Farmers' Market, but that was only 6 months out of a year. We had all those new buildings with condos and apartments but there were no services for the residents. She did not know who was marketing Milwaukie, but she felt something needed to be done. She saw 2 premium street level blocks were used but not in the service of the community – that was Dark Horse Comics. She believed light rail would help invigorate Milwaukie and bring it back to life. People still needed services, and people would probably take light rail to riverfront concerts. She loved Milwaukie, and it meant a lot to her. She would like to see it come alive again.

CONSENT AGENDA

- A. City Council Work Session Minutes of the January 2, 2008 Work Session; and**
- B. City Council Work Session Minutes of the January 2, 2008 Regular Session**

It was moved by Councilor Barnes and seconded Councilor Stone by to adopt the consent agenda. Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

- **Ed Parecki, Milwaukie business owner**

Mr. Parecki briefly made a couple of points about the South Main Plan he had been hearing about. A couple of things were disturbing him regarding the plan. The first thing was the fact that there was a plan when there was already a Downtown Plan we had been trying to make everyone adhere to. His biggest question was one that Councilor Barnes had been asking for a long time which was where was the money coming from to pay for this consultant who was going to prepare a plan we did not really need. All we had to do was adhere to the existing Downtown Plan and make things happen. He could give a little consulting and would not even charge for it. He had a really quick idea for the South End Plan and that was to just alter the Downtown Plan slightly. That was to go ahead and make that block the anchor grocery store that was in the Downtown Plan and use the space for the parking as part of the structure would be Main Street level. Bring in an anchor like a Trader Joe's or a New Seasons-type market place. That was what was going to attract people to downtown, not a plaza that would not be used because it was too far away from anything to happen. You had something like an anchor or a grocery store people would have to drive through Main Street to get to it. He did not know how much the south consultants would get but why not use that money and apply it to the public area improvements that were part of the Downtown Plan. That was where the money could come from. There was also a plan in the works for a sewer project on Main Street. He was not sure if the City Council was aware of it yet. This summer there were plans to tear up Main Street to install a new sewer project. Councilor Barnes's question again was where this money came from to do a \$300,000 sewer project? Tearing up Main Street for 3 to 6 months. That was a pretty easy answer. It was the system development charges (SDC). The money was already there. Why not use SDCs to go ahead and improve the downtown area so we can attract more business and do the public area requirements much like the City did with the North Main Village project and taking out loans to the tune of \$1 million for public area improvements. That has not helped much with the North Main project. We still had 6

vacancies – commercial vacancies. Now they were for sale, not for rent. If you put the money where your mouth was which was the Downtown Plan which had been ongoing for 8 years he thought the City would have better luck in improving the downtown and bringing it back to what the previous speaker talked about which was its heyday. This town had that potential, and that was why he was here trying to do a little bit of it himself. It was not very easy. It had been hard especially dealing with City politics. It had been very difficult, but he still believed it was doable. He would continue to do his part. There was money if you wanted there to be money. The public area improvements for the downtown would improve the entire downtown area and make the City of Milwaukie more livable. It would attract more businesses and more people. Think about that when you are looking at the overall picture. You did not need a new plan for south Main. The City had a great Plan. Someone spent \$400,000 eight years ago in developing this plan. None of it was being implemented. If it was it was very piecemeal and not very smart. Do it all, do it this year, do it now, find the money. He knew it was there if the City wanted it to be there.

PUBLIC HEARING

Motion to Consider Continuation of Amendments to Milwaukie Municipal Code (MMC) Section 19.321.7 and 19.321.3

Mr. Swanson reported this first arose on June 20, 2006 when City Council was asked to consider certain amendments to Milwaukie Municipal Code (MMC) 19.321 which changed community service overlay to community service use and certain housekeeping measures. There were changes to Comprehensive Plan Chapters 4 and 5. There was also a request to amend the Code by adding 19.321.7 and 19.321.3 which established deadlines for the removal of the Kellogg Treatment Plant by December 2015 or establish civil penalties were it to remain in operation. At the time the Council enacted all but the 2 sections dealing with Kellogg Treatment Plant and establishing a deadline. At the time it was decided to continue consideration of those 2 sections as everyone was in the middle of the Citizens Advisory Committee (CAC) process. This matter was continued to the second meeting of each month so that the ordinances could be adopted if there appeared to be a delay or problem with the process. He recommended continuing consideration of adoption.

It was moved by Mayor Bernard and seconded by Councilor Stone to continue the matter to the April 15, 2008 regular Council meeting. Motion passed unanimously. [5:0]

OTHER BUSINESS

A. Creation of Milwaukie Arts Committee – Ordinance

Ms. Ragel reported Councilor Collette had talked about establishing an arts committee for a number of years, and the City Council agreed. A preliminary meeting was held to determine interest, and 13 enthusiastic parties attended.

It was moved by Councilor Barnes and seconded by Councilor Loomis for the first and second readings and adoption of the ordinance amending Municipal Code Chapter 2 by adding section 2.17 creating the Milwaukie Arts Committee.

Councilor Chaimov asked Ms. Ragel if she felt those who were not appointed would continue to actively participate in the programs.

Ms. Ragel would encourage them to continue to be involved. There was a strong sense that people would want to be involved whether or not appointed to the committee. The terms would be staggered so that all terms did not expire at one time.

Motion passed unanimously. [5:0]

The City Manager read the ordinance 2 times by title only.

The City Recorder polled the Council: Mayor Bernard and Councilors Stone, Loomis, Chaimov, and Barnes voted 'aye.' [5:0]

ORDINANCE NO. 1978:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING CHAPTER 2 OF THE MILWAUKIE MUNICIPAL CODE TO ADD SECTION 2.17 CREATING THE MILWAUKIE ARTS COMMITTEE.

It was moved by Councilor Barnes and seconded by Councilor Chaimov for the first and second readings and adoption of the ordinance amending Municipal Code Chapter 2.10.010 by adding the Milwaukie Arts Committee.

The City Manager read the ordinance 2 times by title only.

The City Recorder polled the Council: Mayor Bernard and Councilors Stone, Loomis, Chaimov, and Barnes voted 'aye.' [5:0]

ORDINANCE NO. 1979:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE CHAPTER 2.10.010 AND ADDING THE MILWAUKIE ARTS COMMITTEE.

B. Milwaukie Municipal Code 8.24, Shopping Carts

Mr. Salyers provided the staff report. In the City shopping carts were moved from the retailers' properties and left on streets, sidewalks, yards, creek, and other natural habitat. Nine retailers provided shopping carts in Milwaukie, and some ended up in Milwaukie from Portland or unincorporated Clackamas County. The current practice was to notify the owner and hope the carts were picked up. Unfortunately, that met with little success. The legislature adopted SB 645 that allowed local jurisdictions to adopt local ordinances and held owners more accountable for retrieval. Today 2 of the 9 businesses in Milwaukie had retrieval services and were very responsive. He reviewed the code language required by statute. Attendees at the Linwood, Ardenwald, Hector Campbell, and Historic Milwaukie Neighborhood meetings were very supportive

Councilor Loomis had a problem when victims of crime were being punished but understood something needed to be done when businesses did not pick up their carts.

Councilor Stone was glad to see this finally coming to Milwaukie because it was a problem, and it did not look good for the City. She understood the fine was mandated but felt it should be higher. She asked where could law enforcement be on this in terms of Councilor Loomis's comments? The storeowner rather than the perpetrator was being punished. Could the police department ticket people when seen with shopping carts.

Mr. Salyers spoke with an officer who indicated he contacted people when he saw them pushing carts with only 1 bag of groceries. Typically they were not happy but they did do it. That kind of compliance was probably better served in terms of time. A district attorney might see a theft of a shopping cart and dismiss.

Councilor Stone was glad to know some businesses were willing to participate and understood it was the grocers' association.

CITY COUNCIL REGULAR SESSION – MARCH 18, 2008

APPROVED MINUTES

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Mr. Swanson imagined the fine was set at level similar to the cost of the shopping cart. The best use of police time was to tell people to take the carts back. If they wrote a citation then the officer would have to take it back to the evidence locker, and the case would probably be thrown out anyway.

Mr. Salyers could now issue a citation for a \$50 fine plus assessments.

Mr. Monahan concurred that statute set lower limits but did not in any way restrict the other court assessed fees.

It was moved by Councilor Chaimov and seconded by Councilor Stone for the first and second readings and adoption of the ordinance regulating shopping carts by adding Chapter 8.24 to the Milwaukie Municipal Code.

The City Manager read the ordinance 2 times by title only.

The City Recorder polled the Council: Mayor Bernard and Councilors Stone, Loomis, Chaimov, and Barnes voted 'aye.' [5:0]

ORDINANCE NO. 1980:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REGULATING SHOPPING CARTS BY ADDING CHAPTER 8.24 "SHOPPING CARTS" TO THE MILWAUKIE MUNICIPAL CODE.

C. Council Reports

Councilor Loomis asked if the same rules applied to a majority of Council members attending a sewer annexation meeting as to the station-siting meeting, and Mr. Monahan replied they did. If a decision were made in the future the Council would want to declare information was obtained at a meeting. Councilor Loomis encouraged Councilors to attend. The Planning Commission approved the School District's application for an artificial turf field at Milwaukie High School.

Councilor Chaimov and **Councilor Stone** attended the Milwaukie Poetry Series reading and the Oak Grove light rail meeting on station planning.

Councilor Stone attended the meetings with Councilor Chaimov as well as the Council retreat.

Councilor Barnes will attend the light rail station meeting at 6 p.m. She had provided information on the Wastewater Task Force. Next week was spring break and she would job shadow with community development and operations.

Mayor Bernard served Meals on Wheels and attended the Council retreat.

Mayor Bernard announced the City Council would meet in executive session pursuant to ORS 192.660(2)(h) for consultation with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed and ORS 192.660(2)(i) performance evaluation of public officers.

ADJOURNMENT

It was moved by Councilor Barnes and seconded by Councilor Stone to adjourn the meeting. Motion passed unanimously

Mayor Bernard adjourned the regular session at 9:08 p.m.



 Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL MARCH 18, 2008

MILWAUKIE CITY HALL
10722 SE Main Street

2026th MEETING

REGULAR SESSION – 7:00 p.m.

- | | |
|--|----------------------|
| <p>I. CALL TO ORDER
Pledge of Allegiance</p> <p>2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS</p> <p>A. Urban and Rural Reserves (Metro Councilor Carlotta Colette)</p> <p>B. Supplemental Draft Environmental Impact Statement (SDEIS) Update (Kenny Asher)</p> <p>3. CONSENT AGENDA <i>(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.)</i></p> <p>A. City Council Minutes of January 2, 2008 Work Session</p> <p>B. City Council Minutes of January 2, 2008 Regular Session</p> <p>4. AUDIENCE PARTICIPATION <i>(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.)</i></p> | <p>Page #</p> |
|--|----------------------|

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.)*

**Motion to Consider Continuation of Amendments to Milwaukie
Municipal code (MMC) Section 19.321.7 & 19.321.3 (Mike Swanson)**

6. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

- A. **Creation of Milwaukie Arts Committee – Ordinances (Beth Ragel)**
- B. **Milwaukie Municipal Code 8.24, Shopping Carts – Ordinance (Tim Salyers)**
- C. **Council Reports**

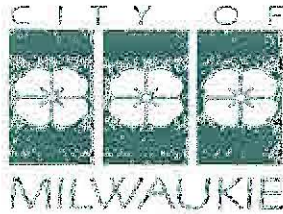
7. **INFORMATION**

- A. **Minutes of the Combined Meeting of Riverfront and Park Boards, November 27, 2007**
- B. **Riverfront Board Minutes, January 22, 2008**

8. **ADJOURNMENT**

Public Information

- Executive Session: The Milwaukie City Council may meet in executive session immediately following adjournment 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.
- 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

From: Kenneth Asher, Community Development & Public Works Director

Subject: Update on the South Corridor Phase 2 Supplemental Draft Environmental Impact Statement Study

Date: March 10, 2008 for the March 18 Meeting

Action Requested

None. This is an informational update on progress related to the Supplemental Draft Environmental Impact Statement study ("SDEIS") for the South Corridor Phase 2 Portland-Milwaukie light rail project.

Background

At its September 4, 2007 Council meeting, Council requested regular monthly updates on the Portland-Milwaukie Light Rail SDEIS. This is the fourth regular update since that request was made. This will be the final update prior to publication of the document, expected in early April.

Metro and TriMet staff and consultants have submitted a full draft of the Supplemental Draft Environmental Impact Statement to The Federal Transit Administration (FTA) for review. The FTA must review and approve the SDEIS before it can be published for public comment. A 45-day public comment period will follow publication, with open houses and public hearings for interested parties to comment on the impacts study and/or alignment options. The Metro Council is scheduled to adopt a Locally Preferred Alternative in July 2008.

Project Staff and consultants have begun to review preliminary benefits and impacts of the Portland-Milwaukie Light Rail with the project Citizen Advisory and Steering Committees.

City Staff is preparing a Council work session item entitled "*Understanding the SDEIS and its Adoption Process*" for April 1st to prepare Council for the next phase of the South Corridor Phase 2 light rail project. That briefing will include a full schedule of public meetings (including those in Milwaukie and elsewhere) at which the public can learn, observe and comment.

This update focuses on aspects of the draft SDEIS that have not yet been reported on, including traffic, parks, historic, land use/economic, property impacts and safety/security. Projected transit ridership and capital costs were reviewed at the February meeting.

A general overview of key potential effects of the Light Rail and No-build Alternative is provided below. More specific potential benefits, impacts and mitigation strategies in these areas will be presented for each alternative and alignment options on March 18.

Traffic. With respect to traffic, in 2030 the light rail project would:

- Increase transit mode share for trips from the Corridor to the Portland Central Business District by up to 24% (for a total of up to 57%) for work trips
- Reduce vehicle travel by 50,000-70,000 miles per day
- Reduce transit travel times from downtown Milwaukie to Pioneer Square by 2-5 minutes, to PSU by 15-18 minutes and to South Waterfront by 29-33 minutes.

Overall, the project would reduce congestion during peak period on McLoughlin and other facilities in the corridor. However, the Light Rail Alternative and Alignment Options would result in some localized traffic impacts over the No-Build Alternative in 2030. Significant impacts and potential mitigation strategies will be discussed on March 18.

Historic Resources. The No-Build Alternative would result in no adversely affected historic resources. The Light Rail Alternative would adversely impact three to four historic resources in Milwaukie. The Tillamook Branch Line alignment avoids an adverse effect to one historic resource in the Milwaukie Industrial area, compared to the 2003 LPA and the LPA to Park. The Tillamook Branch Line alignment and the LPA to Park would both have an elevated structure that would have an adverse effect (visual) to the historic rail trestle over Kellogg Lake, which would not be affected by the 2003 LPA.

Parkland. The Light Rail Alternative would affect two to five existing park or recreation resources and up to two planned parks or recreation resources. Most of these effects involve the light rail crossing over or near a resource, and any impacts can be minimized through coordination with the resource owners. The 2003 LPA impacts are related to crossings near the existing trail system on both the east and west banks of the Willamette River. With the 2003 LPA to Park or the Tillamook Branch Line alignment, an additional acre may be needed within areas planned for park and recreational trail uses.

Two of the design options under study would extend light rail over Kellogg Lake and past Kronberg Park to the west side of SE McLoughlin Boulevard. Additionally, two design options are being considered for crossing SE McLoughlin Boulevard on the south side of the Union Pacific Railroad ("UPRR") trestle: a grade-separated (i.e. elevated) crossing and an at-grade crossing.

Based on conceptual designs, and property line information from Metro's RLIS database, it appears the grade-separated crossing would be located entirely within the UPRR right of way. This is based on property line information available to TriMet now – information that would be updated and confirmed through legal descriptions to better establish exact property lines. Due to this possible variation in property line location, a small sliver of Robert Kronberg Park land could be required for the project on the south side of the UPRR right of way (in the form of either a fee acquisition or a permanent easement). In addition, the Project would require a temporary construction easement ("TCE") on Robert Kronberg Park land to construct the bridge and its support structure. The size and location of the TCE would be determined at a later date.

Current conceptual designs of the at-grade crossing options require a fee acquisition or permanent easement of approximately 4,000 square feet on the northwest corner of Robert Kronberg Park. Current conceptual designs will likely change, however. For instance, it is possible that ODOT would require a crossing design that is perpendicular to McLoughlin, which could increase the amount of land needed from the parcel. In addition, the at-grade crossing options would require construction of a bridge over Kellogg Creek. Construction of this bridge and its supports would require a TCE on Robert Kronberg Park land. The size and location of the TCE would be determined at a later date.

As to the manner in which these acquisitions or easements would be executed, the City of Milwaukie and Mr. and Mrs. Norman Swanson entered into a letter agreement in December 1991 pursuant to which the Swansons agreed to convey the property to the City in exchange for the City's agreement to use the property as a public park. Dena Swanson executed a Bargain and Sale Deed concurrent with the letter agreement. Although the original deed did not expressly restrict use of the property, the contractual agreement is understood to show that the parties did not intend for the original deed to memorialize their agreement as to the use of the land conveyed.

Mrs. Swanson has made it clear that she intended for the property to be used as a public park, and the City of Milwaukie has publicly stated that the City will abide by Mrs. Swanson's wishes to use the property for park purposes. Therefore, it appears that the City does not have the authority to voluntarily grant the Project any property rights in Robert Kronberg Park. As a result, any acquisition of property rights in Robert Kronberg Park for the Project would have to be pursuant to the eminent domain statutes, ORS Ch. 35.

Land Use and Economic Impacts. The Light Rail Alternative would be more supportive of statewide planning goals and regional and local plans and policies than the No-Build Alternative. The Light Rail Alternative was designed to link and serve major regional employment, commercial and residential areas, such as the Portland Central City, the Milwaukie Town Center; and other activity centers such as OMSI, the South Waterfront district, RiverPlace, and Portland State University. This supports Statewide Planning Goals by providing a safe and convenient transportation system that reduces reliance on the automobile and helps achieve the state and regional goals of reducing per capita vehicle use. It would also support goals for achieving the population and employment densities envisioned for the activity centers, as well as expanding mobility to and from the project corridor and other areas in the region.

Up to 56 businesses with up to 900 jobs could be affected by property acquisition and business displacement and relocation actions in the Portland-Milwaukie Corridor. The project's mitigation measures include compensation and relocation for property owners and businesses, which would minimize the effects. If businesses are able to relocate within the area or region, the jobs could be retained. Short-term economic benefits of the build alternatives would be significant, with the largest increase in short-term employment resulting from the construction of the Light Rail Alternative (over 10,000 additional person-year jobs and approximately \$425 million in additional personal income, compared to the No-Build Alternative).

Acquisitions/Displacements: The Light Rail Alternative would require acquisition of between 55 and 65 properties. The project could result in 2-4 residential and 46-56 business displacements. The project has an expansive compensation and relocation program to minimize effects. Many of these acquisitions and displacements are in Milwaukie, although the exact impacts vary with the design options. Staff will be prepared to answer questions about specific properties at the presentation.

Safety and Security: TriMet Operations Director Steve Bantas and TriMet Police Commander Vince Jarmer will be at the council meeting prepared to respond to questions and talk about next steps for TriMet's safety and security improvements. The officials will provide updates on precinct formation and agency plans for hiring additional staff.

TriMet and Gresham recently announced the opening of an eastside precinct office and the addition of police officers paid for by TriMet and assigned to Gresham. These officers will spend at least 70% of their time riding the MAX and will greatly increase presence and visibility. TriMet Operations is also conducting research on transit systems across the country and looking at other methodologies for the deployment of police. TriMet expects that the experience it is gathering, along with these recent increases in transit police, will help the agency evaluate its approach and inform the deployment of resources in the future.

TriMet, the Hillsboro and Beaverton police departments and Washington County Sheriff's Office are launching a Westside Precinct as well, and are expected to begin expanding police presence on MAX and buses on the Westside. A press conference is scheduled for March 12 to announce details.

TriMet presented a report to the state legislature last month on safety and security. That information is attached for council review. (Attachment 1)

Concurrence

There is no action with which to concur.

Fiscal Impact

Not applicable.

Work Load Impacts

Not applicable.

Alternatives

Not applicable.

Attachments

Attachment 1: TriMet Report to the Legislature on Light Rail Safety and Security

ATTACHMENT 1

TRIMET REPORT TO THE LEGISLATURE

February 7, 2008

LIGHT RAIL SAFETY & SECURITY

Summary

This report outlines the actions planned and those taken since November 2007 to address safety and security of the MAX light rail system. These include three safety summits across the TriMet region, a physical review of all MAX light rail station platforms and improvements made, enhanced law enforcement, security and outreach personnel, streamlined enforcement of TriMet code and jail time, improved ticket vending and validation machines and an evaluation of options for “fareless square” in the City of Portland.

Introduction

On November 13, 2007, TriMet General Manager, Fred Hansen, appeared before a joint meeting of the Oregon Legislature's Interim House and Senate Transportation Committees to discuss the Safety and Security of the MAX Light Rail system. An attack upon a citizen and the assignment of Gresham Police Officers to ride the MAX system in Gresham directed the metropolitan region's attention on safety on the light rail system. It also focused on the need for all policing jurisdictions to work more closely together to develop a comprehensive approach to safety and security on the MAX system. At that time, Mr. Hansen discussed a six-point plan of action. This report to the Legislature discusses those actions as well as additional measures underway.

TriMet

As the state's largest Mass Transit agency, TriMet provided nearly 97 million rides last year on the bus and MAX light rail system in the greater Portland metropolitan region. Each weekday there are over 100,000 rides on light rail, a number that continues to grow. TriMet now has the 11th highest transit ridership in the United States and the 8th highest per capita ridership.

TriMet is striving to build a safe, comfortable, reliable and innovative transit system that delivers transportation options for a growing region. Safety and crime prevention are of the highest priority in the design, construction and operation of TriMet facilities and the MAX light rail system. In addition to using the multi-disciplinary principles of "Crime Prevention Through Environmental Design" (CPTED) to prevent crime, TriMet partners with local jurisdictions, police and neighborhoods to achieve its safety goals.

TriMet is also committed to continued management excellence. It has gained a national reputation for its innovation and productivity improvement process. This commitment to excellence extends to passenger safety. Anyone who rides MAX light rail or one of TriMet's buses should feel safe, comfortable and secure. TriMet will continue to pursue safety enhancements, monitor the results and work with partner jurisdictions and stakeholders to make necessary changes. Intergovernmental cooperation will be critical to address the procedural, legal and financial challenges inherent in this work.

Regional Safety Summits

TriMet conducted three safety summits across the region:

- Eastside summit in Gresham, Thursday, November 29, 2007
- Westside summit in Hillsboro, Friday, November 30, 2007 and
- Southside summit in Clackamas County, Friday, January 11, 2008.

These were attended primarily by the various law enforcement jurisdictions within the service area and locally elected officials with additional representatives from the

Chambers of Commerce and other interested individuals (see Appendix A for lists of participants). There were opinions expressed about whether MAX was a conduit for crime, whether stations were too open, whether the honor system for fare payment was working and whether there was enough official presence on the system to deter crime and the loud obnoxious, and often times intimidating behavior. The resulting discussions of safety issues and coordinated efforts were extremely productive and the following themes emerged:

First, reported crimes on the MAX or directly on our platforms were relatively few. But low reported crimes on the MAX didn't fully capture what was happening on the system or nearby.

Second, rowdiness or obnoxious and intimidating behavior on parts of the system, which is substantially more pronounced at night, has escalated over the recent past. It needs to be brought under control quickly.

Third, fare evasion must be addressed aggressively and effectively. The TM code allows the police and TriMet officials to ask for proof of payment (outside of Fareless Square), and when that is lacking, ask for I.D. which can lead to the discovery of warrants often times unrelated to public transportation. This can result in a citation, fine or arrest of the individual.

Fourth, more official presence is needed on the system, and that official presence must be able to enforce TriMet Code and fare payment, calm down rowdy obnoxious and intimidating behavior and help customers.

Lastly, there were numerous recommendations dealing with how TriMet could streamline its exclusion policy, implement new tools to more effectively respond to conduct that disrupts the order and security of the transit system, expand the code of conduct and make it enforceable, improve the physical structure of TriMet platforms to discourage the problems and deal with how Fareless Square might encourage criminal or obnoxious and rowdy behavior.

Light Rail Stations: Physical Review

Using the principles of "Crime Prevention Through Environmental Design" TriMet has reviewed all 64 MAX station platforms and 10 rail transit centers in the system. This resulted in replacing and **enhancing lighting** including floodlights at Gresham Central Transit Center and in Portland at the 82nd Ave Station completed in December. As of December 31st, more than 1800 lamps and 100 globes were replaced or upgraded at MAX platforms along the Blue Line from Cleveland to Rose Quarter. All lighting at platforms on the Red line, Yellow Line and Blue Line to Hillsboro were checked and, if necessary, replaced during the same period. (See Appendix C for a review of CPTED principles.)

Graffiti removal has always been important to TriMet. Since December, however, these efforts have been redoubled by thorough removing of all graffiti at three Gresham stations as well as pressure washing; landscape trimming and general clean up. TriMet strives to remove graffiti within 24 hours at MAX stations and major transit centers. As the weather warms, TriMet will initiate a painting program to address eastside MAX stations. Each station is currently pressure-washed weekly and cleaned daily, or hourly if needed.

The design of the TriMet MAX light rail system was an important regional decision in the early 1980s. Regional leaders designed it to be open with station platforms built as part of the local streetscape. The Blue Line which initially opened in 1986 from downtown Portland to downtown Gresham used a traditional architectural style with lots of brick and multiple structures on the light rail platforms. There is visibility between structures but not entirely through all platforms.

In 1998 when the **MAX Blue Line** expanded to Beaverton and Hillsboro, improved visibility was built into the platforms. More transparent materials were used for shelters. Brick was still used for structures at the ends of the platforms (signal and communication houses) but fewer structures were built on the platforms so that sight lines could be preserved. Materials used made it easier to remove graffiti and keep a station looking fresher. There was also better visual access established from the platform to the park and ride lots for a feeling of greater security for pedestrians. Art was integrated at every station to add a greater sense of community pride and ownership resulting in less vandalism.

The construction of the **MAX Red Line** to Portland International Airport in 2001 continued a trend toward the use of high quality materials that are easier to clean and provide a greater sense of security. Since the stations are in less populated areas they are even more visually open and accessible to overcome any sense of isolation. Open sightlines were maintained by placing no structures at the ends of the platforms. Large lighted windscreens were used for weather protection making passenger-gathering areas more transparent for visibility. Art was incorporated into the windscreens.

The **MAX Yellow Line** that opened in 2004 continued the use of durable and attractive construction materials to resist vandalism and graffiti. The stations are adjacent to busy neighborhoods and designed to be highly visible allowing patrons to see and be seen. Lower roofs enhance weather protection and lighting levels. TriMet implemented innovative safety enhancements to respond to high traffic and pedestrian volumes such as railings that channel pedestrians to clearly designated crossings.

The design of the future **MAX Green Line** incorporates these lessons learned from previous light rail extensions and enhances them. It is currently under construction and scheduled to open in September 2009. TriMet developed specific strategies for each type of Green Line station including direct connections to and from stations to keep patrons on a guided path. Enhanced connections to neighborhood arterials direct patrons to and from high volume streets and keep them visible. Open sightlines and greater lighting

have also been incorporated. Windscreens with art glass will be used. Ticket vending machines are being moved off the light rail platforms to establish the platform as a “paid area”. This will facilitate improved enforcement to prohibit loitering, nuisances and other negative behaviors. The ticket vending machines will be located under a separate and distinct well-lit shelter.

MAX light rail uses a “**proof of payment**” fare system or what some term an “honor system”. While over 50 percent of TriMet riders either pay for or are provided passes through their employers, interest has been expressed in Gresham regarding ways to “harden” or use gates or turnstiles at MAX light rail station platforms. As a result, TriMet is pursuing a pilot project that involves **retrofitting at least one MAX station** so that only fare-paying riders are on the platform. TriMet has secured a design consultant for a gating retrofit for two stations: Gresham Central and 82nd Ave in Portland. A separate design contract is also underway to remove, replace and upgrade light fixtures. These designs should be complete in late March. The City of Gresham is involved in each step of this process.

Closed circuit television cameras are a key element of TriMet’s security plan to deter crime and to assist law enforcement in apprehending criminals. Cameras are installed on all TriMet trains and two thirds of its buses. TriMet is expanding its network of cameras at MAX platforms, Park and Ride Lots and transit centers. There are currently security cameras at 29 stations. By the opening of the Green Line MAX in September 2009, 66 stations or 73 percent of all stations will have security cameras. Each location has more than one camera. Prior to the Westside MAX opening in 1998, there were nine cameras operating at MAX stations; by the fall of 2009 there will be 525 system wide cameras including 460 at MAX, commuter rail and bus stations and other passenger facilities.

MAX Security, Fare Inspections and Enforcement

Police Presence

Effective January 24th, 2008, the Transit Police Division (TPD) was assigned a new Commander, Vince Jarmer, a 23-year veteran of the Portland Police and most recently Captain of the Traffic Division. TriMet’s goal for transit police is to have each officer spend up to 70 percent of their time out of their cars and on platforms, trains or buses in their assigned district. Gresham continues to have its officers on the trains. Portland Police Bureau’s East Precinct has added officers to trains, Gang Enforcement has partnered on missions and the Westside Street Crimes unit has also partnered with the TPD on missions on the MAX system.

A conceptual agreement has been reached with Westside jurisdictions to open a precinct office in Hillsboro with five transit police officers provided by Hillsboro, Beaverton and the Washington County Sheriff’s office. The parties are working out the details of the

various Intergovernmental Agreements with training targeted to begin by March 1. The TPD Commander will supervise these police officers but in full coordination with the areas local jurisdictions. A similar commitment has been made to the City of Gresham and location and staffing arrangements are under discussion with Gresham Police. In the meantime, police officers from several eastside jurisdictions are joining the TPD including Troutdale, Milwaukie and the Port of Portland.

TriMet's commitment in December was to immediately expand the TPD from 36 officers to 41 officers. With the change in deployment and officers spending up to 70 percent of their time spent on the system, this represents a much greater uniformed presence. However, TriMet is experiencing the same problem as most other law enforcement departments in region: there is a shortage of trained officers and difficulties in recruitment.

In anticipation of the opening of the Green Line MAX in September of 2009, the Clackamas County Sheriff's Department has offered for consideration the concept of a police "user board" around transit. This concept was discussed at the Clackamas County Safety Summit as one means of coordinating efforts and sharing information among the different police jurisdictions throughout the region. A similar approach is taken with drug and gang enforcement efforts involving multiple jurisdictions. TriMet will pursue this concept as the new TPD commander makes operational changes and opens the two new TPD precinct offices.

In November 2007, TriMet began increased code enforcement and visibility missions by police (transit police as well as other law enforcement agencies), TriMet fare inspectors and supervisors. This increased use of visibility missions and code enforcement continues today. It has resulted in the actions listed below from November 2007 to January 2008. (Data from the previous year is also provided.)

November 2007:

- 2,076 warnings
- 762 citations and
- 634 exclusions
- Total 3,472

By comparison, in November 2006 there were:

- 1,538 warnings
- 540 citations and
- 138 exclusions
- Total 2,216

December 2007:

- 1,655 warnings
- 591 citations
- 570 exclusions
- Total 2,816

By comparison, in December 2006:

- 1,461 warnings
- 439 citations
- 168 exclusions
- Total 2,068

January 2008:

- 1,377 warnings
- 437 citations
- 612 exclusions
- Total 2,426

By comparison, in January 2007:

- 1,259 warnings
- 387 citations
- 223 exclusions
- Total 1,869

In addition to warnings, citations and exclusions, police are also engaged in taking individuals into custody, to detox or making arrests for a variety of activities. These arrests include outstanding warrants not associated with the TriMet system. In January 2008, Transit Police conducted 17 focused missions (included in the data listed above) that resulted in 50 arrests for a range of activities.

Contracted Security

In December 2007, TriMet increased its contracted security with 15 additional staff with all officers on board the light rail. While the new security officers were being trained, existing staff deployed 7278 hours during the month of December. In January these new officers were fully trained and joined the TriMet Security Department. The total number of deployed hours for January was 8295. Contracted security officers are recruited and trained to TriMet standards. They currently serve as a visible deterrent and perform an “eyes and ears” function. TriMet is looking at opportunities to expand their role to include the ability to enforce the TriMet Code.

Prevention: Rider Advocates & Victory Outreach

Since 1994, TriMet has employed Rider Advocates run by the Northeast Coalition of Neighborhoods. They are community members who often times know the individuals involved or their families and are able to intervene before problems occur.

Rider Advocates increased their presence and extended their area of coverage to include a larger portion of the MAX system including Gresham beginning in November. They travel through the system monitoring activities on buses, light rail or stops.

TriMet expanded this type of preventative, community-based program by securing the services of Victory Outreach Community Services, Inc., to ride the system and work with youth to prevent gang activity. The Victory Outreach advocates received training at TriMet and are now riding the MAX from Gresham to Hillsboro to help deal with the root causes of some of the incidents on the system.

TriMet Employees

On November 5, 2007, all TriMet employees, whether on duty or not, have been asked to add their eyes and ears to the entire system and to report when things aren't as they should be. Whether they work on or near MAX platforms or just ride the system, every TriMet employee has been asked to make a difference. Some situations that warrant reporting include: graffiti; damaged TriMet property (MAX stations, bus shelters or park & ride lots); overflowing trash containers of garbage strewn on TriMet property; biohazards; malfunctioning equipment, such as a light fixture or ticket validator; people acting out on trains, buses or at stops and stations. A new hotline for non-emergency situations was created to make it easier for employees to report problems. A customer service tool packet and helpful information is also available to all employees along with additional training on how to assist riders.

Additional TriMet personnel will also be given the authority and trained to check fares including all field operations supervisors on a trial basis. These additional personnel will supplement fare inspector staff and law enforcement officers.

Jail Time & Enforcement Actions

Having consequences for illegal behavior on transit is very important. TriMet General Manager, Fred Hansen, announced a "zero tolerance" standard for fare evasion: a rider without a ticket can expect a formal written warning or fine and a continual fare evader will be excluded from the system. In November, "interfering with public transit" was added to the Multnomah County Project 57, which means that the county is providing jail space as a consequence of disrupting transit. According to the Multnomah County District Attorney's Office, Project 57 is being used by the police. It is not uncommon to have almost half of the nightly bookings be for this purpose.

In response to discussions with police, TriMet took action to both streamline and expand the authority to *immediately* verbally remove individuals from the transit system who are violating the TriMet code. The "Interdiction Command" allows a police officer to verbally remove an individual who engages in behavior that causes safety or security concerns or who disrupts order (e.g., disruptive, intimidating and rowdy behavior). TriMet expanded the length of the command from a four-hour exclusion from the system to a six-hour exclusion but more importantly expanded the behavior to which it applied. Police, TriMet Supervisory personnel and TriMet Fare Inspectors can now verbally remove and exclude an individual from the transit system with a verbal command for 6

hours. If that individual is caught back on the system before the expiration of the six hours they can be jailed under Project 57. The same progressive discipline approach is true for an individual who had previously received a written exclusion and is found on the system before the expiration of their exclusion. Lastly, the process for a written exclusion from the system has been streamlined.

Ticket Vending Machines

Many of TriMet vending machines are old and their multiple moving parts such as bill collectors and ticket printers need constant maintenance. In response, TriMet has launched an aggressive program of preventative maintenance and better training for maintenance staff. Each existing machine will be now be retrofit with a second or back-up printer to address printer malfunctions. New and more reliable credit card machines are being purchased and installed in the summer of 2008. TriMet's goal is to have reliable ticket vending machines at every MAX platform by March 2008. Lastly, TriMet has worked with its platform concessionaires to sell TriMet tickets as an additional back up to the ticket vending machines. If a machine isn't working properly a transit rider can purchase a ticket at certain concession stands.

Fareless Square

During the regional safety summits, TriMet's downtown Portland to Lloyd Center Fareless Square became a point of conversation and concern. Among law enforcement and elected officials a range of issues emerged:

- Fareless Square fosters abuse of the "honor system";
- Fareless Square provides a subsidy of downtown Portland riders at the expense of low-income residents who live in more affordable areas of the region;
- Regular riders and businesses subsidize fareless riders;
- The inability to ask for proof of payment is an impediment to law enforcement's ability to provide a safe and secure environment on the MAX.

First enacted in the mid-1970s, the primary purpose of Fareless Square was to address air quality problems. Also, at that time most riders were buying individual tickets for every ride, thereby making a fareless area an important tool to encourage transit use for short trips in the central city of Portland. Now, about half of our riders have a pass negating the need to have a fareless area for those riders. TriMet ridership continues to grow steadily and Portland's air quality is vastly improved. No other city in the country has a fareless area like TriMet's. Free rides in Seattle are in a much smaller area and limited to the hours of 6 AM to 7 PM. The primary reason Seattle took this action to restrict hours to these times was for security. Downtown Denver has a free circulator, as there are no buses allowed in the downtown core forcing many riders to transfer.

In 1998, Parsons Brinkerhoff did a review of free transit in the Portland region. That study showed that while free transit can increase ridership, it comes at a cost that includes: security, safety, crime, undesirable behavior and attracting panhandlers.

In December TriMet announced two items related to fareless square. First, TriMet announced it would conduct a public policy process to solicit input from the public and stakeholders on potential future changes to fareless. When the new Green Line MAX opens on the downtown Portland transit mall in September 2009, there will be a variety of options to consider. Some of those options include: should fareless be eliminated, eliminated on buses, a circulator created, or nominal payment required for any use of public transit in the downtown?

The second was a proposal to the TriMet Board to consider an ordinance to limit the hours of free rides to between 7 AM to 7 PM. The restricted hours would target the types of behavior cited in the Parsons Brinkerhoff study.

After evaluating e-mail, letters and comments from two public hearings held in January 2007, and at the specific urging of several business organizations, TriMet opted to not move ahead at this time with an immediate and piecemeal step for restricted hours of fareless square. Instead, TriMet will pursue this issue in the broader look at the future of fareless square to be conducted over the next 18 months.

Conclusion

TriMet's General Manager, Fred Hansen, initiated a six-point plan of action in November 2008 to address safety and security issues on the MAX light rail system. These steps were expanded in early December and described in detail in a presentation made to the Portland City Club on Friday, December 7, 2007. This report outlines the actions taken and those still underway that will insure that TriMet is a safe, comfortable and reliable transit system. General Manager Hansen delivers an updated system safety report to the TriMet Board of Directors at their bi-monthly public meeting. This report tracks the agency's safety activity. The TriMet Board also receives reports from the TriMet Executive Director of Operations, Steve Banta, on related activity. TriMet will continue to work closely with its jurisdictional partners, the Transit Police Division and its new Transit Police Commander, Vince Jarmer, to monitor TriMet's system safety and security. As issues come forward, TriMet will take immediate and decisive steps to address them.

APPENDIX A – Regional Safety Summit Participants

Eastside Summit in Gresham - Thursday, November 29, 2007

Name	Organization
Mayor Shane Bemis	City of Gresham
Chief Carla Piluso	Gresham Police Department
Tim Gerkman	Gresham Police Department
Carol Nielson-Hood	Gresham Chamber and Council Member
Chief Rosie Sizer	Portland Police Department
Laura Shepard	City of Gresham
Commander Mike Crebs	Portland Police Department
Commander Donna Henderson	TriMet Police Department
Maria Rubio	City of Portland
Sarah Masterson	Office of Congressman Earl Blumenauer
Lorenzo Poe	Multnomah County
Johnell Bell	Multnomah County
Sheriff Bernie Giusto	Multnomah County
Dave Shields	Mt. Hood Community College
Michael Patrick	EMAR
Diane McKeel	West Columbia Gorge Chamber of Commerce
Shirley Craddick	Gresham Council Member
George Passadore, President	TriMet Board of Director
Rick Van Beveren	TriMet Board of Director
General Manager Fred Hansen	TriMet
Steve Banta	TriMet
Olivia Clark	TriMet
Shelly Lomax	TriMet
Peggy Hanson	TriMet
Dan Caufield	TriMet
Tomas Oliva	TriMet
Rock Scott	TriMet
Mary Fetsch	TriMet
Ben Myers	Gresham Outlook
Mark Garber	Gresham Outlook
John Klicker	Gresham Outlook
Dylan Rivera	Oregonian
Brad Schmidt	Oregonian
Ken McCormick	KGW
Dave Northfield	KGW

Westside Summit in Hillsboro - Friday, November 30, 2007

Name	Organization
Chair Tom Brian	Washington County Commission
Chief Nick Watt	Wilsonville Police Department
Connie Hotchless	Wilsonville Police Department
Lynn Doug	Wilsonville Police Department
Alan Rappleyea, Attorney	City of Beaverton
Joe Christy	Washington County
Linda Horst	ODOT
Janice Deardorff	City of Beaverton
Terry Merritt	Beaverton Police Department
Mayor Rob Drake	City of Beaverton
Chief Dave Bishop	Beaverton Police Department
Sheriff Rob Gordon	Washington County Sheriff's Dept.
David Hepp	City of Wilsonville
Chief Lila Ashenbrenner	Hillsboro Police Department
Lt. Chris Skinner	Hillsboro Police Department
Chief Kent Barker	Tualatin Police Department
Ed Kirsch	Beaverton Police Department
Commissioner Dick Schouten	Washington County
Rick Van Beveren	TriMet Board of Directors
Deanna Palm	Hillsboro Chamber
C. Bolek	Hillsboro Police Department
Jeff Mort	Washington County
Shelby Rihala	Washington County
Dave O'Shaughnessy	Clackamas County Sheriff's Office
Mayor Tom Hughes	City of Hillsboro
Alan Orr	Tigard Police Department
Mike Bell	Tigard Police Department
James deSully	Tigard Police Department
A.C. Lynnae Berg	Portland Police Bureau
Commander Donna Henderson	TriMet Police Department
General Manager Fred Hansen	TriMet
Steve Banta	TriMet
Olivia Clark	TriMet
Shelly Lomax	TriMet
Peggy Hanson	TriMet
Dan Caufield	TriMet
Tomas Oliva	TriMet
Rock Scott	TriMet
Mary Fetsch	TriMet
Kyle Iboshi	KGW
Lynn Huston	KOIN
Dave Anderson	Oregonion
Matt Graham	Clackamas Review

Southside in Clackamas County - Friday, January 11, 2008

Name	Organization
Paul DeMarco	Clackamas Town Center
Wilda Parks	North Clackamas Chamber
Chuck Slanoy	CC Sheriff's Office
Bill Stewart	CC District Attorney's Office
Mike Swanson	City Manager, Milwaukie
Charley Bowen	CC Sheriff's Office
Sheriff Craig Roberts	CC Sheriff's Office
Jim Strovink	CC Sheriff's Office - PIO
Chief Nick Watt	Wilsonville Police Department
Lori Hepler	CC Sheriff's Office
Dave O'Shaughnessey	CC Sheriff's Office
David Kirby	CC Sheriff's Office
Greg Clark	CC Sheriff's Office
Joe Krumm	North Clackamas Schools
Chief Kanzler	Milwaukie Police Department
Anthony Gilman	Clackamas Town Center
Trevor Sleeman	Rep. Dave Hunt's Office
Dan Duncan	Lake Oswego Police Department
Kenny Asher	City of Milwaukie
Captain Vince Jarmer	Portland Police Department
Commander Donna Henderson	TriMet Police Department
General Manager Fred Hansen	TriMet
Steve Banta	TriMet
Olivia Clark	TriMet
Shelly Lomax	TriMet
Aaron Deas	TriMet
Tomas Oliva	TriMet
Mary Fetsch	TriMet
Rock Scott	TriMet
Meghan Oldfield	TriMet
Peter Zucherman	Oregonian

APPENDIX B - Crime at Transit Stations: A National Perspective

Numerous reports have been written and studies conducted across the U.S. and Europe regarding general crime patterns and criminal behavior. While crime research on MAX light rail has not been conducted in the Portland region, the findings from other transit systems are noteworthy. For example, a study of transit security by the U.S. Department of Transportation noted that transit stations with high crime rates are generally located in neighborhoods with high crime rates (1). Similarly, a 2002 study of the Los Angeles Green Line light rail revealed that inner city stations showed a decrease in crime that generally followed a decrease in crime throughout Los Angeles County; crime in the higher income western suburbs did not increase after the Green Line was built (2). In 2006, RTD of Denver which administers the FASTRACKS light rail system conducted a review one Denver light rail station and revealed that crime rates at the station directly correlated to the amount of crime in the surrounding neighborhood. (3)

References & Notes

1. U S DOT: Transit Security: A Description of Problems and Countermeasures. Mauri, Ronald et al October 1984/Reprint May 1985.
2. Liggett, R., Loukaitou-Sideris, A , and Isek, H Journeys to Crime: Assessing the Effects of a Light Rail Line on Crime in the Neighborhoods, 2002.
3. Denver Regional Transportation District, Technical Memorandum: Neighborhood vs. Station Crime Myths and Facts. November 16, 2006.

APPENDIX C - Crime Prevention Through Environmental Design (CPTED)

Crime prevention through environmental design (CPTED) is a multi-disciplinary approach to deterring criminal behavior. CPTED strategies rely upon the ability to influence offender decisions that precede criminal acts.

CPTED is based on four principles; natural access control, natural surveillance, territorial reinforcement, and target hardening.

1. **Natural Surveillance** - A design concept directed primarily at keeping intruders easily observable. Promoted by features that maximize visibility of people, parking areas and building entrances: doors and windows that look out on to streets and parking areas; pedestrian-friendly sidewalks and streets; front porches; adequate nighttime lighting.
2. **Territorial Reinforcement** - Physical design can create or extend a sphere of influence. Users then develop a sense of territorial control while potential offenders, perceiving this control, are discouraged. Promoted by features that define property lines and distinguish private spaces from public spaces using landscape plantings, pavement designs, gateway treatments, and "CPTED" fences.
3. **Natural Access Control** - A design concept directed primarily at decreasing crime opportunity by denying access to crime targets and creating in offenders a perception of risk. Gained by designing streets, sidewalks, building entrances and neighborhood gateways to clearly indicate public routes and discouraging access to private areas with structural elements.
4. **Target Hardening** - Accomplished by features that prohibit entry or access: window locks, dead bolts for doors, interior door hinges.

Source *CPTED Crime Prevention Guide* CPTED Handbook for Architects and Urban Planners

Appendix D – MAX Reported Crime by Location 2006 and 2007

Source: Police reports from the Tri-County region

MAX Reported Crime % Change

	2006	% TOTAL	2007	% TOTAL	2006/2007 % CHANGE
Gresham	51	7%	69	11%	26%
Eastside	210	29%	238	38%	12%
Lloyd District	54	7%	45	7%	-20%
Downtown	49	7%	45	7%	-9%
Beaverton	173	24%	89	14%	-94%
Hillsboro	130	18%	63	10%	-106%
Red Line	28	4%	35	6%	20%
Yellow Line	32	4%	35	6%	9%
		100%		100%	
TOTAL	727		619		-17%

MAX REPORTED CRIME BY LOCATION
 January 1, 2006 through December 31, 2006

**% OF
TOTAL**

Gresham	51	7%
Cleveland Avenue	1	
Theft from Passenger	1	
Gresham Central	27	
Assault - Other	1	
Criminal Mischief - Offensive Littering	3	
Criminal Mischief to Auto of Park/Ride	6	
Criminal Mischief to Light Rail Vehicle	1	
Harassment	1	
Menacing	1	
Robbery	1	
Theft from Vehicle	6	
Theft of Vehicle	7	
Gresham City Hall	10	
Criminal Mischief to Auto of Park/Ride	3	
Theft from Passenger	1	
Theft from Vehicle	4	
Theft of Vehicle	2	
Ruby Junction/E 197th Avenue	0	
Rockwood/188th Avenue	3	
Assault - Other	3	
E 181st Avenue	7	
Assault - Other	1	
Harassment	1	
Menacing	2	
Robbery	1	
Theft from Passenger	1	
Theft of Vehicle	1	
E 172nd Avenue	3	
Assault - Other	2	
Criminal Mischief to Light Rail Vehicle	1	
Eastside	210	29%
E 162nd Avenue	16	
Assault - Other	4	
Purse Snatch/Pick Pocket	1	
Robbery	5	
Theft from Passenger	6	

E 148th Avenue	8	
Assault - Aggravated		1
Harassment		1
Robbery		5
Theft from Passenger		1
E 122nd Avenue	43	
Assault - Aggravated		1
Assault - Other		3
Criminal Mischief to Auto of Park/Ride		6
Criminal Mischief to Light Rail Vehicle		1
Harassment		2
Menacing		2
Purse Snatch/Pick Pocket		3
Robbery		1
Theft from Passenger		3
Theft from Vehicle		9
Theft of Vehicle		12
E 102nd Avenue	5	
Assault - Aggravated		2
Assault - Other		2
Theft from Passenger		1
Gateway/NE 99th Avenue	74	
Assault - Other		8
Criminal Mischief to Auto of Park/Ride		9
Criminal Mischief to Light Rail Platform		1
Criminal Mischief to Light Rail Vehicle		1
Graffiti		1
Harassment		1
Purse Snatch/Pick Pocket		2
Robbery		1
Theft from Other District Property		2
Theft from Passenger		7
Theft from Vehicle		23
Theft of Vehicle		18
NE 82nd Avenue	32	
Assault - Aggravated		3
Assault - Other		13
Criminal Mischief to Light Rail Platform		1
Criminal Mischief to Light Rail Vehicle		1
Graffiti		1
Harassment		2
Purse Snatch/Pick Pocket		2
Robbery		9

NE 60th Avenue	9	
Assault - Aggravated		1
Harassment		1
Robbery		3
Sex Offenses - Expose/Masturbation		1
Theft from Other District Property		2
Theft from Passenger		1
Hollywood/NE 42nd Avenue	23	
Assault - Aggravated		3
Assault - Other		7
Criminal Mischief to Light Rail Platform		1
Harassment		2
Purse Snatch/Pick Pocket		2
Robbery		1
Theft from Other District Property		1
Theft from Passenger		6
Lloyd District		54
Lloyd Center/NE 11th Avenue	29	
Assault - Aggravated		2
Assault - Other		7
Criminal Mischief to Light Rail Vehicle		4
Criminal Mischief to Other		1
Menacing		1
Purse Snatch/Pick Pocket		2
Robbery		5
Theft from Passenger		7
NE 7th Avenue	8	
Assault - Other		2
Bomb Threats		1
Robbery		2
Theft from Passenger		3
Convention Center	3	
Assault - Other		1
Harassment		1
Theft from Passenger		1
Rose Quarter	14	
Assault - Aggravated		2
Assault - Other		3
Criminal Mischief to Light Rail Vehicle		1
Harassment		1
Purse Snatch/Pick Pocket		2
Sex Offenses - Attempt. Sex Abuse		1
Theft from Other District Property		1
Theft from Passenger		3

7%

Downtown	49	
Old Town/Chinatown	7	
Assault - Aggravated		1
Assault - Other		1
Purse Snatch/Pick Pocket		1
Sex Offenses - Expose/Masturbation		1
Theft from Passenger		3
Skidmore Fountain	3	
Assault - Other		2
Harassment		1
Oak Street/SW 1st Avenue	2	
Assault - Aggravated		1
Theft from Passenger		1
Morrison/SW 3rd Avenue	1	
Criminal Mischief to Light Rail Vehicle		1
Yamhill District	3	
Assault - Aggravated		1
Assault - Other		2
Mall/SW 5th Avenue	1	
Menacing		1
Mall/SW 4th Avenue	0	
Pioneer Square North	7	
Assault - Other		1
Kidnapping		1
Purse Snatch/Pick Pocket		1
Robbery		2
Theft from Other District Property		1
Theft from Passenger		1
Pioneer Square South	2	
Assault - Other		1
Theft from Other District Property		1
Galleria/SW 10th Avenue	6	
Assault - Aggravated		1
Assault - Other		2
Harassment		1
Robbery		1
Theft from Passenger		1
Library/SW 9th Avenue	3	
Assault - Other		1
Sex Offenses - Expose/Masturbation		1
Theft from Passenger		1

7%

PGE Park	8	
Assault - Other		1
Graffiti		1
Purse Snatch/Pick Pocket		1
Robbery		2
Sex Offenses - Other		1
Theft from Passenger		2
Kings Hill/SW Salmon	1	
Assault - Other		1
Goose Hollow/SW Jefferson	5	
Assault - Other		1
Graffiti		1
Robbery		1
Theft from Passenger		2
Beaverton		173
Washington Park	1	
Criminal Mischief to Light Rail Vehicle		1
Sunset	47	
Assault - Other		2
Criminal Mischief to Auto of Park/Ride		3
Criminal Mischief to Light Rail Platform		1
Graffiti		1
Menacing		1
Sex Offenses - Expose/Masturbation		1
Sex Offenses - Other		1
Robbery		1
Theft from Passenger		1
Theft from Vehicle		30
Theft of Vehicle		5
Beaverton	19	
Assault - Other		4
Graffiti		3
Harassment		4
Menacing		1
Sex Offenses - Other		1
Theft from Passenger		6
Beaverton Central	0	
Millikan Way	30	
Criminal Mischief to Auto of Park/Ride		3
Graffiti		1
Harassment		1
Robbery		1
Theft from Passenger		1
Theft from Vehicle		22
Theft of Vehicle		1

24%

Beaverton Creek	4	
Criminal Mischief to Auto of Park/Ride		1
Criminal Mischief to Light Rail Platform		1
Theft from Passenger		1
Theft from Vehicle		1
Merlo/SW 158th Avenue	5	
Criminal Mischief to Light Rail Vehicle		1
Cyber Incident		1
Graffiti		1
Theft from Passenger		2
Elmonica/SW 170th Avenue	15	
Criminal Mischief to Auto of Park/Ride		2
Graffiti		3
Menacing		3
Theft from Passenger		1
Theft from Vehicle		5
Theft of Vehicle		1
Willow Creek/SW 185th Avenue	52	
Criminal Mischief to Auto of Park/Ride		5
Criminal Mischief to Light Rail Vehicle		2
Graffiti		1
Robbery		1
Theft from Passenger		2
Theft from Vehicle		35
Theft of Vehicle		6
Hillsboro		130
Quatama/NW 205th Avenue	35	
Assault - Other		5
Criminal Mischief to Auto of Park/Ride		11
Graffiti		4
Robbery		1
Theft from Passenger		3
Theft from Vehicle		10
Theft of Vehicle		6
Orenco/NW 231st Avenue	23	
Criminal Mischief to Auto of Park/Ride		4
Criminal Mischief to Light Rail Platform		2
Theft from Passenger		1
Theft from Vehicle		15
Theft of Vehicle		1
Hawthorn Farm	2	
Assault - Aggravated		1
Criminal Mischief to Light Rail Vehicle		1

18%

Fair Complex/Hillsboro Airport	54	
Assault - Other		1
Criminal Mischief to Auto of Park/Ride		14
Criminal Mischief to Light Rail Platform		1
Graffiti		2
Purse Snatch/Pick Pocket		1
Theft from Passenger		2
Theft from Vehicle		29
Theft of Vehicle		4
Tuality Hospital/SE 8th Avenue	0	
Washington/SE 12th Avenue	10	
Assault - Aggravated		1
Assault - Other		1
Graffiti		2
Harassment		2
Purse Snatch/Pick Pocket		2
Theft from Passenger		2
Hillsboro Central/SW 3rd Avenue	4	
Assault - Other		1
Graffiti		1
Robbery		2
Hatfield Government Center	2	
Theft from Passenger		2
MAX Red Line		28
Portland International Airport	4	
Criminal Mischief to Light Rail Vehicle		1
Theft from Passenger		3
Mt Hood Avenue	0	
Cascade	0	
Parkrose/Sumner	24	
Assault - Other		1
Criminal Mischief to Auto of Park/Ride		4
Criminal Mischief to Light Rail Vehicle		1
Theft from Other District Property		1
Theft from Passenger		2
Theft from Vehicle		10
Theft of Vehicle		5

4%

MAX Yellow Line		32
Expo Center	5	
Assault - Other		1
Criminal Mischief to Light Rail Platform		1
Theft from Vehicle		1
Theft of Vehicle		2
Delta Park/Vanport	7	
Criminal Mischief to Auto of Park/Ride		1
Theft from Vehicle		3
Theft of Vehicle		3
Kenton/N Denver Avenue	1	
Assault - Other		1
N Lombard	4	
Assault - Aggravated		1
Criminal Mischief to Light Rail Platform		1
Criminal Mischief to Other		1
Harassment		1
N Portland Blvd	1	
Purse Snatch/Pick Pocket		1
N Killingsworth	5	
Assault - Aggravated		1
Assault - Other		2
Criminal Mischief to Light Rail Platform		1
Robbery		1
N Prescott	2	
Robbery		1
Theft from Passenger		1
Overlook Park	1	
Assault - Other		1
Albina/Mississippi	1	
Assault - Other		1
Interstate/Rose Quarter	5	
Assault - Other		2
Robbery		1
Sex Offenses - Expose/Masturbation		1
Theft from Passenger		1
TOTAL		727

4%

100%

MAX REPORTED CRIME BY LOCATION

January 1, 2007 through December 31, 2007

% OF
TOTAL

Gresham	69	11%
Cleveland Avenue	22	
Arson	1	
Assault - Other	1	
Criminal Mischief to Auto of Park/Ride	1	
Theft from Vehicle	11	
Theft of Vehicle	8	
Gresham Central	11	
Criminal Mischief to Auto of Park/Ride	3	
Criminal Mischief to Light Rail Platform	1	
Graffiti	1	
Theft from Passenger	1	
Theft from Vehicle	5	
Gresham City Hall	18	
Criminal Mischief to Auto of Park/Ride	5	
Harassment	1	
Robbery	1	
Theft from Passenger	1	
Theft from Vehicle	5	
Theft of Vehicle	5	
Ruby Junction/E 197th Avenue	2	
Assault - Other	1	
Theft from Other District Property	1	
Rockwood/188th Avenue	4	
Assault - Other	1	
Criminal Mischief to Light Rail Vehicle	1	
Harassment	1	
Menacing	1	
E 181st Avenue	10	
Assault - Other	1	
Criminal Mischief to Auto of Park/Ride	1	
Robbery	2	
Sex Offenses - Other	2	
Theft from Passenger	1	
Theft from Vehicle	2	
Theft of Vehicle	1	
E 172nd Avenue	2	
Criminal Mischief to Light Rail Vehicle	1	
Theft from Passenger	1	

Eastside	238
E 162nd Avenue	8
Assault - Aggravated	2
Assault - Other	3
Criminal Mischief to Light Rail Vehicle	1
Theft from Passenger	2
E 148th Avenue	19
Assault - Aggravated	2
Assault - Other	5
Bomb Threats	2
Criminal Mischief to Light Rail Vehicle	1
Harassment	1
Purse Snatch/Pick Pocket	1
Robbery	4
Theft from Passenger	3
E 122nd Avenue	67
Assault - Aggravated	3
Assault - Other	7
Criminal Mischief to Auto of Park/Ride	15
Harassment	1
Menacing	1
Purse Snatch/Pick Pocket	2
Robbery	2
Theft from Passenger	4
Theft from Vehicle	17
Theft of Vehicle	15
E 102nd Avenue	8
Assault - Other	2
Purse Snatch/Pick Pocket	2
Sex Offenses - Other	1
Sex Offenses - Sex Abuse	1
Theft from Passenger	2
Gateway/NE 99th Avenue	86
Arson	1
Assault - Aggravated	2
Assault - Other	2
Criminal Mischief to Auto of Park/Ride	14
Criminal Mischief to Light Rail Vehicle	1
Menacing	1
Purse Snatch/Pick Pocket	1
Robbery	3
Sex Offenses - Other	1
Theft from Passenger	4
Theft from Vehicle	34
Theft of Vehicle	22

38%

NE 82nd Avenue	25	
Assault - Aggravated		5
Assault - Other		9
Graffiti		1
Robbery		4
Theft from Other District Property		2
Theft from Passenger		4
NE 60th Avenue	9	
Assault - Aggravated		4
Robbery		1
Theft from Other District Property		1
Theft from Passenger		3
Hollywood/NE 42nd Avenue	16	
Assault - Aggravated		2
Assault - Other		5
Criminal Mischief to Other District Property		2
Menacing		1
Purse Snatch/Pick Pocket		1
Robbery		2
Theft from Other District Property		1
Theft from Passenger		2
Lloyd District		45
Lloyd Center/NE 11th Avenue	28	
Assault - Aggravated		1
Assault - Other		12
Harassment		3
Graffiti		1
Menacing		2
Purse Snatch/Pick Pocket		2
Robbery		4
Theft from Passenger		3
NE 7th Avenue	6	
Assault - Aggravated		2
Assault - Other		1
Harassment		2
Purse Snatch/Pick Pocket		1
Convention Center	3	
Criminal Mischief to Light Rail Vehicle		1
Purse Snatch/Pick Pocket		2
Rose Quarter	8	
Assault - Aggravated		1
Assault - Other		2
Criminal Mischief to Light Rail Vehicle		2
Menacing		1
Purse Snatch/Pick Pocket		1
Theft from Passenger		1

7%

Downtown		45
Old Town/Chinatown	6	
	Assault - Aggravated	1
	Assault - Other	2
	Graffiti	1
	Menacing	1
	Robbery	1
Skidmore Fountain	9	
	Assault - Aggravated	2
	Assault - Other	3
	Criminal Mischief to Light Rail Vehicle	1
	Harassment	2
	Sex Offenses - Other	1
Oak Street/SW 1st Avenue	3	
	Assault - Other	1
	Criminal Mischief to Light Rail Vehicle	1
	Theft from Passenger	1
Morrison/SW 3rd Avenue	0	
Yamhill District	3	
	Assault - Aggravated	1
	Graffiti	1
	Harassment	1
Mall/SW 5th Avenue	0	
Mall/SW 4th Avenue	0	
Pioneer Square North	9	
	Assault - Aggravated	1
	Assault - Other	1
	Bomb Threats	1
	Graffiti	1
	Robbery	1
	Theft from Passenger	4
Pioneer Square South	1	
	Purse Snatch/Pick Pocket	1
Galleria/SW 10th Avenue	1	
	Harassment	1
	Robbery	
Library/SW 9th Avenue	1	
	Theft from Passenger	1
PGE Park	6	
	Assault - Other	1
	Graffiti	1
	Harassment	1
	Robbery	2
	Theft from Passenger	1
Kings Hill/SW Salmon	0	

7%

Goose Hollow/SW Jefferson	6	
Criminal Mischief to Light Rail Vehicle		2
Sex Offense - Expose/Masturbation		2
Theft from Other District Property		1
Theft from Passenger		1
Beaverton	89	
Washington Park	5	
Assault - Other		2
Graffiti		1
Harassment		1
Theft from Passenger		1
Sunset	15	
Criminal Mischief to Auto of Park/Ride		1
Graffiti		1
Harassment		1
Theft from Passenger		1
Theft from Vehicle		2
Theft of Vehicle		9
Beaverton	11	
Assault - Other		1
Criminal Mischief to Light Rail Platform		1
Graffiti		1
Harassment		1
Robbery		1
Theft from Passenger		5
Theft from Vehicle		1
Beaverton Central	0	
Millikan Way	15	
Assault - Other		3
Criminal Mischief to Auto of Park/Ride		5
Theft from Vehicle		5
Theft of Vehicle		2
Beaverton Creek	4	
Assault - Other		1
Theft of Vehicle		3
Merlo/SW 158th Avenue	5	
Assault - Other		1
Criminal Mischief to Light Rail Vehicle		1
Theft from Other District Property		2
Theft from Passenger		1
Elmonica/SW 170th Avenue	5	
Assault - Other		1
Menacing		1
Robbery		1
Theft from Other District Property		1
Theft of Vehicle		1

14%

Willow Creek/SW 185th Avenue	29	
Assault - Other		1
Graffiti		1
Harassment		2
Menacing		1
Robbery		2
Sex Offense - Expose/Masturbation		1
Sex Offense - Other		1
Theft from Passenger		5
Theft from Vehicle		6
Theft of Vehicle		9
Hillsboro	63	
Quatama/NW 205th Avenue	17	
Criminal Mischief to Auto of Park/Ride		2
Criminal Mischief to Shelter		1
Graffiti		2
Harassment		1
Menacing		1
Sex Offense - Other		1
Theft from Vehicle		3
Theft of Vehicle		6
Orenco/NW 231st Avenue	16	
Criminal Mischief to Auto of Park/Ride		3
Graffiti		1
Harassment		1
Menacing		3
Sex Offense - Expose/Masturbation		1
Theft from Passenger		2
Theft from Vehicle		4
Theft of Vehicle		1
Hawthorn Farm	4	
Assault - Other		2
Theft from Employee		1
Theft from Passenger		1
Fair Complex/Hillsboro Airport	20	
Assault - Aggravated		1
Assault - Other		2
Criminal Mischief to Auto of Park/Ride		4
Graffiti		4
Theft from Vehicle		4
Theft of Vehicle		5
Tuality Hospital/SE 8th Avenue	0	

10%

Washington/SE 12th Avenue	11	
Assault - Other		1
Criminal Mischief to Light Rail Vehicle		1
Criminal Mischief to Light Rail Platform		1
Graffiti		1
Harassment		3
Menacing		1
Sex Offense - Attempt Rape		1
Purse Snatch/Pick Pocket		1
Theft from Passenger		1

Hillsboro Central/SW 3rd Avenue	11	
Assault - Other		3
Criminal Mischief to Other District Property		1
Graffiti		1
Harassment		1
Menacing		1
Robbery		2
Theft from Passenger		2

Hatfield Government Center	4	
Assault - Other		2
Theft from Passenger		1
Theft from Vehicle		1

MAX Red Line		35
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6%

Portland International Airport	1	
Theft from Passenger		1

Mt Hood Avenue	0	
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Cascade	0	
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Parkrose/Sumner	34	
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Assault - Other		1
Criminal Mischief to Auto of Park/Ride		2
Graffiti		1
Robbery		3
Theft from Passenger		1
Theft from Vehicle		17
Theft of Vehicle		9

MAX Yellow Line		35
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6%

Expo Center	1	
Theft of Vehicle		1

Delta Park/Vanport	6	
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Criminal Mischief to Auto of Park/Ride		1
Theft from Vehicle		5

Kenton/N Denver Avenue	1	
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Assault - Other		1
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N Lombard	8	
Assault - Other		2
Harassment		1
Robbery		2
Theft from Passenger		3
N Portland Blvd	3	
Assault - Other		1
Criminal Mischief to Other District Property		1
Theft from Passenger		1
N Killingsworth	5	
Assault - Other		2
Robbery		1
Theft from Passenger		2
N Prescott	5	
Assault - Aggravated		2
Assault - Other		2
Theft from Passenger		1
Overlook Park	2	
Criminal Mischief to Light Rail Vehicle		1
Robbery		1
Albina/Mississippi	1	
Theft from Passenger		1
Interstate/Rose Quarter	3	
Assault - Other		1
Robbery		1
Theft from Passenger		1
TOTAL	619	

100%

Appendix E - Crime Definitions

Aggravated Assault: An attack by one person upon another for the purpose of inflicting severe injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or injury.

An attack by one person upon another for the purpose of inflicting severe injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or injury.

Assault - Other: these would be assaults where the injuries are not substantial enough to classify as Assault - Aggravated. TriMet does not make these determinations; the police reports are coded before they are entered into our database by the police departments.

All Other Offenses: Except Traffic - Includes trespass, blackmail, bomb threat, animal ordinances, and littering.

Arrest: The actual number of persons arrested (both booked and taken into custody; and cited and released) for committing criminal acts.

Arson: Any willful burning or attempt to burn a building, motor vehicle, aircraft, or personal property of another.

Burglary: The unlawful entry of a structure (both residential and non-residential) with intent to commit a theft.

Crimes Against Persons: Criminal offenses where the victim is present and the act is violent, threatening or has the potential of being physically harmful.

Crimes Against Property: Offenses that involve taking something of value by theft or deception or the destruction of property.

Criminal Mischief to Light Rail Vehicle: Broken windows & cut seats.

Disorderly Conduct: In this classification are placed all offenses of committing a breach of the peace.

Drug Laws: Included are all violations of state and local laws, specifically those related to the unlawful possession, sale, use, growing, manufacturing, and making of illegal drugs.

Driving Under the Influence of Intoxicants (D.U.I.): Driving or operating any vehicle while under the influence of liquor or drugs.

Embezzlement: Misappropriation of money or property entrusted to one's care.

Extortion: The use of fear of death, injury, property loss, reputation, etc. to induce or compel another to deliver property or perform some act or omission.

Family Offenses: Included here are offenses such as abandonment, neglect of children, custodial interference and non-support. (Physical abuse would be reported as an assault).

Forgery also Forgery/Counterfeiting: Forgery and counterfeiting are treated as allied offenses. In this classification are placed all offenses dealing with the making, altering, or possessing, with intent to defraud, anything false in the semblance of that which is true.

Fraud: Fraudulent conversion and obtaining money or property by false pretenses.

Fugitives: This category covers arrests made for other agencies and may be for: Parole/Probation violation, AWOL (absence without leave) from a penal institution, etc.

Gambling: All offenses which relate to promoting, permitting, or engaging in gambling are included in this category.

Homicide: Includes willful murder and aggravated murder

Kidnapping: The interference with another person's liberty without consent or legal authority.

Larceny: The unlawful taking of property from the possession of another; includes pickpocket, purse snatch, shoplift, and bike theft. (Note: Theft from Auto has been separated from the Larceny category to more easily track and identify where these crimes occur. Theft from Auto remains a Larceny.)

Liquor Laws: With the exception of Driving Under the Influence all liquor law violations, state or local, are placed in this classification.

Miscellaneous Traffic Crimes: Serious traffic offenses which are classified as a misdemeanor or felony as defined by the Oregon Motor Vehicle Code.

Motor Vehicle Theft: The theft or attempted theft of a motor vehicle; includes motorcycles

Murder: The willful (non-negligent) killing of one human being by another.

Negligent Homicide: The killing of another person through gross negligence.

Offenses - Excludes motor vehicle traffic death.

Arrests - Includes persons arrested for motor vehicle traffic death

Offense: The criminal act, the number of criminal acts

Part I Crimes: A group of crimes which are reported and tracked nationally: murder, rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft, and arson.

Part II Crimes: A group of crimes which are reported and tracked nationally: simple assault, forgery, fraud, stolen property, vandalism, weapon laws, prostitution, sex crimes, drug laws, gambling, family offenses, D.U.I., liquor laws, disorderly conduct, kidnapping, curfew, runaway, and other offenses (see All Other Offenses above).

Part III Crimes: A group of crimes which are reported and tracked within the State of Oregon: includes traffic, warrants, protective custody, fugitives, officer assaults, and property and vehicles recovered for other jurisdictions.

Protective Custody: The custody of persons for detoxification, mental holds, material witness, or protective custody. Examples: transport of an intoxicated subject to the local detoxification center; taking a child into protective custody pending further investigation of the child's care and welfare

Prostitution: Included in this classification are the sex offenses of a commercialized nature.

Purse snatch: To snatch a purse from the physical control of another. (If force is directed or used against the victim the matter becomes a robbery).

Rape: The carnal knowledge of a female, forcibly and against her will.

Robbery: The taking or attempting to take anything of value from a person or persons by force or threat of force.

Runaway: When a juvenile has departed from some location within Multnomah County and the juvenile's parents or guardians have reported them as a runaway

Sex Crimes: Covers offenses such as statutory rape, contributing to the sexual delinquency of a minor, non-forcible rape, incest, molest, indecent exposure, forcible and non-forcible sodomy, obscene phone calls. (Does not include forcible rape, or prostitution).

Simple Assault: Assaults which are limited to the use of physical force and result in little or no injury to the victim.

Stolen Property Offenses: Included in this classification are all offenses of buying, receiving and possessing stolen property, as well as all attempts to commit any of these offenses.

Theft From Auto: The unlawful taking of motor vehicle contents or parts. Note: Theft from Auto (Car Prowl) is a Larceny. It has been separated from the Larceny category to more easily identify where these crimes occur.

Vandalism: Consists of the willful destruction, or defacement of property.

Warrants: Includes service of warrants of arrest and related papers for Multnomah County, as well as all other jurisdictions within the United States.

Weapons Regulation Laws: Deals with weapon offenses which are regulatory in nature, such as: furnishing a deadly weapon to a minor; excon or alien in possession of a firearm.

Willful Murder and Non Negligent Manslaughter: The willful (non-negligent) killing of one human being by another.

Source Oregon Law Enforcement Data System (LEDS), Portland Police Data System. These definitions are not intended to serve as legal definitions.

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION

January 2, 2008

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

Council Present: Mayor Bernard and Councilors Barnes, Chaimov, Loomis, and Stone

Staff Present: City Manager Mike Swanson, Engineering Director Gary Parkin, Community Development / Public Works Director Kenny Asher.

Harmony Road Update

Mr. Parkin was part of the Project Management Team that provided technical assistance. The Environmental Impact Study (EIS) involved quite a bit of work. So far they had looked at alternatives in the scoping process and came up with alternative street design measures to accommodate the problems of the traffic pattern at Harmony and Linwood. After the scoping process approximately 45 alternatives were generated which were screened and rated against objectives to continue forward for analysis. The team tried to narrow the 45 alternatives to a more manageable number. In addition to the Project Management Team, there was a Project Advisory Committee (PAC) made up of neighborhood members, environmentalists, and businesses. Councilor Barnes was a member of the Policy Review Committee (PRC) which had oversight and made policy-level decisions. The Scoping and Project Team filtered out a few of the 45 alternatives based on the fact that they impacted the environment. Initially there were so many different projects and even though objectives were stated to minimize environmental impacts they still came forward and were pretty easy to filter out. Several of the others were combined into alternatives that looked similar.

Mr. Parkin showed Council 2 projects that came out of the screening process that encompassed the range of potential solutions to the traffic issues at Linwood and Harmony. One was five-lane construction from 82nd Avenue to Linwood Avenue and continuing on to the on ramps at Hwy 224. The reason that project came out through the screening process was because it met the goals as far as transportation and traffic. The large impacts to the neighborhood and the adjacent environmental area were offset by the fact that it would streamline the traffic through that area. The next alternative was to get improvements on 82nd Avenue for the north-south traffic. That alternative was preferred because it lessened impacts with a narrower cross section while achieving some of the traffic goals by improving 82nd Avenue. Traffic would not have to stop at the railroad crossing because of a bridge. The third option was a no-build, which was an alternative that was always carried forward in the EIS analysis.

The PAC they did not get behind the 5-lane alternative because members felt the impacts did not outweigh the traffic improvements. That group did by a 9-6-vote carry the 82nd Avenue alternative through for further analysis. They were concerned with the effect of the bridge on the neighborhood and how that connection would work. There were some real challenges putting this through without destroying the neighborhood. They felt the need for good traffic flow and keeping most of the traffic on 82nd Avenue was most beneficial. The PAC also

added a new project with the same improvements to 82nd Avenue that would further improve the flow of traffic. They wanted to keep the corridor traffic on the main routes and off Harmony Road. With that project they were not looking at doing anything to improve the traffic at the Harmony/Linwood intersection.

Councilor Barnes said the PRC decided there was not enough detail for them to thoroughly understand the option and asked for more information.

Mayor Bernard said it looked like the biggest impact was the bridge and not the road. It looked like the bridge in both alternatives would take out a block of the neighborhood.

Councilor Barnes said it would take out the 7-11, the cleaners, the dentist office, and part of the apartment complex.

Mr. Parkin said after the PAC had its meeting in December they sent the three alternatives to the PRC and at that meeting Clackamas County, ODOT, Federal Highway Administration, and the City of Milwaukie did not want to endorse that particular alternative without more background. It did not have the screening that the other two did. In the initial stages of the 45 alternatives something similar had been put forward, but it was dropped. The project team would evaluate it in light of project objectives to determine if it was viable alternative. The project objective for the PAC meetings was to have alternatives to go into further analysis of the EIS. Those would be taken to the Milwaukie City Council and Board of County Commissioners (BCC) for concurrence. The PRC wanted more time to investigate the alternatives before being sent for concurrence, which added approximately two months to the timeline. This was an update so Mr. Parkin was not seeking Council concurrence at this time. He would probably be back before Council in two months.

Councilor Barnes provided information from the PRC. There was no formal vote, but the four people at the table, after hearing from several neighborhoods individuals and environmental groups, decided that anything going into the Cedarcrest neighborhood at all was a concern. Kids walked to school in that area and detouring traffic into the neighborhood, which one of the plans called for, was not an option. They did not want Sunnyside traffic going into Milwaukie. The traffic backed up from 82nd to Fuller Road on a regular basis during the holidays. There were a lot of times where it blocked Cedarcrest because of the timing of the signal at 82nd going east, and the trains made it that much worse. The neighborhood association made it very clear that it did not want any of the proposed alternatives. She talked extensively with Dolly Macken-Hambright who represented the neighborhood. She did not get the idea that they were against fixing things but the way the alternatives were set up it would not fix their environmental concerns. If Harmony were expanded it would take off all of the footing and ruin the environmental aspects of that area. One of the members of the group that was concerned came up with the third alternative. As they sat around table the county representative heard what was said and they did not feel it made sense to move forward.

Mr. Parkin said one of the problems was that people wanted a better idea of what it would look like. The next step would be to do a better analysis to identify the impacts. He and Councilor Chaimov attended the Linwood Neighborhood meeting, and attendees were skeptical of jumping into bed with Clackamas County before having any idea of what the impacts were. His role was to see that Milwaukie's interests were addressed and to get a better idea of how the project might look. At this time it was not known if the concerns could be balanced. The process needed to continue in order to progress to a solution.

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There was a real need for improvements in that area, and people recognized it as a problem intersection. Maybe routing traffic around that area was the best solution, but they needed to start looking at it more in depth and using the County resources to see what the project really does look like.

Councilor Barnes agreed with Mr. Parkin. Part of the process was the concern about setting up a route for people living on the other side of 82nd and bringing them into Milwaukie. They should be on the highway and not routed into the neighborhoods. Once they got onto Railroad they would either go to Harmony or to Lake Road. The concern of the folks going to the meetings was that they didn't want to direct traffic to Milwaukie, but to find a route acceptable by the County and City using major thoroughfares. A solution had to be found, but do we send traffic through Milwaukie or do we use an alternative that sends them to the expressway?

Mayor Bernard said this was not an innovative solution; it was the same one they started with in 2001 when he was running for Mayor. He had always thought they needed to figure out some way to extend Sunnybrook. They needed to figure out a way to use Sunnybrook or get 84th Avenue to I-205. It seemed like building a bridge would be a temporary fix with a huge impact. The only advantage he saw was the quiet zone, but people would rather have the trains and the cars.

Mr. Parkin said it was obvious that the at-grade crossing on a busy street was not good and should be alleviated in the future.

Mayor Bernard asked if a cheaper solution was to raise the track.

Mr. Parkin said that was discussed quite a bit and could be an alternative. The train had to go up a slow grade so it would be a much more massive structure rather than cars that can come up at a 15% grade.

Mayor Bernard noted this was a very environmentally sensitive area, and there may be high-speed rail in the future. It might be a cheaper solution to go over the streams and wetlands.

Councilor Barnes commented that they were told that high-speed rail would not happen for 20 years.

Mr. Parkin said there were plans but not in the foreseeable future because of the costs.

Councilor Loomis traveled that road daily. He felt it would improve the traffic flow. He gets backed up behind people using Lake Road. The traffic counts from what he saw were people going home not people from Clackamas going into Milwaukie. It was local traffic. He did not see that it was encouraging people to use that route. Wasn't the goal to improve the intersection?

Mr. Parkin replied one of the goals was to remove the at-grade crossing to make a better, safer intersection. He would anticipate when he came back to Council that he would have at least 2 and possibly 3 alternatives. The idea coming from the project team was that Option 1 was the same look as 2001. Option 2 was a little different look and really was quite a change from 2001. Option 3 was a brand new one, which did touch the intersection. They had 45 alternatives where people came up with ideas at various public meetings. There was some very innovative thinking, but when the issue was getting traffic across the intersection there were not that many ways to do it. There were a lot of options that went through the wetland, which were good from a traffic standpoint. At some time in the screening process the FHA did not support that project because of

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environmental concerns. Another of the 45 alternatives was improving Railroad Avenue with a bridge crossing at 37th. There were even more negative impacts to the neighborhoods and that option got filtered out.

Mayor Bernard said he would think you could build a Sunnybrook expansion if there was money to build over the wetlands, and this was a cheaper version.

Mr. Parkin said if the whole objective was to come up with a bridge they could do that, but it would not fit the scale of the project and would not be considered a viable option.

Councilor Loomis asked about the negative impacts on the neighborhood, were they all the same? Would they just take out the businesses or would it impact homes?

Mr. Parkin said with the five-lane option it would be hard to see the cross-section not impacting houses on north side, and if they moved to south it would impact the environmental area. There might be a trade-off where you could push it into the environmental area and save some houses, but then they are living next to a five-lane road, which would have some dramatic impacts on the neighborhood. With the three-lane depending on the cross-section it would not impact as dramatically as the five-lane would.

Councilor Loomis said when he went home he was stacked up behind people turning onto Lake Road.

Mr. Parkin said that is what they would look at the three-lane alternative. He could understand the neighborhood concerns with the bridge and potential for vagrancy and other issues. The PAC supported the three-lane project because they realized the impacts were lessened. He would come back with the County and ask for the City of Milwaukie's concurrence to move forward in studying 3 alternatives that would forward for analysis.

Councilor Stone asked if we had any data that supported the amount of traffic that congested that intersection in terms of their destination? Were they going home through Lake Road or Linwood Avenue?

Mr. Parkin replied the peak analysis indicated that 61% was through traffic from a zone that was out of this area.

Councilor Stone asked where the actual study was done.

Mr. Parkin responded it was the anticipated traffic based on modeling, and they did not do any analysis of where the trips were coming from. It was a more abstract view based on the model. When they go there and do the study they will view it with a camera and collect data just at the Linwood/Harmony Road intersection for 24 hours a day for 3 days, and then they look at the peak hours. They could not tell the destination from that analysis. Modeling was done with Metro input. They hadn't looked at where they were going, but could possibly with a license plate analysis.

Councilor Stone asked if they would do that in more depth when they were studying the options. From a neighborhood perspective people were a lot more comfortable in knowing that the traffic was from your own neighborhood rather than cut through traffic that should be on the highways.

Mr. Parkin said that was why the three-lane option was promoted because of that reason to try to improve 82nd Ave so people will stay there and not travel on Harmony to get to Hwy 224.

Councilor Stone said that was a good idea. She asked if the County was the lead agency?

Mr. Parkin replied it was.

Councilor Barnes said after the 9-6 vote some of the people that voted yes had come back and said they changed their minds. The vote would not be the same if taken again. Even Wilda Parks was not sure what she was voting for.

Mr. Parkin commented they tried to make it as clear as possible as to what people were voting for. The vote was given less than wholeheartedly. There were some people that did not vote for various reasons. The largest group was citizens with most of them from about a 2-mile radius.

Councilor Barnes named key people the City Council would know.

Councilor Stone asked if we were deciding today to go forward with studying would it be to study options 1 and 2 and the no build, but not the third option. What had to happen to determine if the option 3 would be studied? What needed to happen between now and when Mr. Parkin came back in two months to determine whether or not that will be studied?

Mr. Parkin said the PRC asked the design team to look at how that alternative met the goals of the project. That was the screening the other alternatives went through. They also asked for some traffic analysis work that would have been done as the next step, and he believed they would apply that analysis to the other 2 alternatives to a certain extent to help the PRC make a recommendation.

Mayor Bernard would tend not to consider Option 1. He was not comfortable with Option 2 but would like to look at Option 3. He had an opportunity to speak to some County people and they were spending a lot more money than they wanted to, and he got the impression that they might pull the project and focus on some kind of 82nd Avenue solution. Do we want to make it easier for more people to travel through and increase traffic problems in the future? The better alternative was to find a better solution around it. He felt the focus should be on 82nd Avenue and/or 84th Avenue options. We want traffic to be smooth but we don't want to increase Milwaukie's traffic problems in the future.

Mr. Parkin responded from a purely engineering view Option 1 was the best, but the crux of the issue was adverse impacts to the neighborhood. He would like to see all of them studied.

Councilor Loomis said that there would be negative impacts from all options, and he would like to see them all studied.

Mr. Parkin said he would be back in the next couple of the months with the County after the PRC acted on some of the issues.

Councilor Stone said the 3rd option came about because people were not happy with the first 2 options. When there was that much public outcry about not liking what they saw Option 3 should be considered for its viability and less negative impact. We need to ask if degradation of the neighborhood and environment was really a good thing. If solved on 82nd Avenue we still needed to solve the congestion problems at that intersection during peak hours. She really paid attention when people said they did not like something.

Councilor Barnes noted the County contracted with OTAK for this work.

Wastewater Master Plan

Mr. Parkin said staff re-advertise and got 4 proposals, which would be before the Council in February.

County Library Information Campaign Proposal

Mr. Swanson said Clackamas County asked each city had been to come up with \$10,000 to fund an information campaign. The BCC made the decision to put a countywide library district proposal on November 2008 ballot. The purpose of the district would be to return money to the cities. Right now the County gave the cities money to operate their libraries because of a levy that passed in the early 1990's. With the impending loss of the ONC funds of approximately \$12 million the BCC made the decision to reduce the payments to cities for library funding to zero over time. That was \$480,000 annually that Milwaukie now used to fund library services. In order to create another option they wanted to form a countywide district with the BCC being the governing body. The purpose was to fund a library system and return funds back to cities that provide library services. They would also look at redefining service areas. The County suggested it would close its libraries in the unincorporated areas but would fund a Damascus/Happy Valley library until it got on its feet. His recommendation at this time was to not provide the \$10,000 as suggested. His memo did not say that he didn't support a countywide library district and it did not say that a library district would be a bad idea. It did suggest he did not have high hopes for a district proposal passing at \$.39 per \$1,000. To him that translated to giving it a try, but Milwaukie could be out \$480,000 annually. His preference was for the County to be responsible for funding the information campaign and making it pass. It was the County's decision to redirect priorities and not fund libraries. If it went down to defeat the cities would lose, and the County would solve its problems. That was the reason for his recommendation. The city managers would meet next week to discuss the matter. In its work session the BCC said it would send out intergovernmental agreements (IGA) for cities to consider. He suggested holding the decision in abeyance to find out what the BCC was proposing. Mr. Mantay made it clear to him that Clackamas County would not come up with library funding. He was hoping to get a sense of what other communities were doing and would like to review the proposed agreements. That did not indicate, however, that he was backing down. He would report back at the next Council meeting.

Councilor Stone said that if the ballot went down in defeat the funding would go away whether or not the proposal passes, was that right?

Mr. Swanson said if the proposal passed the City's funding would be in the neighborhood of \$1.2 million. His concern was that the average citizen would look at \$480,000 under the general fund contribution versus the \$1.2 million from the district picked up by the taxpayers. The last levy that closed the County libraries would make up some of that difference. He did not want to pin all hopes on the district. The real concern for the County was losing \$12 million, some of which was dedicated to roads. The last library ballot measure that failed was a couple of years ago because of a double majority issue. Since the last successful levy in the early 1990's the County had continued to share the money with the cities but did not have to do so. That was the part of the general fund in which they had some discretion. Over a year ago the BCC made the commitment that unless impacted by the loss of timber money the County would continue to be supportive and do all it could for libraries. Milwaukie would have a \$480,000 problem if the district proposal failed. The BCC made it clear that over time they would eliminate those payments. Prior to this event Clackamas County

was very good about supporting city libraries. The levy that passed in the 1990's was \$.35 per thousand. Milwaukie would get more revenue because it would be picking up a portion of the service for the unincorporated libraries. He was uncomfortable pinning all hopes on a district. He would love to replace \$480,000 with \$1.2 million, but he was not sure people would agree.

Councilor Stone asked if the County had explained any other funding options.

Mr. Swanson said the County discussed using a portion of its general fund to consider some kind of a contribution but decided against it. It was losing a significant portion of money from its general fund.

Mayor Bernard asked about the last levy's failing. When was that and how much did it fail by?

Mr. Swanson said it passed but did not have 50% voter turnout. The last successful levy was in the early 1990's. Measures 49 and 50 made the levy a part of the county general fund. A year ago the BCC made a commitment that as long as they did not lose the timber monies it would continue with the library funding. The County had been very supportive and had done everything it could for the libraries. Milwaukie would be out \$480,000 if the district did not pass, and he did not know how it could be made up. He didn't question what the County was doing.

Councilor Chaimov asked what the citizens of Milwaukie would need to do to make up the shortfall and maintain its library.

Mr. Swanson would provide that information at the next meeting. The issue would be if the district failed and if the City could pass a levy that restored the \$480,000. He discussed how the residents of the unincorporated area depended on the Ledding Library. There was support for the Ledding Library, but there were some other issues that the City would be facing. The Mix program could be a thing of the past.

Mayor Bernard suggested \$.15 per \$1,000 countywide.

Mr. Swanson replied \$.39 per \$1,000 was based on the state librarian standards for basic services such as hours open to the public, staff, and size of collection. At one time the desire was to go to the highest level of service, which was \$.75 per \$1,000. The ONC funds would be reduced over a 5-year period. The County would also look at library reductions over a 5-year period of time.

Wastewater Issues

Mr. Swanson provided an update on wastewater issues and the BCC meeting. A new citizens group had been planned for some time to look at more long-term issues. They were looking at doing two groups; one would be an elected representative from each jurisdiction that also included Lake Oswego. There would be a couple of citizens and a member of the current Citizens Advisory Council (CAC) from Oak Lodge. At the next work session he will probably bring a request for an elected official nominee for the committee. They were going to look at longer-term options and Greg Degrazio would chair that group, and city managers would serve on a Technical Advisory Committee (TAC). He would be asking Council at the next meeting to come up with someone to serve as the County wanted to get started as soon as possible. They also received information today from the CAC and one of the issues was a new plant. The Site Selection Committee worked hard to come up with a number of different sites. What they found was that the new rate impact would be between a \$125-\$150

per month. That was not a recommendation that they would be bringing forward. They were on track and they just moved another step forward at their work session this morning.

Mayor Bernard noted Councilor Barnes had expressed an interest in being on that committee.

Mr. Swanson would put that matter on the next work session agenda.

Mayor Bernard adjourned the work session at 6:47 p.m.

Pat DuVal, City Recorder

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
January 2, 2008**

CALL TO ORDER

Mayor Bernard called the 2021st meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers.

Present: Mayor James Bernard and Councilors Deborah Barnes, Greg Chaimov, Joe Loomis, and Susan Stone

Staff present: City Manager Mike Swanson, City Attorney Bill Monahan, Associate Planner Bob Fraley, Civil Engineer Zach Weigel, Community Development/Public Works Director Kenny Asher

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

CONSENT AGENDA

- A. City Council Minutes
 - 1. City Council Work Session November 6, 2007
 - 2. City Council Regular Session November 6, 2007
 - 3. City Council Work Session November 20, 2007
- B. Resolution 1-2008: A Resolution of the City Council of the City of Milwaukie, Oregon Designating the First and Third Tuesdays of Each Month as the Regular City Council Meeting Date, Establishing the Times of the Said Meetings, and Repealing Resolution 55-2006
- C. Resolution 2-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Designating the Clackamas Review, The Oregonian, and The Daily Journal of Commerce as the Papers of Record for the City of Milwaukie
- D. Resolution 3-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving a Clackamas County Order to Initiate the Formation of the Clackamas County Extension Service and 4-H District
- E. Resolution 4-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Dave Green to the Riverfront Board
- F. Resolution 5-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Michael Martin to the Riverfront Board
- G. Resolution 6-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Shane St. Clair to the Riverfront Board
- H. Resolution 7-2008: A Resolution of the City Council of the City of Milwaukie, Oregon, Reappointing Mitch Wall to the Riverfront Board
- I. OLCC Application for Craft Brewers Alliance, Inc., 1750 SE Ochoco Street, Warehouse, change of Ownership

It was moved by Councilor Barnes and seconded by Councilor Stone to adopt the consent agenda. Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

- Cyndia Ashkar, Oregon City

Teacher at Portland Waldorf School and member of the Safety and Security Task Force provided an update. One mother at Waldorf who wanted light rail suggested an encasement something like a tunnel. She asked what mitigation might be possible to minimize impacts and was told those investments would not be considered here. She went on the field trip to the Interstate Line. The TriMet safety and security manager stressed that eyes on the station was key to security. She then understood why you would not want to put in tunnel. After the third meeting she starting realizing the conflicting needs for mitigation that existed on the Tillamook Branch line. The last time she spoke to Council, Councilor Barnes said she was sure that the excellence of teachers and curriculum could overcome any adverse effects. She needed to provide City Council with the neurological development piece. She hoped the City Council would consider another alignment and leave the possibility out for a better solution. The National Park Service talked about how a process winnowed out what alternatives to consider. Agencies often mistook the winnowing process as one that allowed them to choose only their favorite alternatives for analysis rather than completing the NEPA full spectrum of environmental analysis. That was saying that you needed a full spectrum of reasonable choices ready to undergo the objective environmental analysis that NEPA dictates. There were studies shown where someone who had done a comparative analysis of the Tillamook Branch found a lot of negatives. They were never really allowed to see in black and white what it might be like for another alignment.

PUBLIC HEARING

A. Appeal of Planning Commission Decision to Uphold the Planning Director's Interpretation of Milwaukie Municipal Code (MMC) 19.312.5(B)(2), Public Area Requirements, continued from December 18, 2007

Mayor Bernard reopened the public hearing on the appeal of the Planning Commission's denial of AP-07-01 for the property located at 10883 SE Main Street to order at 7:08 p.m. The hearing was resumed to hear staff's response to questions raised on December 18, 2007 about the prior use of the property.

Mr. Monahan asked if there were any site visits, ex-parte contacts, or actual or potential conflicts of interest since the December 18 hearing. There were no site visits, conflicts of interest or ex parte contacts.

Mr. Morasch renewed their objection previously done in writing.

Mr. Monahan explained the objection suggested Mayor Bernard and Councilor Barnes had prejudged or made a determination as to what their decisions would be.

Mr. Morasch said the objection was about the Mayor. With regards to Councilor Barnes their concerns pertained to making sure the City put the Constitution before the City Code and understood that regardless of what the City Code said the City still needed to do the proportionality analysis.

Mr. Monahan asked the Mayor if he had prejudged the application, and if the Mayor determined that he felt that he had not prejudged the application and was qualified to sit tonight, then it would be up to the remaining members of the City Council to determine whether the Mayor should sit and make a determination on the matter.

Mayor Bernard read a statement into the record. It was difficult if not impossible to ignore personal knowledge. He also understood his role was to maintain an open mind and consider testimony from all perspectives. He had spent almost every day of his life in Milwaukie and on Main Street. He said this was a great project and supported it and he could make a fair and unbiased decision.

Mr. Monahan said the final determination was up to the remaining members of the City Council.

Councilor Stone would like Mr. Morasch to clarify again the reasons he believed the Mayor should not be participating and the constitutionality issue.

Mr. Monahan said the discussion to the challenge of the Mayor needed to be restricted because the constitutionality question was related to another question that would be dealt with during the hearing. That had nothing to do with the challenge to the Mayor.

Councilor Stone asked what specific comments the Mayor made at the last meeting.

Mr. Morasch said it seemed to him that the Mayor had formed an opinion about the prior use based on his experience over an extended time period rather than evidence. The Mayor was quoted in minutes as saying that, "it was not retail, absolutely not", based on his own experience. So it seemed to him that he had already made up his mind about whether or not the prior use was retail, and it did not really matter what evidence was presented at the prior hearing or this hearing. There would not be any changing of his mind on that issue. Maybe he was saying something different tonight. That was something that did not come to his knowledge at the beginning of the first hearing, but only after the record had been closed for the day that those comments came to light.

Councilor Chaimov asked what would be the form of motion that they would need to make in order to continue the Mayor's participation on this issue.

Mr. Monahan replied that the form of the motion would be that Mayor Bernard be found to be qualified to participate in the hearing based upon his statement of having not predetermined his vote.

It was moved by Councilor Chaimov and seconded by Councilor Barnes that Mayor Bernard was qualified to participate in the hearing based upon his statement of having not predetermined his vote. Motion passed 4:0:1 with the following vote: Councilors Barnes, Chaimov, Loomis, and Stone voting aye; Mayor Bernard abstained.

Mr. Monahan said this was a unique hearing. His understanding was that because this was a continuation on one item, the discussion on the prior use of the property, and that the hearing was closed until the Council asked for that additional information. Staff would make a presentation on that issue and others raised since that time and address that publicly. Then the applicant would have the opportunity to speak to address those same issues and the public would be able to speak on the one issue of the additional information that the Council, the prior use of the property.

Ms. Mangle provided the staff report. Public Area Requirements was the code section in question. Specifically, how staff should apply the term "shall comply with public area requirements." The issue was her direction in interpreting that phrase regarding the impacts of the project and making sure the list of improvements that they required of the project were proportional to the impacts. They could acknowledge that there were existing elements that were not required to be replaced. The applicant's complaint had less to do with the interpretation and more with the application to this project. On October 5, the City gave the applicant a list of required improvements and told him that prior to approving the building permit for the project he had to agree to the list of required improvements and agreed to complete them prior to tenant occupancy. The applicant did not agree and appealed that decision. The building permit was on hold, but once they got the agreement the City stood ready to approve the permit. Staff supported the project and wanted to see it move forward.

Ms. Mangle said the key issue was whether or not staff applied the code properly to the project and if the required improvements were roughly proportional to the project's impacts. The Code clearly directed development to contribute to the public infrastructure in downtown and the Supreme Court said that it is okay for cities to make these kinds of requirements as long as we considered proportionality. Staff maintained the project would intensify the use of the site and it would have impacts on the transportation system. Because of those impacts the City was justified in requiring that the applicant contribute some public area improvements. The question was not whether or not the project should be required to make improvements but in what proportion.

Mr. Monahan referred to the December 20, 2007 letter from Mr. Morasch that raised 5 challenges that were significant based on the last hearing. The first was the Mayor's involvement. Second was related to whether or not the City was properly following the US Constitution. The challenge was that the applicant did not believe that the Code language left the City with sufficient discretion to conduct a Dolan analysis. However, his opposition was that the City had that authority and in fact followed the Dolan analysis by performing a proportionality analysis by looking at the specifics impacted of the proposed development on the City. The applicant alleged that the City-required exactions were based only on the Code language and in fact it was based upon the Dolan analysis. The allegation that the City had disregarded the US Constitution was not accurate. The next challenge was that the City had to demonstrate proportionality, and the City agreed with that. The City did perform the proportionality analysis. The fourth challenge was that the City's proportionality analysis was defective because it was based on a faulty assumption that the prior use of the property was general office. As the addendum to the staff report showed the information that was taken into consideration from the beginning was an assumption that the property was used as office which was information provided to the City by the applicant. It was not information that was asserted initially by staff. The information that the building was retail was brought forth for the very first time at the last meeting. The purpose of tonight's hearing was to analyze the new information as to whether or not the property was office use or retail and from that the Council needed to make a determination. The answer to that question was that the proportionality analysis was based on the best information available. If there was proof that the prior use was not office then one might want to consider performing a different analysis. The 5th challenge was that there were numerous defects in the City's proportionality analysis and the memo that he prepared for Council detailed the six issues raised within the 5th challenge. Those were based upon input by the City engineering staff that performed the analysis in a very detailed manner. He believed the presentation would touch on those details.

Mr. Monahan's analysis based upon the available information was that City staff had properly prepared a proportionality analysis. Going back to last September staff was brought into the process and asked whether the Code required a proportionality analysis which it determined had to be done. He was confident that the staff had properly applied the City Code to the property and had done a proportionality analysis that met the Dolan requirements as well as the McClure methodology. He did not see any problem in the way staff conducted the analysis. Each time there had been additional information provided that had been taken into consideration. Based on its analysis staff thought the procedure had been properly carried out. It was up to Council to make the determination whether that procedure was accurate based upon the determination it made on the prior use.

Ms. Mangle said at the close of the last hearing on December 18 Council asked staff to verify the previous use, and there were some questions about the proportionality analysis itself.

Mr. Fraley said at the December 18 hearing Council requested that staff provide more information specifically about whether the last previous known use was retail or office. He reiterated and respectfully submitted that staff from the beginning assumed that the previous use was office, based on what the applicant told staff, and also based on the business registration that had been on file with the City since the business opened in 1986. That registration showed the business that had been there for 20 years was Linco Microsystems. To answer Council's questions about the immediate past use staff looked at a number of sources of information not only on what the applicant had told staff and what the business registration had said, but at the definitions of retail. They took into consideration the business license on file. They looked at the 2003 Clackamas County road system maintenance utility study and the 2007 City of Milwaukie Street Surface Maintenance Program (SSMP). The City reclassified the use based on empirical evidence of what was actually happening at the site to a single tenant office building and based the ITE trip generation rates in calculating the assessed fee for that use. Mr. Fraley conducted a couple of interviews, which included Neil Hankerson, Dark Horse Comics, and Jeff Lindquist, Linco business manager. He found in his conversations with Mr. Lindquist said that Linco occupied the building for over 20 years and moved when Mr. Parecki purchased the property in April 2007. Mr. Lindquist also stated that the business over the years provided document services to government and small businesses clients including document imaging, microfilming and microfishing for their clients. Linco sold equipment, which occurred at their client's location. Mr. Lindquist stated that the business rarely had very many customers or walk through trips one would commonly see for most retail uses. Finally, Mr. Lindquist confirmed the Linco offices were located on the second floor, while the first floor and the one-story portion were used exclusively for document services for their clients. The basement was used for storage. Staff believed based on those findings and on his research regarding the immediate previous use of property that the use was more office than retail. Therefore, staff had not revised its proportionality analysis or recommendation. Staff would do additional research if Council directed.

Ms. Mangle discussed the questions of how the information was used and why the most recent use instead of previous use. She would also address some of the questions that arose in Mr. Morasch's letter.

Mr. Weigel reminded everyone that the proportionality analysis was required to establish that the public area improvements required by the City's Code was roughly proportional to the impacts of the development. Some of the information needed to conduct a proportionality analysis was the exactions and the impact and to find out what those were. The first item was the exactions. When the City received a building permit the public area improvements were triggered based on the value of the permit, and those public area improvements were the exactions. Initially, the proposed development was required to comply with full public area improvements, which he pointed out for Council. The interpretation made by Ms. Mangle accounted for existing improvements that were already in substantial conformance with the public area requirements so the list of requirements was reduced. Now that the exactions were defined staff needed to determine what the impacts of development were on the transportation system. There were many ways to create an impact on a transportation system, and three of those were listed. The first was an increase in vehicular or pedestrian traffic that occurred when adding floor space or a more intensive use. Second was to change access for vehicles or pedestrians. Third was a change in hours of operation. For example, if the hours were changed such that the traffic was using a street at peak hours an impact was created. For this development the change in the use created a more intensive use and increased vehicle traffic was the impact. The impact was determined by information regarding the existing and the proposed uses. Initially, the applicant stated the previous use was office on all floors and the planning

staff confirmed that with the business registration. At the last Council hearing the applicant said that the previous use was retail. That was when staff was directed to do more research on what the existing use of the building was. He listed the research staff had done since the last hearing to determine the existing use.

One of the questions that was asked at the last hearing was why do we compare to the existing use and not previous uses? The answer was that they were trying to determine the impacts to the transportation system and associated trips. Prior uses were no longer a part of the system. It was important to keep in mind that the transportation system was constantly changing. There would be many variables if comparisons were made with previous uses including land uses. Comparing against the existing use eliminated those variables to the greatest extent practicable and accurately predicted the impacts on the transportation system today.

The existing use was determined to be office and was compared to the proposed use. Staff applied specialty retail to the first floor and basement area as recommended by the ITE Manual. That defined specialty retail as a small strip shopping center that contained a variety of retail shops similar to a use in a downtown storefront area. At the time of the permit fee calculation the applicant stated that the first floor and the basement would be used for retail and the second floor would be used for office. Also, the construction plans submitted by the applicant stated that the first floor would be retail and the second floor office. Specialty retail is generally applied on all applications in the downtown retail zone. The retail use proposed by the applicant in the downtown storefront zone best fit with the specialty retail category. He showed a slide that compared specialty retail to other applicable use categories for trip generation. The only other category that was less than specialty retail was a health club. Some of the other use categories were much higher such as a fast food restaurant or a 24-hour convenience market. They determined that the existing use was office, and the proposed use was a mix of specialty retail and office. To determine the impact they compared existing office trip generation to the proposed trip generation from the mix of specialty retail and office. The existing use showed 109 weekday trips as a general office building for the entire building. The proposed use showed 277 weekday trips. That had an impact on the transportation system of an increase of 168 vehicle trips.

Once they had all of the information they could determine rough proportionality to meet the Dolan analysis. In this application they used the McClure methodology. It was a standardized methodology for proportionality analysis and related the increase in vehicle trips to the required public area improvements. He addressed a question raised, "Was the McClure analysis appropriate methodology for this applicant?" The McClure case was about right-of-way, but the methodology could be applied to other types of exactions. According to Dolan there must be findings showing the relationship between the development condition of public area improvements and the impact of that development. The McClure methodology established that relationship. The first step was to determine an impact area, which was the area around the development to the nearest collector or arterial roadway. Once the traffic to or from the development left the area it became part of the larger transportation system. The impact area for the proposed development was the area bounded by McLoughlin, Jackson, 21st and Jefferson. The second step was to determine an impact ratio. The ratio was the number of vehicle trips from the proposed development divided by the number of vehicle trips within that impact area. It was calculated previously that the number of vehicle trips from the development was 168. He provided a sample spreadsheet showing all of the properties with a use category and the calculated trip generation. The use categories were assigned by the street maintenance fee studies conducted by Milwaukie and Clackamas County, and the trip generation was calculated from the ITE Manual for each category. The number of trips within the impact area was 3,655, and

the impact ratio was 0.0459. The next step was to calculate the exaction ratio and compare it to the impact ratio. The exaction ratio was the area of exaction over the impact area. He showed a map of the area of exaction that was the area that fronted the proposed development property. That assumed that it was in full compliance with all street improvements, and not just the modified list. The exaction was 7,079 square feet. The impact area consisted of all of the public right-of-way located in the impact area boundary. That area was roughly 149,000 square feet. The exaction ratio was 0.0476. In this case the impact ratio was less than the exaction ratio so, in other words, the exactions were more than the impacts. The requirement of full public area improvements was not proportional to the impacts of the development. The question was how much of the public area improvements were proportional and to find out they must say the exactions are equal to the impacts. To find the area of proportional exaction, they took the new exaction ratio and multiplied that by the impact area and from that they got 6,832 square feet. If broken down by the percent of frontage area 96.5% was proportional to the impact of the development. Staff findings were that the required public area improvements were much less than 96.5% of the development frontage and that those public area improvements required were roughly proportional to the impacts of the development. In closing, he said that the proportionality analysis had a lot of technical detail which was necessary to meet Dolan requirements. Staff had been very conservative and gave the applicant the benefit wherever possible within the analysis. Staff believed that the project would increase the use of the site and that the improvements that were required were roughly proportional to the impacts.

Ms. Mangle said research had not changed staff's recommendation, and they believed the Code was applied in a way that was constitutionally defensible, fair to the applicant and true the community's adopted plan and policies. The Code clearly required that development contribute to public infrastructure, and the Supreme Court said it was okay to do it this way. The proposed project would increase use of the site. She pointed out the list of requirements on page 4 of the original staff report.

Councilor Barnes asked about the slide that showed today's picture and then the future picture of the property. Was that a City artist's rendition? She wanted Ms. Mangle to run down the list of improvements required by the applicant.

Ms. Mangle replied the picture was the applicant's artist rendition. She referred to page 4 of the original staff report. On the Main Street frontage there a street tree, street light, bench or trashcan would be required. On the Monroe Street frontage the same would be required as Main Street with the exception that 2 trees would be required. In the intersection 1 bulb out, 2 flowering ornamental trees, landscaping with irrigation, 4 bollards and 2 ADA warning pads would be required. There was a small curb extension existing on the site, but it didn't fall into the category of being sufficient. It was almost flat with the pavement and actually posed a pedestrian hazard.

Councilor Barnes she said she wanted to see in a picture form what it looked like if the City added everything that it was requesting. The only thing that seemed to be missing in the rendering was the streetlights and one or two trees.

Councilor Stone said was curious to see what the reduced list of improvements would cost the applicant. We were trying to be fair and have everything proportional. How did it compare to the cost of the overall project?

Ms. Mangle said the first question was answered in the information presented at the last hearing. The cost of the full frontage improvements was \$128,000. The current reduced list of required improvements was \$60,000. When the engineering department prepared the estimate it was quite possible it would be less. Their estimate was based on public contracting prices. She answered the second question when she talked about proportionality which had to do with impacts and not the project cost. The total project

cost was \$250,000. That did not include any future tenant improvements, which would be additional.

Mayor Bernard asked if the developer could do the improvements.

Ms. Mangle replied the developer could do the improvements. It was very common for the developer to do so, and there was no reason why the City had to do it.

Councilor Stone said in the staff report there were definitions from industry classification system that described retail trade two ways, store and non-store. Could Linco come under the non-store retail definition? Mr. Lindquist said equipment was sold in the client's place of business. In the non-store retail definition in-home demonstration fell under that category. She was wondering if that could be applied in this case.

Ms. Mangle said with all of the other information they found including the interviews, that didn't seem to meet the intent of that definition.

Councilor Stone said it was a listed as an office business. Was that in place at the time? She was trying to figure out if using that definition would give a different slant to the case.

Ms. Mangle responded every office was selling something. The general purpose of the business was to perform a service and retail. They sometimes sold equipment to clients. The service was the bulk of what was happening. They concluded that was not the function of the business when on that site.

Correspondence

None.

Applicant Response

Mr. Parecki responded to Mr. Weigel's comments. The presentation reaffirmed his point and previous comments on previous public area requirements that were imposed on other people. If there was no change in use then there was no impact and there were no public area requirements available to be imposed on. So the bank, church and theater were key candidates using what Mr. Weigel presented. There was no change, so the public area requirements could not be imposed. Points he had been trying to make and the problem with this situation was in April 2007 during pre-application meeting he was told by planning staff that he would have to make public area improvements. That was before they did an analysis and that was the standard operation for the City. They did that regardless of whether the analysis was made. The analysis didn't happen until October when he finally asked how much the improvements would cost and what he would have to do. That was where the constitution came into play. They were not following the constitution because they were not using it correctly. The Dolan case said you would have to do an analysis prior to imposing impacts and the public area requirements were the impact. The question that Ms. Mangle posed was of how much of an improvement would be required. His question was what if any would be required if their analysis was made. You had to step back and do the analysis first, determine impact and then tell the developer what it would cost based on the analysis that determined the improvements.

He never stated that the basement would be used for retail. He pointed out last week that it was virtually impossible to do specialty retail in a basement that had 6'-6" ceilings. They insisted on using that in part of the analysis. He also wanted to point out in the packet that was presented to the City Council - attachment 4 was a document that was prepared by Clackamas County, which was the last page of the staff presentation. If you looked in the notes the County stated that the business seemed to fit best to retail, office, manufacturing, warehouse and service under one roof and emphasized on the

retail. That was from the County and prepared in 2002. The title of that was the Clackamas County Road Maintenance Utility Formation Study Business Classification.

The question that was posed at the last hearing was not what was heard tonight. He believed the Councilors asked what would happen if the building was classified as retail and what would the impacts show. He converted the sheet that Mr. Weigel presented for the proportionality analysis. It showed the existing use as presented was first 2500 square feet of basement, 4886 square feet on the first floor and the second floor was 2500 square feet all using general office and a 11.01 trips per thousand square feet. The proposed use was going to be 44.32 trips per thousand square feet. With staff analysis the question was, was it proportional and were there impacts? The answer was yes, but if they were to change it to a retail use, which would be 44.32 trips the answer would be no. He left everything else alone and only changed from retail to retail and there would be no public area improvements required. Had they done the analysis in April we would not be here tonight. He had offered \$23,000 toward public area improvements and that offer was off the table. He had spent more than that defending his position and would continue to defend. If there were no changes in use there were no impacts or public area improvements. The only projects that had been required per constitutional law had been North Main Village and Advantis Credit Union; nothing else in City would have been required. You could not impose a code that was unconstitutional and then defend it and in the last 7 years impose public area improvements on every single project whether or not they were required.

Mr. Morasch followed up on letter he submitted and respectfully disagreed with staff's analysis of the McClure case. One point was when staff showed the exaction area and picture of 4 blocks looking at the impact area. Part of the impact area was Main, Monroe and the right-of-way, but they also included half-street right-of-way around the perimeter of those blocks. McClure did not include the perimeter streets. It only included the internal streets up to the arterial. McClure did not include the half of the arterial in its analysis as staff did. That inflated the denominator, which skewed the fractions. If you looked at the right numbers you would get a completely different analysis. As he pointed out in his letter there were a number of different problems with the City's analysis. It was one thing to say we cannot nitpick too much with the analysis, but the Dolan case did require some rough proportionality. Since the case Dolan had said it did not have to be exact or precise or with mathematical precision, but they still had to be in the ballpark. He was not sure staff's analysis was in that ballpark for the reasons stated in his letter. The perimeter street was one of those reasons. Another reason was that the analysis looked at what they called ultimate build out. They based that on the McClure case, but the McClure case did not look at the non-conforming use issue. Within that impact area there was a gas station, and everyone knew that a gas station caused a lot of trips. Staff's analysis did not include those gas station trips because they said ultimately that would be retail-office mix. He did not think McClure allowed that kind of trip replacement. Also, the McClure case looked at right-of-way dedication so it may be appropriate to look at that area in relation to the total impact area. Staff was talking about improvements within the right-of-way not a dedication of a right-of-way. City staff admitted at the Planning Commission that these were gold-plated improvements and did not have any relationship to the applicant's cost. His final point was if one looked at pedestrian area improvements he thought it was appropriate to look at impacts that the development had on the pedestrian system. They had only heard about impacts on traffic trips. Even if the prior use had been office there were some serious problems with the analysis. If not resolved then they could end up with appeals and court challenges. The evidence showed that there were some good arguments that the previous use was some kind of retail. If that was the case then the whole analysis fell apart. There was a witness ready to talk about the prior use.

Mr. Parecki had a comment regarding the estimate of \$60,000. The Bank three years ago did the bulb out and their cost was \$45,000 with no other features. That was years ago. It was hard to believe he could get that short list done for \$60,000.

Councilor Barnes understood Mr. Parecki was a successful businessman and had done a world of good for downtown. She asked when he decided to buy the property how he envisioned the outside to look and how to entice people?

Mr. Parecki replied the outside of the building was going to entice the people. He would want to add a tree and other things, and he never said he would not do them. That was what the offer of \$23,000 was for. The rendering that was shown was done shortly after he purchased the building before he knew what kind of public area improvements could have been imposed. That was his vision for the building. If he could make the building look like that picture he would have a quality tenant in no time at all regardless of what happened on the outside. Anything that he did on the outside was not really going to affect the traffic patterns or the traffic. The parking would be the parking that was all there was. The trees would not change traffic or pedestrian trips. The lights might help with vision in the evening, but there was nothing happening in the evenings. There was little he would have to do for the public. The improvement was the facelift of the building to bring it back to its original beauty.

Councilor Stone wanted to clarify how the County had this business listed.

Mr. Parecki said this was the first time he had seen the document. When he purchased the building the business was packing up. He may have looked at it and thought it looked like an office and could have said that based on what he saw, but if he had realized that there was a proportionality analysis that was going to be conducted he would have done some more research himself.

Councilor Stone had questions about new information. That was something she had not seen before. What was the definition of retailing? Was it correctly listed as a business? That was the crux. Was there a change of use? It put some doubt in her mind about the prior use. She had no idea there were different classifications of retail.

Testimony in Support

- **Grant Lindquist**

Mr. Lindquist spoke about the history of the building that Mr. Parecki bought. He had purchased the building in October 1985. At the time he purchased the building the City license that he got was for retail and had been since he had been there. There were no restrictions on that building. The only type of business had been retail. It had been there way back before WWII. So nothing had changed. On the main floor of the building he had a petition to build and divide up the building inside, and the building inspectors approved it. Just inside the main entrance of the building there was a customer waiting room to keep customers from going back into production and equipment areas. They had to come in and wait for the person they wanted to see. The receptionist would discuss equipment or supplies that would be taken care of at that time. If they came in for information they were given the information that they wanted to see. A lot of people did not know what microfilm or microfiche was. It was strictly retail. They bought from a manufacturer and supplier, and they used that equipment. The customer waited in that room, but both doors were locked for a reason. That kept them out of the confidential files they were dealing with in those rooms. If someone wanted service they had to ring the buzzer. It was no different from a doctor's office or a lawyer's office. There was nothing new invented at that point. There was equipment outside of the waiting room to show that they were retail and not a manufacturer. They bought that equipment from manufacturers. The basement was

used for storage of confidential records and document prep before microfilming. The first floor was used for retail sales. If someone wanted supplies such as film or paper they would sell it to them right on the premises. It was no different from what the Blade did. If you wanted a suit they sold it to you. On the first floor there was equipment for purchase or demonstration. The second floor was office space and a conference room for customer training sessions. The total operation was that it was retail. They did nothing in manufacturing. It was strictly a retail operation.

Mayor Bernard asked him to describe a customer that came to his business. Compared to the Blade when a customer went in to buy a suit, would a person from the general public go in and buy a piece of equipment?

Mr. Lindquist replied he could buy it and either walk out with it or have it delivered. He said the general public had come in and bought equipment.

Councilor Chaimov asked in a given day how many paying customers would come in to do business.

Mr. Lindquist replied that he did not know. He did not keep track. He was president of the company and kept track of the dollars billed out. He was interested in what generated the invoice. He was only into the numbers.

Councilor Stone asked if his customers were served not only in this building, but also in their homes or places of business? How did you advertise your business?

Mr. Lindquist went to different shows, had brochures and advertised in the yellow pages.

- **Jeff Lindquist, Oregon City**

Mr. Lindquist asked if the City of Milwaukie normally did an exit interview of businesses that left the City? According to this gentleman that was standard practice. He was set up on that. He was not given permission to talk here tonight about his findings, and he was not told that he was coming here talking about that. He asked if that was the regular way that the City of Milwaukie did business. He was told the City was doing interviews with businesses that left Milwaukie and said he wanted to find out why my business left. He felt it was a set up. He was not told it was about this meeting and Mr. Parecki or about anything that was going on. If that was the way the City did business that was not a very good way. He did not do business that way. He was very upfront with his customers. As far as the retail end of it $\frac{3}{4}$ of the business was in selling equipment. How many people had really gone through the building? People might have rung the bell but did not wait and actually come in. They had a room full of equipment. They did scanning for customers and sold scanners to the general public. They went out and installed those scanners in people's homes and taught them how to use it. They didn't just do microfilm. It seemed like everything here was about microfilm. The name of their company was Linco Microimage Systems. They sold equipment to people who wanted scanners in their homes. A lot of the time they had to order equipment from their primary distributor. Basically they had to order the equipment in and either took it to their house or business or they picked them up. They demonstrated equipment so the customer could see what they were going to be purchasing. Most of the people that bought from them did show up at their office to see the wide array of equipment they had to offer. He felt like he was not given a fair opportunity to talk when the gentleman called him.

Councilor Barnes asked how he found out about this hearing?

Mr. Lindquist said he saw the sign on the building and heard his dad was going to be here.

- **Jerry Foy, Clackamas County**

Mr. Foy was born and raised in Milwaukie and had a good history of what occurred on Main Street. That building had been retail as long as he could remember, which went back to 1949. It only changed use when the company in there now bought it. He had been in commercial development, specifically retail, for over 40 years so he knew the nuances of retail use. He believed they could qualify for specialty retail. Along with that he could not see how the City could construe that that basement was retail. If he understood the dimensions right and if it is a 6'-6" ceiling it was nothing but storage. He could assure that Mr. Parecki would have a hard time leasing basement for retail. He wanted to reinforce that that area had been retail. He added there had been no street improvements on that side of Main Street since it was always retail. When it was strictly retail even prior to the bank being there it handled the traffic conveniently. He did believe with limitations of parking along Main Street that existing development or improvements probably would work well as far as utilization went.

Testimony in Opposition

None.

Neutral Testimony

None.

Staff Recommendation

Ms. Mangle addressed Councilor Stone's question about the retail classifications. One of the important points she failed to make was that non-store retailers were still organized to serve the general public and in their understanding it was not what that business was doing. They certainly did not contend it was not a commercial property. Council needed to keep in mind these types of uses were mechanisms for assessing the traffic impacts, which was the point. It was not only how the specific property was used but consistently throughout the County and City. Data estimated to be generated from this site by the County's 2003 study showed that the level of traffic was comparable to that of an office or about 11 – 12 trips per thousand square feet. The use was one mechanism that they used to come to the estimation of trips that they were really interested in and that had been consistent over time. 11 was the number that they were using with that historic assessment.

Mr. Weigel said on the last page of staff report it said that it changed building code to 700 industrial to go with the 770 business park ITE code, which seemed to best fit the retail, office, manufacturing, warehouse under one use. In the ITE Manual the trip generation for a business park was 12.7 per 1000 square feet of gross floor area similar to an office use and not a retail use.

Ms. Mangle wanted to remind Council of one of the points of information was the interview with Neil Hankerson of Dark Horse Comics. He told them that he did not remember ever seeing anyone entering the site. He saw a lot of loading/unloading so there was certainly activity. That testimony was not that they did not sell things, but it was not an active storefront and did not generating a lot of traffic. One of the points she also wanted to clarify was that contrary to what Mr. Parecki stated in the beginning of his testimony that one of the things that Mr. Weigel showed in his presentation was that a change of use was not the only way for a project to have impacts. There were many ways for projects to have impacts on the transportation system including vehicle and pedestrian uses. Those included changing locations, the building functions, and adding capacity to a building internally. They believed there would be a change in use. The other thing to keep in mind was that there were many different future uses that we could

be considered, and they had taken care to be very conservative with their estimates of future uses so when Mr. Parecki was going through his spread sheet and said if we changed the one cell to retail it all went away. One could also say it was going to be a high-capacity, sit-down restaurant and change another cell and say that even if you agreed the ground floor was retail now that it actually could generate more than the 45 trips per day that they were estimating. Staff had been pretty conservative in estimating the future trips, and it was important to keep that in mind. With regards to the timing of the analysis brought up by Mr. Parecki. She clarified that during the pre-application conference referenced on page 110 of the December 18 report staff did not tell Mr. Parecki they knew exactly what the requirements would be for the project. In fact, what they did was recite the Code section that applied and said because they did not have an application and did not have his building plans. It listed all of the different thresholds. For example, staff did not know the value of the building permit. They had no idea if he would be in the 10% or full compliance category and they closed by saying, "Since you told staff that you would most likely develop the project in phases, staff would review each development permit as submitted and assess the required public area requirements one permit at a time. We recognize however that incremental improvements may not be the most effective way to implement public area requirements and are open to discussing other approaches to evaluating implementing these requirements." They encouraged him to contact the City in advance of or at the time of the first building permit submittal. Then they told him how they planned to proceed if that did not happen. That did not occur, so staff was put in the position of reacting to the application. Once they had that application they did do a proportionality analysis (page 79) that listed the timelines. Once they figured out that they had the application in hand and figured out that full compliance for the public area requirements would have been required by Code on September 21 she asked the engineering staff to prepare the quantitative proportionality analysis. Prior to the first letter she sent to Mr. Parecki outlining the requirements on September 27 they did take a moment to do an internal proportionality analysis before sending Mr. Parecki the list of requirements. In that same letter she also invited him to do his own proportionality analysis. Staff was not ignoring its responsibility, but it was instead saying that the applicant always had the opportunity to provide his own, which Mr. Parecki did not do. She also wanted to clarify the question about the basement use. They consider the basement use to be supporting space for the first floor use. For instance, if there was a retail space on the first floor that meant when you have basement space available for storage you are able to more fully use the ground floor for retail because you did not have to store products, have your office or have supporting functions on the first floor. Primarily they did that because the ITE Manual directed them to do that. The Manual considered the basement space to be part of the first floor space. The reasoning was because it made the first floor space more readily available for active use. In response to Mr. Lindquist's frustration about the call from Mr. Fraley she respectfully disagreed that it was a setup. They wanted to take great care not to ask leading questions or share what the City's stand on this was so that staff would not be influencing the answers. They tried to take the most neutral approach as possible which was what Mr. Fraley did. In fact, when Alex Campbell learns that a company plans to leave the City he calls to find out the reasons for leaving. It was not necessarily routine thing, but it was not unheard of. The intent was to ask open and not leading questions.

Mr. Weigel addressed the questions raised about using the perimeter streets. The uses that fronted that perimeter were used and if you took away both the area of that frontage and the uses that were fronting it both the numerator and denominator would decrease with roughly the same result. Also, with regards to substituting the gas station with full build out condition, as stated in the letter by the City attorney, the gas station was a non-conforming use downtown. When staff did a proportionality analysis it

needed to compare against uses that were expected in that zone. If there was a subdivision in the middle of a rural area and you were to compare against the rural area surrounding that it would skew the results. The McClure analysis recommended looking at full build out conditions in those situations to have a fair analysis of what the impacts would be. Mr. Parecki brought up the Key Bank requirements, which were completed last year. That project replaced a significant portion of sidewalk done in a grid pattern consistent with the downtown plan, which was a significant cost that was not included in the cost estimate for Mr. Parecki's improvements. Key Bank also installed landscaping with that project.

Ms. Mangle acknowledged that a lot of what they were talking about was estimates. They were using the best information they had and the best professional process and methodology to estimate how the project would increase the intensity in the downtown. At gut level they felt this project would result in a more intense use of the site. They had done a lot of work, as is their responsibility, to quantify that to the best ability. They recognized that was an estimate and that was their best estimate. The applicant was also making an estimate. At this point it was an estimate and nobody had perfect information, but they felt that they implemented the Code as constitutionally required. They put their best estimate forward and they studied by it using many factors including prior uses, anticipated future uses, balancing between impacts and exactions, and standards such as the ITE Manual. Finally, the staff recommendation was that Council deny the appellants appeal and adopt the recommended findings and conditions in support of denial. That would result in supporting the director's interpretation of the code, which apply not only to this application but also to future applications in the downtown area, and require the project to construct the improvements listed on page 4 of the December 18 staff report.

Councilor Stone understood the hard look at our Code and the interpretation of it was triggered for the first time by this project because it was a change of use.

Ms. Mangle replied that this was the first application that triggered this specific section of the Code during her tenure, and the history of the Code section. She sought guidance from the City Attorney to check to make sure it was done correctly. It was not directly related to this application and would apply to all.

Councilor Stone asked what prompted the more detailed look at the Code and was it because of the office to retail use?

Ms. Mangle replied it was not. The impact analysis was where the change of use came in.

Councilor Stone asked if there was discretion in using the 1,000 square feet of the basement and being classified in terms of retail.

Mr. Weigel said there was no storage space use category. Storage was a part of another type of use such as retail or manufacturing.

Councilor Stone asked if the ITE Manual mandated it as storage or was there some discretion.

Mr. Weigel replied the Manual directed it be considered retail storage.

Councilor Loomis thought it sounded as if one story building had been eliminated.

Ms. Mangle responded the single story building was included but not figured in because it would still be office use. They compared apples to apples. If you took out the basement in both before and after it didn't matter or change the conclusion of the analysis. It was that type of consistency that was most important, and they did not feel there was not a good reason to go against the ITE Manual. It was not the law, but it

was the best professional practice. It provided a consistency so that Mr. Weigel would apply the same kind of methodology to every application he was reviewing. Relying on those kinds of authorities was very important to his work.

Mayor Bernard observed it was reliance on those authorities that allowed one to support a decision made at any level.

Mr. Monahan said the staff had adopted the use of the ITE Manual, which was a recognized professional document that was constantly updated to take into account the changing uses. They were constantly doing case studies on different types of traffic generation, so when you adopted that as your standard your obligation was to keep it as pristine and follow each and every one of the procedures and definitions. It was recognizing the law and a uniform way of interpreting traffic impacts.

Councilor Stone asked if the public area improvements were triggered by the change of use?

Ms. Mangle replied it was triggered by the building permit value in relation to the value of the property. That ratio is what determined which of the three categories the project would have to build. If it was a new building they had to do everything. If the value of the permit was more than 50% of the County's assessed value of the land and building, the Code said, "Shall comply with public area requirements." If less than 50% then the Code said, "shall contribute 10% of the value of the building permit." In her tenure and in most of the City's experience so far in downtown all of the projects had either been in the new building category or lower than 10% category. The reason why this was a director's interpretation was they came to a point triggered by the application and realized the Code as written was not sufficient. She directed staff not to follow the Code, which was not what they usually did. They did that very carefully in October 2007. If Council upheld this interpretation of the Code it would be how they processed it from now on in all three categories.

Councilor Stone understood 10% of the value of this project would be \$25,000.

Ms. Mangle said it was based on the permit value and could be a little bit less. Also, then it would only partially comply, and any future tenant improvements regardless of cost if the initial project was only assessed and was required to contribute 10%. The frontage would not comply and future tenants improvements would be required to do so. The improvements that the City had required of the project right now would bring it into full compliance and cover future tenants as well.

Councilor Stone discussed change of use. She thought she heard the applicant say there were other businesses in the downtown that the City could not impose public area improvements on because they were not changing use. That is what was making her think that the change in use from a business office to retail was prompting some of the public area improvements. Was that true?

Ms. Mangle replied the trigger for this Code section was the building permit value. Mr. Parecki was correct in saying that the City should be considering the impacts and proportionality on all of those. He was not correct in saying that the only way to have an impact was through change of use. You could be expanding the hours of operation, internal configuration and other ways of increasing the intensity of the site. Change of use was one way, but it was not the only way.

Applicant Rebuttal

Mr. Morasch said regarding the nonconforming use of the gas station transportation staff said under the McClure analysis you had to look at uses that would be expected under full build out. That was arguably correct; however, if you look at the use expected and not the use right now there was a gas station, which will likely be there 10 or 20

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years so even though the gas station was non-conforming there was no evidence that it was going anywhere he thought the City had to look at the gas station. Staff wanted to rely on strict application of the ITE Manual when it supported the analysis that they came up with, such as the basement issue. When it did not support that analysis, then they were backing off and saying there were other impacts and other ways of calculating impacts besides strictly looking at the ITE Manual. He was talking about retail / non-retail use as the prior use because they had heard a lot of evidence that the prior use was, in fact, retail. If one looked at the ITE Manual and applied specialty retail, then it would show no change in the impacts. When it came to the basement they were committed that they had to strictly apply the ITE Manual. What the ITE Manual said was when looking at uses and floor areas use the gross floor area, which by definition included the basement area. His question was why did the basement not support the office on the 2nd floor for storage just as much as it did the retail. Why were they counting it all as retail and not counting at least half of the basement as office? It was because the 2nd floor was office not retail. Under its analysis staff should be looking at it that way and not solely converting it to retail.

Mr. Parecki asked do we want to see this project finished to its fruition or do we want to start from scratch? That was his bottom line at this point. He was so tired of this process and trying to convince somebody that he had not lied once. He stuck to his story because it was the truth. He wanted to see the project finished and flourishing with the accolades of a successful project. If they had looked at the proportionality analysis prior to impacts, things might have been different. He might not have bought the building. He could have made a different offer. When he saw the building in the inspection it looked to him like an office. He did not know the history. The proportionality analysis should happen prior to the impacts. He was at a standstill. The City was saying he couldn't have the building permit until he paid up. It was the attitude that you do not get a permit until he did what they said. That offended him and he did not think that was how the City should run its business.

Mr. Morasch said as a follow up the initial staff determination said that the public area improvements were supposed to be a condition of occupancy not of issuing the building permit. He did not see any reason why staff had delayed the issuance of the building permit for construction. He could see why they may hold up final occupancy, but why did they hold up the initial construction of the interior improvements to the building on the front end. They did not feel that there was any basis for staff to continue withholding the building permit.

Councilor Loomis asked about holding up the permit. He thought he had read that Mr. Parecki could continue construction and pay these requirements at the end of the construction prior occupancy.

Ms. Mangle responded what the City required was agreement – a letter – agreeing to the improvements and agreeing to complete them prior to final occupancy. They were not requiring that they be built now or on any particular time schedule. They thought that gave Mr. Parecki flexibility and certainty. It was possible for staff to delay this decision until the occupancy stage, but they felt strongly it would make the situation worse. It was only an acknowledgement agreeing that the improvements would be done, and Mr. Parecki could decide to pass that onto future tenants. Having the agreement delayed seemed like bad business.

Councilor Stone understood the value of the project was \$250,000. Mr. Parecki's requirement for public area improvements was 10% of the value?

Ms. Mangle replied no. The Code section said the applicant had to comply with public area requirements because the building permit value was greater than 50% of the value of the land and the property. If it were less than 50% of the value then it would be 10%.

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It was moved by Councilor Chaimov and seconded by Councilor Barnes to close the Public Hearing. Motion passed unanimously. [5:0]

Mayor Bernard called for a 5-minute recess.

Council Discussion

Councilor Chaimov said that Council should be thankful to have such excellent presentations by both the appellant and City staff. If the question before them was, “do we want Mr. Parecki to finish his project quickly” he thought the answer would be a resounding yes. As he thought through how to come to a decision on this matter he reminded himself that he was serving as a judge and not a policy maker which made a great deal of difference in how he approached the issue. If the question was, “did staff follow the facts, law and the constitution when interpreting and applying the City Code” for him the answer was yes. Regardless of how the prior use was labeled there would be sufficient additional affects to trigger the required improvements. If the question was, “should we require those improvements” he was pretty sure that is answer would be no. The people who sat in the seats before this Council passed a Code that said yes. Until that Code was amended, the Council had to follow it. There ought to be a code that said that Milwaukie was open for business. We ought to have a code that welcomed, with open arms, a person like Mr. Parecki and his project. It frustrated him that we did not have that code and he was hopeful that they could have that in the near future.

Councilor Loomis agreed with Councilor Chaimov. His opinion was that it was frustrating and he wished it could have been handled a different way. Staff did follow the code as written, which was probably done with great intention. He thought about what codes meant and to him he thought they were created for public health and safety, and we had gotten so far out there of trying to tell people what they do and what they are responsible for instead of going back to the original reason why a code was made. In this case it was not fair but it was the code. We wanted people to invest in the downtown and be in the downtown. If they were successful we were going to stick it to them. It made no sense to him. He always believed that Milwaukie was going to develop and it was only a matter of time and what was holding it up was that the landowners were waiting to get a good value for the property. He saw with the code as more of a hindrance. We need to fix this. We can't help Mr. Parecki tonight but hope to do so before the building was finished.

Councilor Barnes agreed with Councilors Chaimov and Loomis. It was difficult for her because Mr. Parecki and his attorney provided a lot of information. They had been asked to fulfill our obligation that the Code was enforced. Back when the Council made this decision, there were only two choices: do we make the taxpayers pay for the changes? or do we have the developer pay? She wanted to think of a way in the future that it was not on the backs of the taxpayers for the changes or the developers. The City needed to explore a way without hurting the taxpayers or the people that want to invest in Milwaukie.

Councilor Stone said this was a difficult decision because what they were required to decide was whether or not staff correctly interpreted the Code. There were definitely some issues with the Code and that would need to be examined, but unfortunately that would not happen before making this decision. It was sad to see the Code discouraging development. She thought that when the Code was written it was done with the spirit of enhancing development. She knew everyone on Council and staff wanted to see Mr. Parecki's development because it would be beautiful. She was sincerely hoping to think of a creative way to make it happen for Mr. Parecki. She did not see any recourse in being able to say that the planning director was interpreting the Code incorrectly. She

said that staff needed to commit to help Mr. Parecki get this done and commit some resources to getting these public improvements completed downtown.

Mayor Bernard agreed with everything that had been said although he had a different perspective. He hoped someday to develop his property, and he would be proud to put the investment in the community. That was what any developer does. The North Main Village occupancy was held up until a sidewalk slope was corrected. He had attended some pre-application conferences. He had heard that it was suggested that an analysis should have been done at the pre-application conference. The pre-application meetings were held to sit down and talk about the project. There were two downtown design manuals handed out and there was an opportunity to sit down and talk about it. Respectfully, that business was never retail. If one looked at the Code it was to serve the general public. It served a business or those needing high-speed scanners, and he could not imagine the general public was buying those scanners. He had been in that office a number of times, and the light in the lobby was seldom on. He hoped that they found a solution. He was excited about the project, but he would be voting to support the planning director's decision.

It was moved by Councilor Chaimov and seconded by Councilor Barnes to uphold the Planning Commission's decision to deny the appeal. Motion passed unanimously. [5:0]

It was moved by Councilor Chaimov and seconded by Councilor Loomis to direct the staff to review the current code and report back to the Council as soon as practicable with possible amendments that will strike a better balance between public and private investment in the public infrastructure for downtown. Motion passed unanimously. [5:0]

Councilor Stone wanted to suggest a motion that staff work with Mr. Parecki to facilitate the development of his project to ensure it would happen. It would take some creative genius on the part of staff and some compromise on the parts of both staff and Mr. Parecki. She would like to see this project come to fruition.

Mayor Bernard agreed that it was important, but his concern was that should this go to litigation we didn't have the ability to discuss this issue.

Mr. Monahan said that if it did go to litigation they had opportunity to have discussions with the applicant and it would be worthwhile to pursue. It was always preferable.

Councilor Chaimov asked if Councilor Stone's intent was to influence the staff's priority of resources so that this becomes the top of their list of matters that they were working to accomplish.

Councilor Stone replied it was not necessarily to change to the priority of staff's work. This was a priority for our City. It was a goal to build on the assets of downtown and restore an environment in which people could shop, live, work and socialize, and it was for that reason that she was asking.

Mr. Swanson said that staff was already engaged in working on amendments. There were issues. In many ways the discretion that the planning director had to make some minor adjustments on issues were severely limited and often times led to results that caused more work. An issue they were working on was expanding consistent with the intention behind the code on the planning director's discretion. They had identified this issue as being one. Consider the historical perspective this code amendment was adopted in 2000, and 2 years prior to that the City had gone through a period where 3 City Council members were recalled. The City had made a number of attempts to form a TIF, which did not meet with the approval of the citizens. In many ways it might seem like a neurotic approach, but it was a logical approach given the history. It was

inconsistent. He was happy to hear that Councilor Chaimov's motion was to strike a balance between public and private investment because that was what was really necessary. So there were a number of issues currently being pursued. He noticed that an item on the next Planning Commission meeting agenda was about code amendments. There was a lot of work to be done and staff was actively pursuing those and have been for some time. They would continue to work with Mr. Parecki to come to some conclusion. Many of these issues had been identified and were actively being pursued by staff. They knew there was an inconsistency between their stated desire to develop and how that would be financed.

Councilor Stone said that she believed the Code was not private development/small business friendly at this point. She asked if any code amendments could be applied to this applicant's project.

Ms. Mangle said the Code that applied to any project was the Code that was in place when the application was submitted. For example, if we had something ready to adopt in two weeks Mr. Parecki could withdraw his application and resubmit.

Mr. Swanson said that Mr. Asher reminded him that they were also working closely with Metro, and Milwaukie was 1 of 4 communities that were part of the new urban infrastructure program. Milwaukie and Metro had a good working relationship, and they hoped to be able to secure some dollars and help satisfy priorities.

Mayor Bernard requested that Mr. Parecki speak with Metro regarding funds to help defray the project costs. He read the Land Use Board of Appeals (LUBA) information.

OTHER BUSINESS

Council Reports

Councilor Barnes and Ms. Ragel met to discuss the Arts Committee. A meeting was scheduled for Wednesday, February 27 at 6:30pm in the City Hall conference room.

Councilor Chaimov said that some residents had requested information from CCFD #1 on what they were spending our money on now that Milwaukie was annexed into the District. Chief Kirchhofer would work with Ms. Ragel to schedule a presentation.

ADJOURNMENT

It was moved by Councilor Barnes and seconded by Councilor Stone to adjourn the meeting. Motion passed unanimously. [5:0]

Mayor Bernard adjourned the regular session at 9:42 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

Through: Mike Swanson, City Manager
JoAnn Herrigel, Community Services Director

From: Beth Ragel, Community Services Program Coordinator

Subject: Creation of Milwaukie Arts Committee

Date: March 7, 2008

Action Requested

Approve the attached ordinances amending Chapter 2 of the Milwaukie Municipal Code adding Section 2.010.010 J and 2.17 to create the Milwaukie Arts Committee.

Background

At its September 4, 2007 Regular Session meeting City Council discussed the benefits of creating a new committee to promote art and artists within the City. City Council directed City staff to pursue the creation of such a committee.

City Program Coordinator, Beth Ragel, was identified as the staff liaison to this new committee. After discussing the idea with several City departments it was decided that the City would issue an open call for interested parties to see who in the community would respond. People who had previously been in contact with former Councilor Carlotta Collette about the committee were also contacted. A meeting for interested persons was held February 27th, 2008. This meeting was advertised in the Clackamas Review, The Oregonian, The Pilot newsletter, on the City website, and in other email distribution lists.

Thirteen residents attended the meeting and shared their ideas for promoting the arts in Milwaukie as well as their ideas for attracting new artists and resources into the community. Many noted that a thriving art scene, including galleries and art events, is key to economic development and also noted that 'when Light Rail comes through Milwaukie we need to give the riders a reason to stop in Milwaukie.'

The Milwaukie Arts Committee will benefit from the help of many local and regional organizations and be able to learn from the successes of these arts commissions, committees, guilds, and alliances. Staff has talked with members of many of these local and regional groups and has found them to be very helpful. The Clackamas Arts Action Alliance, for example, has offered to help the Milwaukie Arts Committee with developing its initial goals and a strategic plan.

Staff has scheduled the Arts Committee applicant interviews for the City Council April 1st and April 15th Work Sessions. Staff expects the Committee to begin meeting in May or June once appointed. The Committee will begin by electing a Chair, developing simple bylaws, and setting some short-term and long-term goals.

Attached are the two adopting ordinances needed to create this committee. The first ordinance modifies Chapter 2.10 to list the committee among other City boards and committees and the second ordinance outlines the details of the committee's purpose and function.

Concurrence

The Community Services Department, Design and Landmarks Committee, City Attorney, Community Development and Public Works, and Planning Directors concur with this proposal.

Fiscal Impact

None at this time.

Work Load Impacts

Workload impacts will be moderate. City staff person, Beth Ragel, has been identified as the staff liaison to this new committee and will provide basic assistance and guidance. It is anticipated that the committee will be self-motivated and not require a lot of staff assistance or time.

Alternatives

1. Accept the attached ordinances as written to create the Milwaukie Area Arts Committee.
2. Direct staff to modify the attached ordinances.
3. Deny approval of the attached ordinances and direct staff on further action.
4. Take no action.

Attachments

1. Adopting Ordinances

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING CHAPTER 2 OF THE MILWAUKIE MUNICIPAL CODE TO ADD SECTION 2.17 CREATING THE MILWAUKIE ARTS COMMITTEE.

WHEREAS, presently there is no city-wide committee with the responsibility to promote the arts in the City of Milwaukie;

WHEREAS, promoting the arts is a priority of the citizens of Milwaukie and the Milwaukie City Council; and

WHEREAS, a Milwaukie Arts Committee will work to bring multiple partners together to promote and enhance arts in all forms within the City;

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

Section 1. The Milwaukie Municipal Code Chapter 2 is amended to read:

Chapter 2.17 MILWAUKIE ARTS COMMITTEE

2.17.010 Establishment.

There is created a Milwaukie arts committee whose duties and responsibilities shall be as follows:

- A. Support and promote the arts, artists, and art education within the Milwaukie area;
- B. Work cooperatively with other community groups and sources including, but not restricted to, Milwaukie's Neighborhood District Associations, Design and Landmarks Committee, North Clackamas School District, North Clackamas Parks and Recreation District, Clackamas Arts Action Alliance, New Century Players, Portland Waldorf and other schools in and around Milwaukie, Ledding Library, local businesses, area arts guilds and other groups already existing, or hereafter established, to promote the arts in the community.

2.17.20 Membership.

The committee shall consist of 7 members appointed by the Mayor with the consent of the City Council. The majority of members shall be residents of the City.

2.17.030 Term of office.

Initially four members shall serve a three-year term and three shall serve a two-year term. At the expiration of the initial terms, each position shall be filled for a two-year term.

2.17.040 Responsibilities.

- A. The committee shall update Council periodically regarding their activities.

- B. The committee shall abide by guidelines established for all City committees as stated in 2.10.050 of the municipal code.
- C. Any other duties assigned by the City Council.

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 _____.

Jim Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 2.10.010 AND ADDING THE MILWAUKIE ARTS COMMITTEE.

WHEREAS, the Milwaukie Arts Committee is newly created and must be listed in Chapter 2.10 of the Milwaukie Municipal Code; and

WHEREAS, all boards, commissions and committees of the City are listed in the Milwaukie Municipal Code within Chapter 2.10 to define the appointment process, organization, and operation of each body;

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

Section 1.

Chapter 2.10.010 of the Milwaukie Municipal Code is amended to include

J. Milwaukie arts committee (MMC 2.17). .

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 _____.

Jim Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

Pat DuVal, City Recorder

City Attorney



To: Mayor and City Council

Through: Mike Swanson, City Manager
JoAnn Herrigel, Community Services Director

From: Tim Salyers, Code Compliance Coordinator

Subject: Milwaukie Municipal Code 8.24 Shopping Carts

Date: March 1, 2008

Action Requested

Approve an ordinance that adopts City of Milwaukie Municipal Code Chapter 8.24 Shopping Carts.

Background

In the City of Milwaukie and around the United States, shopping carts have been in use for many years. Throughout these years the removal of shopping carts from retailers has created a public nuisance when these carts are abandoned. Unfortunately, abandoned shopping carts can end up becoming transportation hazards on streets and sidewalks and eyesores at bus stops. Natural habitat for salmon and other wildlife such as creeks, lakes, and rivers, also become home to the unnatural shopping cart. Often an abandoned shopping cart becomes a mobile trash receptacle when it remains at one a location for a while.

Locally, there are 9 retail stores that use shopping carts. Shopping carts that originate from the City of Portland and the unincorporated areas of Clackamas County consistently end up in the City of Milwaukie as well. These shopping carts have been found in various parts of the City. Code Compliance staff currently finds an abandoned shopping cart and notifies the owner to retrieve the cart. Many times these carts are not picked up and become a nuisance for safety.

Unfortunately, with the exception of a few, the City of Milwaukie's Code Compliance department has had little success with the shopping cart owners inside and outside the City regarding picking up the abandoned shopping carts after being notified.

Currently, when a retailer fails to retrieve a cart Milwaukie's Code Compliance or Public Works staff picks up the shopping carts, stores them and disposes of them. This process consumes staff time and equipment and disposal is costly.

In 2007, the state legislature passed Senate Bill 645, which allows local jurisdictions to adopt a shopping cart ordinance and also provides requirements for that shopping cart ordinance. Senate Bill 645 holds shopping cart providers more accountable for the retrieval of shopping carts.

Before the state legislature passed SB 645, only one Milwaukie retail store contracted with a cart retrieval service. All of the others claimed that they did the retrieval themselves. Since the legislature was passed, the Grocer's Association has signed a contract with a retrieval service. Currently, 3 of the 9 Milwaukie businesses with carts have a retrieval service. The remaining businesses retrieve carts themselves.

Code staff has been monitoring the types of carts and the locations of their abandonment over the past year or so. For those businesses participating in the Grocer's Association retrieval contract, retrieval has increased significantly. Staff has a number to call and retrieval takes place within 72hrs. For those businesses not currently contracting for retrieval, response to City notification has been minimal. The attached code change is proposed by staff as a way to motivate those businesses not currently responding to City notification to establish a more formal process for cart retrieval.

The key points of the proposed code language include:

- All businesses owning carts must have a toll-free telephone number to report abandoned shopping carts.
- Businesses must post notice on their premises stating "REMOVAL OF SHOPPING CARTS IS PROHIBITED BY LAW (ORS 164.015). REPORT ABANDONED SHOPPING CARTS TO TOLL FREE NUMBER"
- Identity of the shopping cart owner and address along with a toll-free telephone number must be present on the shopping cart.
- A report must be made to the City of Milwaukie's Code Compliance department after a shopping cart has been reported to the toll-free telephone number.
- After a report has been made, the owner of the cart has 72 hours to retrieve the shopping cart. If they don't, the city can confiscate the shopping cart and fine the owner \$50.

The City of Milwaukie Code Compliance staff feels that this ordinance will improve the appearance and safety of the City. It will reduce staff time required for retrieving and disposing of shopping carts and will also make shopping cart

owner's more responsible for picking up their carts. And, if retailers continue to ignore cart retrieval, this ordinance will allow the City of Milwaukie to fine them for not complying, which would help in reducing the cost of the cart retrieval.

Concurrence

The shopping cart ordinance was presented to Linwood, Ardenwald, Hector Campbell, and Historic Milwaukie neighborhood associations and the Public Safety Advisory Committee. The majority of the people at these meetings were very much in favor of this new ordinance. The City attorney has reviewed and commented on the ordinance and is satisfied with the proposed language.

Fiscal Impact

This code change will increase revenue slightly as a result of fines for non-responsive cart owners. In the long term, staff anticipates that businesses will become more responsive and fines will decrease.

Work Load Impacts

After the code is changed, outreach to the shopping cart owners would take place regarding the new rules. Consistent code enforcement of the new chapter would take place on the abandoned shopping carts. Staff expects a reduction in time dedicated to shopping carts retrieval.

A small increase in workload would take place, but that is typical when new code language is adopted.

Alternatives

Deny the new code section.

Attachments

1. Ordinance- MMC Chapter 8.24 Shopping Carts
2. Senate Bill 645

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
REGULATING SHOPPING CARTS BY ADDING CHAPTER 8.24 “SHOPPING
CARTS,” TO THE MILWAUKIE MUNICIPAL CODE.**

WHEREAS, the City Council finds that the abandonment of shopping carts within the City is a source of visual blight, reduces the aesthetic appearance of the City and constitutes a nuisance; and

WHEREAS, the City Council finds that the abandonment of shopping carts on both private and public property, including streets and other right of way, can lead to the impediment of traffic, including emergency services, and constitutes a threat to the public health, safety and welfare; and

WHEREAS, the City Council finds that local businesses often fail to take reasonable and appropriate steps to either prevent the removal of the carts or retrieve the carts in a timely manner; and

WHEREAS, the City Council finds that requiring local businesses to be more responsible in preventing shopping cart abandonment is necessary in order to reduce the sources of visual blight in the City and to protect the public health, safety and welfare; and

WHEREAS, the legislature of the State of Oregon passed Senate Bill 645 authorizing local governments to regulate unauthorized removal of shopping carts from the premises or parking areas of persons supplying shopping carts for public use at the person’s business, and pursuant to Oregon Revised Statute 164.015;

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

Section 1. Chapter 8.24, “Shopping Carts”, is hereby added to the Milwaukie Municipal Code to read as follows:

**“CHAPTER 8.24”
SHOPPING CARTS**

- 8.24.010** **Definitions.**
- 8.24.020** **Cart Identification Required.**
- 8.24.030** **Posted Notice.**
- 8.24.040** **Toll-free Telephone Line Required.**
- 8.24.050** **Retrieval and Disposal of Abandoned Carts, Fines.**
- 8.24.060** **Violation.**

8.24.010 **Definitions.**

- A. “Abandoned cart” means any cart that has been removed from the owner’s premises without written consent of the owner and is located on either public or private property.
- B. “Cart” means a basket that is mounted on wheels or a similar device that is provided by an owner to a customer for the purpose of transporting goods of any kind.

- C. "Code Compliance Coordinator" means the individual in charge of code compliance activities for the City or his/her designee.
- D. "Owner" means a person or entity who in connection with the conduct of a business, makes carts available to the public.
- E. "Premises" means the entire area owned, occupied or utilized by an owner, including any parking lot or other property provided by or on behalf of an owner for customer parking or use.

8.24.020 Cart Identification Required.

Every cart provided by any owner must have a sign permanently affixed to the cart that contains all of the following information:

- A. The identity of the business that owns the cart;
- B. The address and a toll-free telephone number of the owner or retailer for cart return;
- C. A statement that the unauthorized removal of the cart from the premises is a crime under ORS 164.015 and a violation under Chapter 8.24 of this Code; and

8.24.030 Posted notice.

There shall be posted by the owner, prominently and conspicuously, at all public entrances and exits to the business, a notice in substantially the following form:

REMOVAL OF SHOPPING CARTS IS PROHIBITED BY LAW (ORS 164.015). REPORT ABANDONED SHOPPING CARTS TO TOLL FREE NUMBER. The sign shall include the toll free telephone number for shopping cart retrieval.

8.24.040 Toll-free Telephone Line Required.

- A. Toll-free Telephone Line shall be established, maintained and made available to the public, at the shopping cart owner's expense, for the purpose of reporting abandoned shopping carts.
- B. The operator of the toll-free telephone line shall forward each report concerning an abandoned shopping cart to the owner of the shopping cart and to the City of Milwaukie's Code Compliance Office within one business day. The report may be supplied through electronic mail or by fax.
- C. More than one business may use the same toll-free telephone number to share expenses. The agreement shall comply with the report requirements set forth in this chapter.

8.24.050 Retrieval and Disposal of Abandoned Carts, Fines.

- A. Notification for Retrieval of Abandoned Carts.
1. The City or public reports the location of the abandoned shopping cart by calling the toll-free telephone number provided by the owner of the cart.
 2. The owner shall have 72 hours from the date the report is made to retrieve the carts from the specified locations. A contractor may be hired at the owner's expense for retrieval of shopping carts.
 3. If the City identifies, salvages, or reclaims an abandoned shopping cart it shall use the toll-free telephone line provided to report the existence and location of an abandoned shopping cart to the owner of the shopping cart if the owner is identifiable.
 4. If a cart does not have a sign with the information required by Section 8.24.020, the City shall make a reasonable effort to identify and contact the owner of the cart and report the existence of an abandoned shopping cart. If the City is able to identify the owner of the cart, the owner shall have 72 hours from the date the report is made to retrieve the cart. If the City is unable to identify the owner of the shopping cart after reasonable effort has been made and 72 hours has past, the City may take custody of the cart.
- B. Fine. The City may take custody of an abandoned shopping cart and impose a fine of fifty dollars (\$50.00) on the owner of the shopping cart if the owner does not retrieve the shopping cart within 72 hours after the City makes a report under subsection A or after the owner receives a report under section 8.24.040. The City may release the cart into the custody of the owner after the fine is paid.
- C. Disposition of Carts After Thirty Days. For any cart not reclaimed from the City within thirty (30) days after notification to the owner, or if the City is unable to identify the owner of the cart after reasonable efforts and the cart has been in the City's custody for thirty (30) days, the City may take title to the shopping cart in its custody and the cart may be sold or otherwise disposed of by the City.

8.24.060 Violation.

- A. Any owner violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars, unless otherwise stipulated.
- B. When the violation is a continuous one, each day the violation continues to exist shall be deemed a separate violation, excluding 8.24.050 provisions.

Section 2. Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 3. Effective Date and Publication

This Ordinance shall take effect and be enforced thirty (30) days after its 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 _____.

Jim Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis P.C.

Pat DuVal, City Recorder

City Attorney

B-Engrossed
Senate Bill 645

Ordered by the House April 20
Including Senate Amendments dated March 16 and House Amendments
dated April 20

Sponsored by Senator MONNES ANDERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Allows local government to enact or adopt regulation to prohibit unauthorized appropriation of shopping cart from business premises of person that owns shopping cart.

Specifies that regulation must require persons that supply shopping carts for public use to post certain notices, *[and]* establish toll-free telephone line for reporting abandoned shopping carts **and retrieve or contract for retrieval of abandoned shopping carts.**

Specifies that regulation must require local government to report existence and location of abandoned shopping cart to shopping cart owner and, if owner does not retrieve cart within 72 hours of report, local government may take custody of cart and impose \$50 fine on owner. Specifies that regulation must provide that shopping carts not claimed within 30 days may become property of local government.

A BILL FOR AN ACT

1
2 Relating to shopping carts.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) A local government may enact or adopt an ordinance, charter provision,**
5 **resolution or other regulation to prohibit the unauthorized appropriation of a shopping cart**
6 **from the business premises of the person that owns the shopping cart and to provide for the**
7 **salvage or reclamation of an abandoned shopping cart.**

8 **(2) An ordinance, charter provision, resolution or other regulation enacted or adopted**
9 **as described in subsection (1) of this section shall substantially conform with the require-**
10 **ments set forth in section 2 of this 2007 Act. This subsection does not preclude a local gov-**
11 **ernment from enacting or adopting an ordinance, charter provision, resolution or other**
12 **regulation related to the collection or retrieval of abandoned shopping carts by a person that**
13 **is subject to but not in compliance with section 2 (1)(d) of this 2007 Act.**

14 **(3) For purposes of this section, "local government" means a city, county, special district**
15 **or other public commission, authority or entity organized under state statute or city or**
16 **county charter.**

17 **SECTION 2. (1) A local government in an ordinance, charter provision, resolution or**
18 **other regulation enacted or adopted in accordance with section 1 of this 2007 Act shall pro-**
19 **vide that a person that supplies shopping carts for public use at the person's business shall:**

20 **(a) Post signs in sufficient number to give notice to members of the public entering onto**
21 **or leaving the business premises that unauthorized appropriation of a shopping cart is a**
22 **crime under ORS 164.015 and to provide a toll-free telephone number that members of the**
23 **public may use to report abandoned shopping carts.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **(b) Identify the person’s business on each shopping cart and post a sign on the shopping**
2 **cart that:**

3 **(A) Notifies any member of the public using the shopping cart that unauthorized appro-**
4 **priation of a shopping cart is a crime under ORS 164.015; and**

5 **(B) Provides a toll-free telephone number for use in reporting an abandoned shopping**
6 **cart.**

7 **(c) Establish, maintain and make available to the public, at the person’s own expense, a**
8 **toll-free telephone line for the purpose of reporting abandoned shopping carts. The person**
9 **shall forward each report the person receives concerning an abandoned shopping cart to the**
10 **owner of the shopping cart and to the appropriate local government within one business day**
11 **after the person receives the report. The person may forward the report to the local gov-**
12 **ernment by means of electronic mail or in any other manner provided for in a local govern-**
13 **ment regulation.**

14 **(d) Retrieve or contract for the retrieval of abandoned shopping carts.**

15 **(2) An ordinance, charter provision, resolution or other regulation enacted or adopted in**
16 **accordance with section 1 of this 2007 Act shall provide that a person may agree with other**
17 **persons to share and to pay expenses related to the toll-free telephone line described in**
18 **subsection (1)(c) of this section. The agreement shall provide that any person designated to**
19 **operate the toll-free telephone line and receive reports concerning abandoned shopping carts**
20 **must forward the reports in accordance with subsection (1)(c) of this section.**

21 **(3) An ordinance, charter provision, resolution or other regulation enacted or adopted in**
22 **accordance with section 1 of this 2007 Act shall provide that a person shall retrieve a shop-**
23 **ping cart that the person owns within 72 hours after receiving notification that the shopping**
24 **cart has been abandoned.**

25 **(4) An ordinance, charter provision, resolution or other regulation enacted or adopted in**
26 **accordance with section 1 of this 2007 Act shall provide that:**

27 **(a) A local government that identifies, salvages or reclaims an abandoned shopping cart**
28 **shall use the toll-free telephone line described in subsection (1)(c) of this section to report**
29 **the existence and location of an abandoned shopping cart to the owner of the shopping cart,**
30 **if the owner is identifiable;**

31 **(b) A local government may take custody of an abandoned shopping cart and impose a**
32 **fine of \$50 on the owner of the shopping cart if the owner does not retrieve the shopping cart**
33 **within 72 hours after the local government makes a report under paragraph (a) of this sub-**
34 **section or after the owner receives a report under subsection (1)(c) of this section;**

35 **(c) A local government may release a shopping cart held in the local government’s cus-**
36 **tody to the owner upon payment of the fine; and**

37 **(d) A local government may take title to a shopping cart in the local government’s cus-**
38 **tody and dispose of the shopping cart as the local government deems appropriate, if the**
39 **owner does not claim the shopping cart within 30 days.**

40 **(5) For purposes of this section, “local government” means a city, county, special district**
41 **or other public commission, authority or entity organized under state statute or city or**
42 **county charter.**

43

**Combined meeting of Riverfront and Park Boards
November 27, 2007
Minutes**

PARB Attendees: Dow, Harris, MacCready, Cooper, Hughes

Riverfront Attendees: Green, Wall, Stacey, Seagler, St Clair, Martin, Klein

Staff: JoAnn Herrigel and Kenny Asher

Guests: Joe Loomis

PARB Minutes

Cooper motioned to approve the October minutes as amended. Dow seconded and motion passed 5-0.

Riverfront Board Minutes

Wall noted a word change and asked (again) that page numbers be added to the minutes. Wall then motioned to approve the minutes as amended. Seagler seconded and the motion passed 7-0.

Herrigel noted that the next Riverfront Board meeting falls on December 25th and asked if the Board wanted to cancel or reschedule their December meeting. Seagler motioned to cancel the December meeting. Stacey seconded and the motion passed 7-0.

South Downtown Concept Plan

Herrigel introduced the topic by noting that the two Boards present that evening had been involved in several individual projects in the southern downtown area for many years. Among these projects are: Kellogg dam removal, Riverfront Park, Trolley Trail, Kronberg Park and Dogwood Park. She said that what she and Kenny would present tonight was a concept that simply pulled all those projects together into a coherent design overlaid with urban development elements.

Kenny Asher, Community Development and Public Works Director for the City of Milwaukie provided the group with a summary of the concept plan:

- Several ideas and projects that have been discussed for many years by these committees and the public are compiled into a concept plan. What used to be 5-6 ideas are all together in one concept.
- Staff has presented this concept to Council and they have expressed their support for the design and have asked that staff get input from the neighborhoods and move the process forward.
- Plan elements include:

- A public plaza – a new heart of the public realm on the urban side
 - Path radiating to Main Street to anchor the Plaza
 - Paths along and across Kellogg Creek to increase connections between open spaces
 - An underpass at 99E and Kellogg Creek
 - Path to Milwaukie High School
 - Mixed use development surrounding and adjacent to the Plaza
 - Post Office building would be relocated
 - Light Rail with station located near Lake Rd
- Public Plazas need activity and presence of people and to have private businesses integrated. Pioneer Square is successful because there is private sector there too. Private sector is attracted to where there are public amenities.
 - Cash Spot is a good location for a parking structure. Site is multi-levels. First 2 to 3 stories would be parking with retail on the ground level. Possibly some housing up above. Off peak use would be for overflow parking for events at the Riverfront or downtown and Farmers Market. The proximity of the site to the Riverfront and downtown is strategic for parking.
 - Light rail station shown in concept at Lake Rd is not linked to the Plaza as the light rail station locations have not yet been determined (SDEIS still underway)
 - Termination of light rail line also not yet determined. Could end at Lake or could continue across McLoughlin to Park Ave. If terminus is at Lake Rd – would need a third track to accommodate reverse routing
 - Forest Park in Portland is a good example of a relationship between urban development and open space. That could be replicated here with open space near Kellogg and urban development north of Kellogg.
 - Transit oriented development brings money from Metro and other sources. Mixed use is preferred as well as lower parking ratios

Harris asked if the City owned the Post Office and Archery shop site. Asher said that property is owned by the Shipleys and they have expressed interest in working with the City on a public use for the site. They are very civic minded and Asher said he plans to continue to meet with them.

MacCready asked who owned the triangular mixed-use property. Asher said that it is owned by the railroad. He noted other properties shown on the map were privately owned, such as that owned by James Bernard. He also noted that although the City owns the former Cash Spot building, City staff had met with Dr. Bulari who owns the building to the east of that on Washington St. and he expressed support for the concept and interest in working with the City.

Green said he liked the Plaza idea and the nice green space at the southern part of town. He said he had a grander idea, however, for the Cash Spot site. He said he felt the City had a huge opportunity for this location as it is connected to the creek and could be an icon for those entering the City from the south. He was hoping for

something more than a parking structure – perhaps an art, environmental or civic center of some type.

Asher noted that light rail schemes have identified the Cash Spot site as a parking structure. He noted that structured parking typically costs \$40,000/space. Light rail will need parking for commuters. The federal government might pay for that parking if it is part of the light rail project. The City would then get parking for only the price paid for the land.

Hughes said he agrees that the central plaza and commercial development is important but he was not seeing enough commercial business in this south area. He said he thinks we need the plaza to be located more centrally to downtown – further toward the business core. In addition, he might prefer high density residential in this southern area.

Seagler asked if the Farmers Market would fit in the Plaza area shown in the concept. Asher said it would. Seagler followed by asking if the Riverfront Park was still being considered for the Farmer Market. Herrigel noted that the Market coordinators had more or less dismissed the Riverfront as a location as it did not have enough parking.

Asher said that the progress on the Town Center project, planned for the current Farmers Market site across from City Hall, has slowed down considerably. As a result, Celebrate Milwaukie Inc. has postponed the Market's move until 2009. The market will have one more season in its current location before moving to the southern part of Main Street.

St Clair said he liked the concept Asher presented. He said he wanted to bring his kid into town from the Riverfront Park and he feels that parking is central at least to the Riverfront and light rail. He doesn't want to be right in the middle of downtown.

Harris asked if there was any discussion regarding "ousting" the Lumber Yard. Harris said he felt it was a poor location for a Lumber Yard as it is hard to get into and out of and it seems like a poor use for that space.

Asher said he'd had discussions with the general manager of the lumber yard and they'd intimated that the lumber yard site is harder for them to use if light rail comes through town and they acknowledge that they might not be "long for" this site after light rail comes. Asher said to date he's not been successful at meeting with the owner of the Lumber Yard, only the GM.

Asher noted that the SDEIS will look at light rail station locations at Monroe and Washington (and Lake and Harrison) and all pros and cons will be considered.

Hughes asked if the alignment as shown in the concept was the one that has been chosen. Asher responded that the Tillamook alignment was the alignment shown and the only one that is being evaluated in the SDEIS.

Hughes said he's concerned about the impact of light rail on Kronberg Park and Kellogg Lake and wondered whether it was possible to co-locate the light rail bridge over Kellogg with the railroad trestle.

Klein added a concern about the deed restrictions for the Kronberg Park land.

Asher said that two options are being evaluated in the SDEIS for crossing Kellogg and McLoughlin with light rail. The first has the light rail elevated from Lake Rd all the way across McLoughlin, "hugging" the railroad and trestle. The second, has the light rail elevated over Kellogg Lake but touching down on Kronberg Park and crossing McLoughlin at grade. Both options impact the park, he noted, but in different ways. He added that the light rail project will have to mitigate any impacts it has on the Park and Kellogg Creek. The project will assess the environmental impacts and come up with a mitigation plan. He said that the mitigation plan is open to negotiation between the parties and he would suggest that the City use some of the mitigation funds to do restoration or even park development. At any rate, the impact of the light rail project should be "net positive."

Hughes said that acquisition of riparian buffer land might also be an option for use of mitigation funds.

Green asked about the buildings shown along Kellogg Lake in the concept. Seagler noted who owned which building (one of which is his own home.)

Seagler said he likes the trestle and hopes it survives this process. He pictures light rail going over the lake at the same level as the trestle and hopes that the construction materials for the light rail bridge and pillars could be something other than heavy duty cement. He said he hoped that materials could be used that complimented the trestle architecture.

Asher agreed that anything that could lower costs and decrease the impacts of the pillars and the bridge would be beneficial.

Seagler said he also felt that the parking structure at the Cash Spot seemed to have an odd sense of scale. For a tiny downtown like Milwaukie he doesn't like large projects like the Town Center. He said he fears that there will be a trickle of 5 to 6-story buildings down Main Street. He had opposed the transit center at Kronberg due to its enormity. He has similar fears for the Cash Spot site, in that he doesn't want to block downtown from the Riverfront with several-story buildings. He'd prefer that parking at the Cash Spot be below grade or inside the structure. He said it would be an injustice to put really utilitarian structures on prime property. He'd prefer businesses, housing or parks be there.

Asher said that 2008 is a pivotal time for redevelopment in Milwaukie. The City has decisions to make as to whether we can tip Milwaukie to where redevelopment is

possible. All City projects are in dire need of help financially. Discussions in the City right now regarding development are very tough because the downtown plan was written up without much idea of how to really do all this.

Hughes asked if the parking proposed in the plan was for commuters. Asher confirmed that it was for commuters and added that the City code says that parking in the downtown core has to be either part of a development or must be structured rather than surface parking.

Seagler said the demographic of Milwaukie has changed in the last 10 years. Property taxes are fairly low here as opposed to Portland where they are higher. He said he thinks it's time to excite citizens about what could happen in the City and raise taxes to help that happen.

Asher said he's not sure if increasing taxes is the device but to implement the downtown plan, the City does need funding from some source. He noted that the current controversy regarding the Gay Blade site being remodeled by Ed Pareki has brought this issue into focus very clearly. How much of all the public amenities in downtown should developers be asked to finance?

Harris said that a selling job needed to be done - if people want something they'll have to pay for it.

Green said the outer neighborhoods have been resentful in the past when money has been spent in the downtown rather than their neighborhoods. We need to try to sell the benefits of downtown amenities, showing the neighborhoods that development in downtown can add tax dollars and fund projects all over the city.

Asher noted that the tax contribution of the downtown area is shockingly low compared to the rest of the City's business areas.

St Clair said he felt that a bad plan vigorously executed was better than a good plan that was not executed at all. He feels we have an opportunity to leverage our funds and need to sell folks on the benefits they get from this redevelopment.

Wall asked where Dark Horse was in all of this? They are a major landowner.

Asher said that Dark Horse seems to pick their moments to participate publicly – usually when the stakes are high. He noted that he'd spoken with Dark Horse about the Town Center project to see if they had any interest. He felt that they would, in fact, play an important role in downtown redevelopment but that their moment hasn't arrived yet. They will be a critical player here.

Hughes asked for clarification regarding tax generation in downtown. Asher said that there is a huge potential in downtown but not in reality. The value of improvements are so low in the downtown that they don't contribute much in taxes. He said that if

the south downtown concept plan was realized there could be a 100% increase in tax dollars generated downtown. Hughes again noted that citizens need information about what they get if they support this type of development.

Seagler said that he understood that Milwaukie has one of the highest appreciation rates in the country. He further understood that a lot of money went into the downtown plan several years ago but since light rail was not in that plan – would it be possible to do a new (or updated) plan that incorporates light rail. This new plan could then be distributed to all the citizens in Milwaukie. It seems that this information rarely makes it to the people and it's important to take this to the public.

Asher responded that he's not prepared to take on the whole downtown plan but would like to focus on the south downtown. He would like to take that to the public and does want to do a public planning process. He fears that re-opening the whole plan would throw open everything to change and reinterpretation.

The group discussed whether a formal vote or recommendation of support should be pursued that night. Green suggested that a vote might not be necessary but they might state their support for the direction and continued evaluation of the plan.

Hughes said that he felt that the plaza was definitely supportable.

Green noted that the Riverfront Board has, historically, been a huge advocate of 'connectivity' and that the concepts shown are those we support

St Clair added that unfortunately, in public processes the public does not always balance all the issues.

Asher said he felt that staff knew how to organize public process so it can result in usable information. His sense was that there was general support in the room that evening and staff would continue to rely on the support and assistance of committees like the PARB and Riverfront Board.

Hughes reinforced the need for more alternatives. Asher said he would be working with a consultant to develop feasible alternatives – (potentially including areas further north along Main and 21st).

Cooper noted that the area shown in this south downtown plan was the area where light rail is the closest in to Main Street and the downtown itself. Harris concurred saying that this town is so small that wherever along Main you put a public square it would be "close in."

Seagler added that he'd like to see an area along McLoughlin Blvd. where open space was on both sides of the highway in a Plaza-type layout.

St Clair made a motion to **“applaud this south downtown area concept effort to connect downtown, parks, transit and public areas together to make downtown Milwaukie a welcoming community.”**

All members of both boards present voted in favor of this motion.

Dow recommended adjournment.

Riverfront Board Minutes
January 22, 2008
Minutes

Board members present: Green, Wall, Stacey, Seagler, St Clair, Klein

Board members absent: Martin

Staff: JoAnn Herrigel

Guests: Greg Chaimov, David Aschenbrenner

Riverfront Board Minutes

The Board reviewed the notes from the combined meeting of the December Riverfront and Park Boards. They approved a motion (6-0) to approve the notes pending any comments from the Park Board.

Announcements of Upcoming Events

Herrigel announced the March 1 Watershed Wide Event being coordinated by the Johnson Creek Watershed Council. She noted that two Milwaukie sites would be included this year. "Jean's Farm" on Johnson Creek Blvd and Tideman Johnson Park on the Springwater Trail. She invited all to attend from 9 am to noon.

Project Updates

SDEIS – Portland-Milwaukie Light Rail

- January 30 – Final Safety and Security Task Force meeting
Ardenwald Elementary 6-9 pm
- February 25 – 6-9 Station area planning meeting for Milwaukie (Milw HS)
(This meeting has been rescheduled)
- April 4 - SDEIS published and public comment period begins (ends May 19)
- April 14-18 – open houses for public input and discussion of SDEIS document
- May 5-9 – Metro public hearings
- June 3 – City Council considers Locally Preferred Alternative (LPA)
- June 26 – Metro Council considers LPA

Riverfront Plan

- Three Planning Commission apps for the Riverfront Park have been submitted and deemed complete by Planning – Request for Zoning Map amendment, Comprehensive Plan Map amendment and a Request to De-List an un-rankable Historic Resource (Trolley Trail segment)
- Hearing on all three February 26 (NOW March 11)
- Joint permit application for Corps and DSL being completed now – to be submitted March 1
- Grant workshop for State Dept of Parks and Recreation – February 20 - Apps due April 4, 2008 (staff will submit app for \$500,000)

Sternwheeler

Herrigel said that Paul Simonis had responded to the letter from the City Manager stating his disappointment that the Cash Spot was now unavailable. Herrigel said she remains in contact with Simonis regarding leasing the parking lot at the Cash Spot site and identifying other office space for him in downtown.

Board comments:

- Wall noted that cars turning onto Washington St from McLoughlin Blvd. already back up onto McLoughlin. Increased use of the Cash Spot site may be dangerous.
- St Clair asked if other small grants were available for funding Riverfront Development
- Green asked if the group wanted to recommend to Planning Commission that we support the land use applications. Green made a motion to recommend this approval, St Clair seconded and motion passed 6-0.
- The group decided to meet on February 26 anyway – even though the Planning Commission meeting would overlap with their meeting. (NOTE: the Plan Comm hearing has been rescheduled for March 11)
- Seagler asked where folks felt the intersection of the Light Rail issue with the Riverfront Board's work was. He noted that the light rail would go through the south end of town and would cross over Kellogg, which this Board has said they are concerned with. He also noted that the underpass that could come from the dam removal and has been integrated into the south downtown plan is also important to the board. He added that wherever people stop along the rail line and wherever park areas are should be important to the board.
- Wall noted that the light rail project may present issues for safety and security of the Riverfront project if crime increases within a quarter mile of the Park.

Next Meetings

Herrigel asked the group if they had any issues that they would like to address or speakers they would like to have at upcoming meetings.

- Klein suggested that someone from Johnson Creek watershed Council come to talk about the Klein Point project.
- The group also agreed that they'd like to meet the new Executive Director of the Watershed Council.
- A briefing on the Sellwood Bridge was suggested. St Clair noted that the proposed height of the new bridge would impact the size of boats able to get south to Milwaukie. St Clair said he would gather information and bring it to the next meeting so the group could discuss whether any action from the Board was in order. Herrigel said she would forward the link to the project to the Board.

Wall motioned to adjourn. St Clair seconded and motion passed 6-0.