

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
APRIL 16, 2013**

CALL TO ORDER

Mayor Ferguson called the 2148th meeting of the Milwaukie City Council to order at 7:05 p.m. in the City Hall Council Chambers.

Present: Council President Dave Hedges and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Interim Community Development Director Steve Butler, Parks and Sustainability Director JoAnn Herrigel, Police Chief Bob Jordan, Police Captain Steve Bartol, Police Captain Dave Rash, and Light Rail Design Coordinator Stacy Bluhm

PLEDGE OF ALLEGIANCE**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS****A. Milwaukie High School Student of the Month**

Mayor Ferguson and Councilors recognized Jose Penuelas as the Milwaukie High School Student of the Month for April 2013.

Mayor Ferguson announced item 6.B, Recommendation to Repeal Milwaukie Municipal Code 10.50.030, Inventories of Impounded Vehicles, would be moved up in the agenda for consideration after the next special report.

B. Milwaukie Police Department Accreditation

Chief Jordan advised the City Council that the Milwaukie Police Department had successfully completed the Oregon State Accreditation and was officially accredited on January 31, 2013, for a three year period. Only about 30% of the departments in the State were accredited after being audited by a professional group on standards of accountability, management, and operations.

6.B Repeal of Milwaukie Municipal Code Chapter 10.050.030, Inventories of Impounded Vehicles – Ordinance

Capt. Rash provided the staff report in which the City Council was requested to adopt the ordinance rescinding Milwaukie Municipal Code (MMC) Chapter 10.050.030 and giving the Chief responsibility over carrying out the policy.

It was moved by Council President Hedges and seconded by Councilor Churchill for the first reading by title only of the ordinance rescinding Chapter 10.050.030 of the Milwaukie Municipal Code relating to inventory of vehicles. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

Mr. Monahan read the ordinance one time by title only.

Mayor Ferguson announced the second reading and adoption would be scheduled for the May 7, 2013, City Council agenda.

Portland Fighting Fillies

Ashley Kondziela reported this was the second season for the Fillies in Milwaukie. She thanked the City and Milwaukie High School for their support and encouraged people to attend the games.

C. Earth Day Proclamation

Mayor Ferguson read a proclamation naming Monday, April 22, 2013, as Earth Day in the City of Milwaukie.

D. Garbage Rate Update

Ms. Herrigel and **Rick Winterhalter**, Sustainability Analyst Clackamas County, discussed the rate review process. Each year, the City's franchised garbage haulers submit financial information showing their revenues and expenses for the previous year related to the provision of garbage, recycling, and yard debris. This information is consolidated, and with the help of County staff and a contracted financial analyst the City reviews this data and determines whether a rate increase is necessary. Pursuant to the franchise agreement, the rate of return was to be between 8% and 12%. They discussed the tip fee set by Metro and noted the new figures had not been released yet. Ms. Herrigel commented on weak recycling revenues. Staff would return for a June work session to update City Council and subsequently seek any rate adjustments.

Councilor Gamba felt people were not being encouraged to compost, recycle, and purchase items with less packaging and thought rate increases should be less for those who disposed of less.

Councilor Miller commented that customers were charged for yard debris recycling even if they composted. He agreed with Councilor Gamba that people should be encouraged to compost.

E. Portland-Milwaukie Light Rail Project Update

Ms. Bluhm reviewed the project status with the alignment between Portland State University and Park Avenue including the local enhancement outlined in the June 2012 Settlement Agreement with TriMet.

Mayor Ferguson asked that the City Council be informed as quickly as possible of street closures and particularly those impacting the Sunday Farmers' Market.

Councilor Miller was most concerned about the McLoughlin Boulevard and Monroe Street closures.

Councilor Churchill remarked on the general contractor and impacts to pedestrian and vehicular traffic. He was concerned about the lengthy closures of Monroe Street and wanted an understanding of the alternatives, and, if necessary, what kind of signaling would take place on Hwy 224. Additionally, he wanted to ensure the postal drop off would be addressed when Adams Street was closed in October.

Ms. Bluhm said in addition to public outreach, variable message signs would be installed a week in advance.

CONSENT AGENDA

It was moved by Councilor Gamba and seconded by Council President Hedges to approve the minutes of the March 19, 2013, regular City Council meeting. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

AUDIENCE PARTICIPATION

Mr. Monahan reported comments by Frank Hemer at the previous meeting on the recent filming in downtown Milwaukie did not require a response.

Jeannette Griese, Milwaukie, was a property owner in the North East Sewer Extension (NESE) Project area. She had submitted an annexation application and was preparing to connect when she found out she had missed the March 15 deadline. She noted issues with mail delivery and did not think the process had been clear. She asked that she be included with the pre-March 15 properties.

Mayor Ferguson asked that she meet with Mr. Butler and share the information with the City Manager to help the City Council come to a decision. He did not feel the City Council had enough information to make a decision at this meeting and discussed the feasibility of holding a special meeting.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

B. Expedited Annexation of the Property Located at 9101 SE Stanley Avenue, File #A-13-05 – Ordinance

Mr. Butler provided the staff report in which the City Council was requested to adopt the ordinance approving the expedited annexation of the property located at 9101 SE Stanley Avenue. The annexation was initiated by the property owner who wished to access City services. It is in the North East Sewer Extension (NESE) project area and the Urban Growth Management Area (UGMA). Upon annexation the City zoning will be Manufacturing (M) with a Comprehensive Plan land use category of Industrial (I). The business on the property is Family Dogs New Life Shelter and is a nonconforming use in the City's M zone. Like other nonconforming uses and development in the City, the use and structures on the site would be allowed to continue pursuant to MMC 19.800.

All necessary parties, interested persons, and residents and property owners within 400 feet of the subject site had been notified along with the Lewelling Neighborhood District Association (NDA) and the Southgate Planning Association. The City did not receive comments from any necessary parties with objections to the proposed annexation. He understood the property was in the process of being sold.

It was moved by Councilor Gamba and seconded by Councilor Churchill for the first and second readings by title only adoption of the ordinance annexing a tract of land identified as 9101 SE Stanley Avenue into the City limits of the City of Milwaukie and withdrawing the tract from the territory of Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights, File #A-13-05. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

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

Ms. DuVal polled the City Council: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

ORDINANCE NO. 2065:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS 9101 SE STANLEY AVENUE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. (FILE #A-13-05)

C. Council Reports

Councilor Churchill participated in two sessions of the Audit Committee and attended the Rotary luncheon and heard Council President Hedges discuss his law enforcement experiences. The Library Expansion Task Force (LETF) was fully engaged with the needs assessment consultant and working on public involvement.

Councilor Miller attended Lake Road Neighborhood where Mr. Butler did a great job of answering questions about what was going on in the City. He also listened to the noted speaker at the Rotary meeting.

Councilor Gamba attended Metro Policy Advisory Committee (MPAC) meeting and heard the ongoing Smart Communities discussion. He attended the Port of Portland luncheon that focused on sustainable actions the Port was undertaking throughout its system. He participated in planting the hillside on the east side of the Johnson Creek Facility and would help at the upcoming Earth Day Event.

Council President Hedges attended four NDA meetings and heard the Engineering Manager's presentation at the Lewelling NDA. He was impressed with the long-term goals for the roads in Milwaukie. He discussed the County's Transportation System Plan and gave Milwaukie's point of view on the winding up the Clackamas Town Center Urban Renewal District.

Mayor Ferguson was impressed with the caliber of those recruited for the boards and commissions and discussed Jon Stoll's voluntary resignation from the Audit Committee due to a potential conflict of interest related to selecting an auditor. He commended on the success of the recent Cultural Forum featuring Mike Richardson, Dark Horse Comics President. He announced upcoming events including a Transportation System Plan (TSP) Open House, Earth Day Celebration, Food for Fines Week, and Milwaukie First Friday.

ADJOURNMENT

It was moved by Councilor Miller and seconded by Councilor Churchill to adjourn the meeting. Motion passed with the following vote: Councilors Miller, Churchill, Hedges, and Gamba and Mayor Ferguson voting "aye." [5:0]

Mayor Ferguson adjourned the regular session at 8:48 p.m.

Respectfully submitted,



 Pat DuVal, Recorder

REGULAR SESSION

Date: 4/16/2013

I wish to address City Council on Agenda Item # 4

Name: Jeannette Griese

Organization: _____

Address: _____

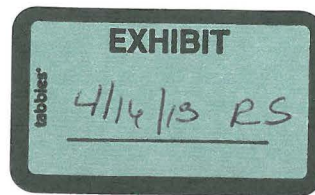
Phone: _____

E-mail: _____

- Speaking in support Speaking in opposition
 Providing neutral comments / or asking questions of clarification

Comments:

In the process of annexation and preparing to connect
to the sewer missed the March 15th "deadline"
We are asking to be included in the pre March 15th
group.



LIGHT RAIL CONSTRUCTION UPDATE

April 2013

PROJECT STATUS

- SCOPE: Construction is underway along the entire alignment (PSU to Park Ave)
- SCHEDULE: LRT service to begin in September 2015 (in 29 months)
- BUDGET: 1.49 billion (550 million spent to date)



SETTLEMENT AGREEMENT

- Approved in June of 2012.
- Outlined how the City of Milwaukie would pay its five million funding obligation.
- Listed 18 local enhancements and benefits for Milwaukie that were being included in the scope of the PMLRT project



ENHANCEMENT

Replace existing water and sewer pipes at intersections along the alignment that are relocated as part of the project with new pipes.



Waterline construction on 21st at Adams



Stormline construction on Harrison



ENHANCEMENT

*Underground utilities along
alignment in portion of
downtown*



PRIVATE UTILITIES TO BE PLACED UNDERGROUND ON:

- Washington – two blocks
- 21st Avenue – two blocks
- Adams – one block
- Monroe – one block



Existing trees on 21st trimmed due to overhead powerlines



ENHANCEMENT

Rebuild intersections along the alignment; include new light standards, crosswalks and curbs.



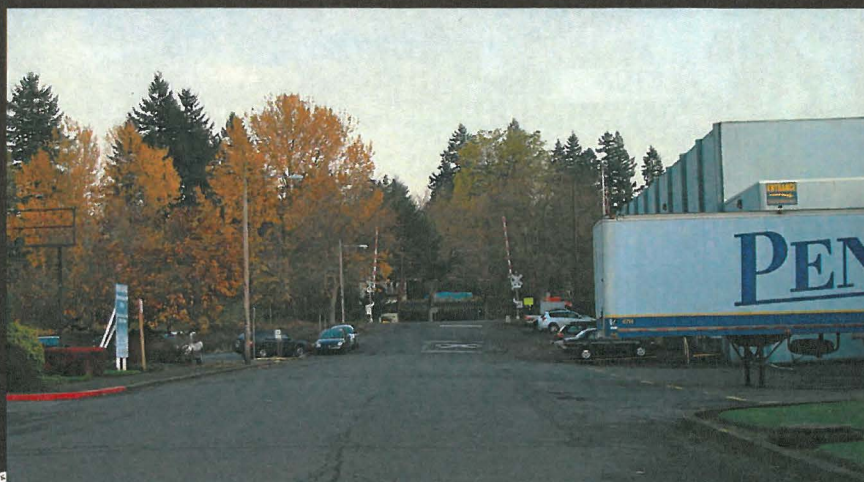
26th Avenue under Hwy 224 - Before PMLRT



26th Avenue under Hwy 224; realigned with sidewalk



Mailwell west of the rail; before
PMLRT



Mailwell west of the rail with new
sidewalk and stormwater planter



Two of the five new rail track crossings on Mailwell Street



TENTATIVE DATES ON RAIL CROSSING IMPROVEMENTS

- Late June: Washington Street
- Early July: Harrison Street
- Late August: Monroe Street
- Late October: 21st Ave & Adams St
- Late 2013: Mailwell

Note – Schedule of the crossing improvements is subject to change.



ENHANCEMENT

*Reconstruct and widen sidewalks at
Mailwell, Harrison, Monroe,
Washington & 21st Avenue*



New sidewalk on the north side of
Harrison west of 26th.



New sidewalk on the north side of Mailwell west of the rail



ENHANCEMENT

*Aesthetic treatment to be
provided on retaining walls in
downtown Milwaukie.*

The retaining walls in downtown Milwaukie are required to have an architectural finish known as the Ashlar Rock Form Wall Treatment.



Constructing Ashlar Rock wall on Monroe west of the rail



Finished Ashlar Rock wall on Monroe east of rail



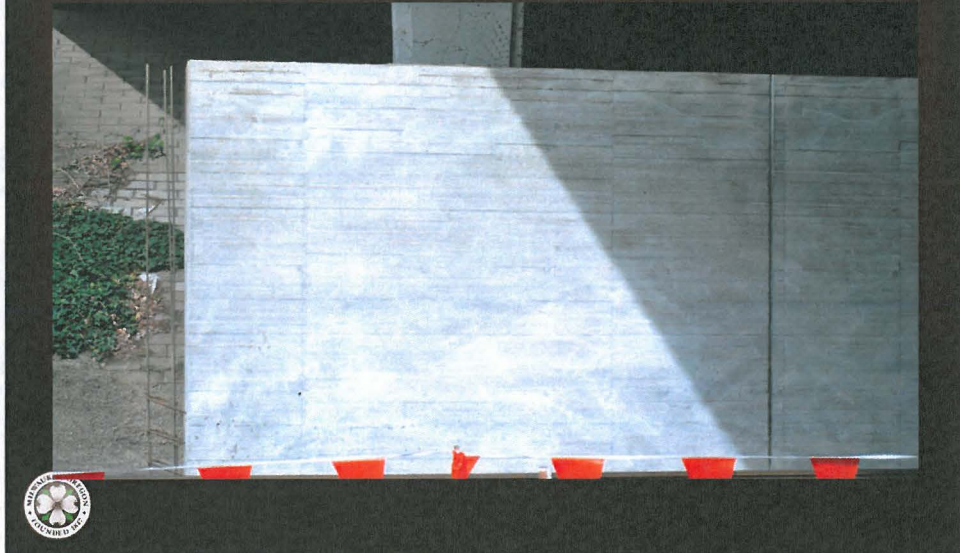
Construction of walls paralleling the rail alignment



Safety Walls that protect Hwy 224's bridge columns & separate the rails



Safety Walls – Horizontal Board Form Wall Treatment



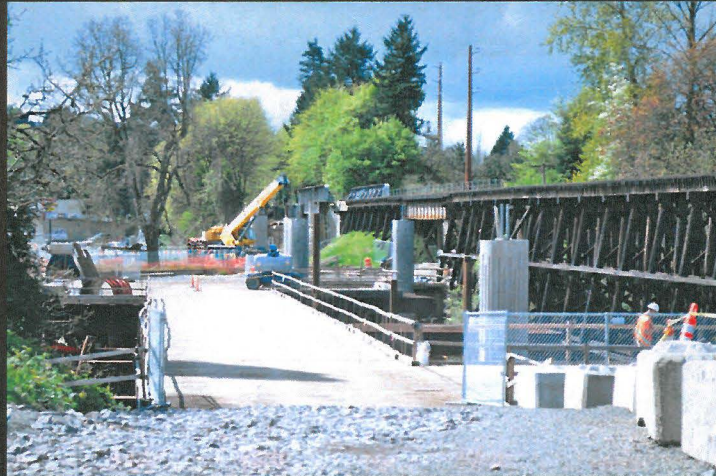
ENHANCEMENT

*Tubular steel enhancements to the
Kellogg Bridge structure*

*The Kellogg Bridge is constructed of
weathered steel tub girders.*



View of work bridge and bridge columns on Kellogg Lake



Kellogg Bridge columns along McLoughlin Blvd



Column construction
@ Kellogg Bridge



KELLOGG BRIDGE GIRDERS

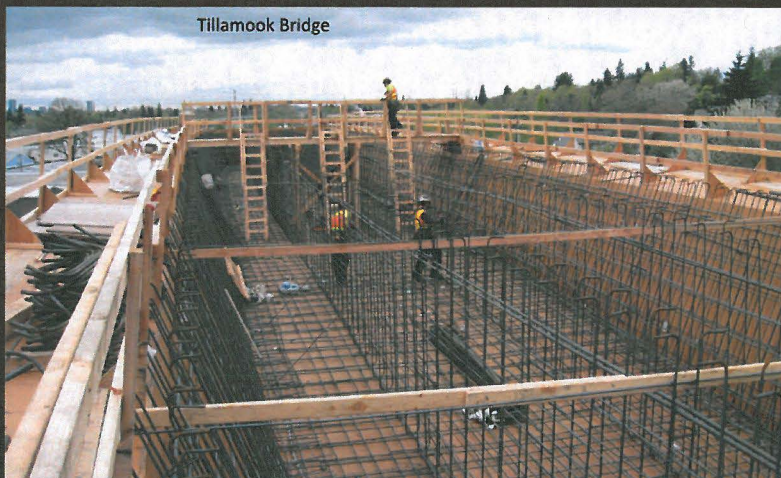
- The weathered steel tub girders are expected to arrive near the end of July or early August.
- Installing these girders over McLoughlin will require a full shutdown of McLoughlin over a weekend; this is likely to occur in early August.



Tillamook Bridge construction – view from PMLRT field office



View from above on the Tillamook Bridge (concrete beam & box bridge)



CONSTRUCTION UPDATES

TriMet provides weekly construction updates on their website. These updates can be found at:

<http://trimet.org/pm/construction/index.htm#clackamas>



AGENDA

MILWAUKIE CITY COUNCIL REGULAR SESSION APRIL 16, 2013

MILWAUKIE CITY HALL

10722 SE Main Street

2148th MEETING

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|---|---------------|
| 1. CALL TO ORDER | |
| Pledge of Allegiance | |
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| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | |
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| B. Milwaukie Police Department Accreditation | 2 |
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| Staff: Parks and Sustainability Director JoAnn Herrigel | |
| E. Portland - Milwaukie Light Rail Project Update | 17 |
| Staff: Light Rail Design Coordinator Stacy Bluhm | |
|
 | |
| 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> | |
| A. City Council Minutes of the March 19, 2013 Regular Session | 23 |
|
 | |
| 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> | |

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.)*

None scheduled.

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

- | | | |
|----|--|-----------|
| A. | Expedited Annexation of the Property Located at 9101 SE Stanley Avenue, File #A-13-05– Ordinance
Staff: Senior Planner Ryan Marquardt | 30 |
| B. | Repeal of Milwaukie Municipal Code Chapter 10.050.030, Inventories of Impounded Vehicles – Ordinance
Staff: Police Captain Dave Rash | 58 |
| C. | Council Reports | |

7. **INFORMATION**

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.

2.

PROCLAMATIONS,
COMMENDATIONS,
SPECIAL REPORTS,
AND AWARDS



To: Mayor and City Council
Through: Bill Monahan, City Manager
From: Bob Jordan, Chief of Police
Subject: Milwaukie Police Department Accreditation
Date: April 16, 2013

ACTION REQUESTED

None: For information only.

We are pleased to advise Milwaukie City Council that the Milwaukie Police Department has successfully completed the process for Oregon State Accreditation and was officially accredited by the Oregon Accreditation Alliance on January 31, 2013. The official accredited period for the police department started on January 31, 2013 and the accreditation is awarded for a three year period.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The Oregon Accreditation Alliance (OAA) was formed in April 2001. It was created under the direction and authority of the Oregon Association of Chiefs of Police, the Oregon State Sheriff's Association, and the Association of Public Safety Communications Officials. The OAA mutually supports and endorses the continued improvement of law enforcement and emergency communications services by establishing professional standards of accountability, management, and operations. The standards enforced by OAA represent the "best practices" of modern law enforcement agencies which ensure that the Milwaukie Police Department is operating in an efficient, effective and professional manner.

The OAA is governed by the Oregon Accreditation Alliance Board. The Board is composed of representatives from the Oregon Association of Chiefs of Police, the Oregon State Sheriff's Association, and the Oregon Chapter of the Association of Public Safety Communications Officials. The purpose of the Board is to review all agencies being presented for state accreditation to ensure that compliance with all applicable Council Staff Report – Police Department Accreditation

standards has been met. If all requirements have been met, the Board nominates the candidate agency to the respective parent organization for the award of state accreditation.

The normal time it takes for an agency to become accredited is 18 to 24 months. Currently there are fifty agencies in Oregon or approximately 30% of the agencies eligible through the Oregon Accreditation Alliance process involved in the OAA Program. Of those 50 agencies 32 are accredited including the Milwaukie Police Department.

As a newly appointed Chief of Police in June 2008, one of my personal goals was having the police department accredited through OAA. The accreditation project was assigned to Captain David J. Rash who was primarily responsible for our successful pursuit of OAA Accreditation.

BACKGROUND

The police department had to have staff trained in the accreditation process. There was a delay in the training and accreditation process because we had a police captain retire and had a promotion to the rank of Administrative Captain. In December 2011, we started the accreditation process with both sworn and non-sworn personnel. In December 2012, we had our on-site review. After the review, the Milwaukie Police Department was unanimously recommended for the awarded accreditation. On April 11, 2013, our department will be formally recognized as accredited through the Oregon Accreditation Alliance at the Oregon Association Chiefs of Police yearly conference.

FISCAL IMPACTS

The department has to pay an annual accreditation fee of \$1550, which will be due every January 31 of a calendar year. The OAA has set fees based on department size. The Milwaukie Police Department falls within the 24 to 75 employees range.

WORK LOAD IMPACTS

Department Staff who worked on the accreditation process had to offset other assigned tasks while working on accreditation.

ALTERNATIVES

The Department could be nationally accredited, which is 15 to 20 times the cost and is not the same standards utilized by several agencies in the State of Oregon or Clackamas County.

Proclamation
Earth day
City of Milwaukie

WHEREAS, the first Earth Day was celebrated on April 22, 1970, with the goal of inspiring environmental awareness and encouraging the conservation, protection and appreciation of our nation's natural resources; and

WHEREAS, it is the responsibility of each of us to safeguard the environment, by recognizing that all human life depends upon the Earth and that we depend upon one another for our mutual existence, well-being, and development; and

WHEREAS, steps to protect and preserve our natural environment through education, partnerships, and positive actions are being encouraged in the City of Milwaukie public facilities through our Sustainable Milwaukie Plan and in the community in general; and

WHEREAS, the citizens of the City of Milwaukie are committed not only to the protection and preservation of the environment, but also to the restoration of ecosystems and habitat; and

WHEREAS, the City of Milwaukie proudly recognizes all who protect and preserve the environment through their actions on Earth Day and every day by taking a proactive role in shaping the future of our environment and in protecting Milwaukie's precious natural resources;

NOW, THEREFORE, BE IT RESOLVED that I, Jeremy Ferguson, Mayor of Milwaukie Oregon, do hereby proclaim Monday April 22, 2013 as EARTH DAY in the City of Milwaukie and urge all citizens to be mindful of local, state and national laws that protect our environment, and to continue to preserve the beauty and wonder of the land, air and water of the Earth in all its diversity.

Jeremy Ferguson, Mayor of the City of Milwaukie
Signed this 16th day of April 2013



RS 2.D.
Agenda Item: Garbage
Rate Update/Status
Meeting Date: 4/16/13

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Garbage Rate Update/Status

Prepared By: JoAnn Herrigel, Parks and Sustainability Director

Dept. Head Approval: Steve Butler, Interim Community Development Director

City Manager Approval:

Reviewed by City Manager:

ISSUE BEFORE THE COUNCIL

Financial information for the franchised garbage haulers is reviewed by the City on an annual basis to determine whether a rate increase is needed. To bring new Councilors up to speed on the garbage rate review process in advance of the review's completion, staff will attend the April 16 work session to discuss the review process and the status of the data analysis.

STAFF RECOMMENDATION

NA - Information provided for discussion purposes only.

KEY FACTS & INFORMATION SUMMARY

The seven franchised garbage haulers submit financial information to the City each year in March. With assistance from Clackamas County staff, Milwaukie staff reviews the haulers' data determines whether a rate increase is needed and develops a rate recommendation by June of each year. Typically, City Council considers any requested rate changes in late June and new rates are effective July 1. Staff will meet with Council on April 16 to discuss this year's rate review schedule and to share information regarding any expected increases.

OTHER ALTERNATIVES CONSIDERED

NA

CITY COUNCIL GOALS

None.

ATTACHMENT LIST

1. Current Rate Sheet

FISCAL NOTES

NA – no action is requested at this time.



To: Mayor and City Council

Through: Bill Monahan, City Manager
Stephen Butler, Interim Community Development Director

From: JoAnn Herrigel, Parks and Sustainability Director

Subject: Garbage Rate Review Update/Status

Date: April 16, 2013 Regular Session

ACTION REQUESTED

None requested. This report is for Council's information only.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

June 2012

Council approved rate increases to residential and commercial garbage rates to reflect increases in the Metro tip fee, labor and fuel costs

June 2011

Council approved rate increases to residential and commercial garbage rates to reflect increases in disposal costs. Additional increases to drop box service and delivery fees were approved to more accurately capture the costs associated with the service.

June 2010

Council approved rate increases residential and commercial garbage rates to reflect increases in disposal costs and achieving parity with Clackamas County rates.

July 2009

Council approved rate increases for residential and commercial garbage rates to reflect increases in disposal costs and a downturn in recycling markets and an increase in drop box rates to move toward cost of service.

July 2008

Council approved rate increases for commercial and residential rates to reflect increases in fuel prices, a Metro tip fee increase of \$4.61 and to achieve parity with Clackamas county rates.

October 2007

Council approved a *residential* garbage rate increase (effective November 2007) to reflect various anticipated cost increases, equalizing the City's residential rates with those of Clackamas County's and authorized the distribution of roll carts for commingled curbside recycling.

September 2006

Council approved a *residential* garbage rate increase of \$1.16 per can per month (effective September 1, 2006).

August 2004

Council approved a garbage rate increase of 2.79% for both *residential and commercial* services (effective October 1, 2004)

BACKGROUND

Each year, the City's franchised garbage haulers submit financial information to the City showing their revenues and expenses for the previous year. Each hauling company submits multiple spread sheets of information showing, in fairly fine detail, of all expenses and revenues related to the provision of garbage, recycling and yard debris collection service. The information submitted by the individual collectors is consolidated to create a composite 'company'. The City, with the assistance of County staff and a contracted financial analyst reviews this data and determines whether a rate increase is necessary. Adjustments are made to eliminate those costs allowed for tax purposes but not allowed for determining collection rates. This composite is used to analyze the financial health of the entire system.

The City determines the solid waste franchise system's health based on what is called the "return on revenues" (ROR). Chapter 13.24 of our municipal code states that rates should be adequate to provide a ROR equal to 10% of the composite gross revenue. However, the code states that the City shall not be "required" to change rates if the ROR is between 8% and 12%. This range of return on gross revenues is considered sufficient to reflect the level of business risk assumed by the franchisee, to allow investment in equipment, and to ensure quality collection service.

The review of the 2012 composite is still underway and no actual return on revenues is available as yet. Metro staff is in the process of reviewing the need for an increase to the disposal fee at Metro facilities and an update may be available at the April 16 meeting. Disposal expense is approximately 30% of the direct operational expenses. Last year, Metro Council approved a tip fee increase of \$4.31 a ton and had suggested that disposal fee increase of this or greater magnitude might be expected over the next several years.

Analysis is underway by County staff and a financial consultant on a range of factors impacting the cost of providing service, including fuel and personnel costs and potential recycling revenues. It appears there is an anticipated decrease in the revenue earned from the sale of recyclables in the coming year; the downturn does not come close to the precipitous declines beginning in late 2008. In 2009 and 2010 the rates did not include revenues from the sale of recyclables (as none were expected). The approved rates for 2011 and 2012 did include a conservative estimate of an anticipated increase in revenue from the sale of recyclables and it is expected that 2013 rates will do so as well.

Other costs, such as labor and fuel, are still under review to see what impact, if any, can be anticipated for the coming year. In the coming weeks the franchisees and city and county staff will meet to discuss the possibilities for minimizing any rate increases while maintaining the high level of service expected by the citizens of Milwaukie.

CONCURRENCE

NA

FISCAL IMPACTS

NA

WORK LOAD IMPACTS

NA

ALTERNATIVES

NA

ATTACHMENTS

1. Current Rate Sheet

ATTACHMENT 1

City of Milwaukie Uniform Solid Waste and Recycling Rates

Uniform Monthly Residential Rates Rates as of August 1, 2012

SERVICE	MONTHLY RATE
<u>20 Gallon Can (Mini-Can)</u>	
1 Can/Cart (1 time/week).....	\$24.90

- Weekly collection includes recycling and yard debris service.

32 Gallon Can/Cart

1 Can/Cart (1 time/week).....	\$28.65
2 Cans/Cart (1 time/week).....	\$57.30
Each Add'l Can/Cart.....	\$28.65
Extra can of garbage (occasional)*.....	\$ 6.05
Extra Can of Yard Debris (occasional)	\$ 2.60
Court Apartments (1 time/week/recycling only).....	\$24.15

- Weekly collection includes recycling and yard debris service. Recycling carts and bins and yard debris carts must be placed at the curb.

- Additional stops per week are charged at 100% of the first stop per week rate.

* This rate is for the first extra can collected, each additional at the stop is \$3.00.

Maximum weight for a 20 or 32 gal. can/cart is 60 lbs.

Roller Carts

60 Gallon Cart (1 time/week)	\$37.80
90 Gallon Cart (1 time/week)	\$44.40
Extra Can of Yard Debris (occasional)	\$ 2.60

- Weekly collection includes recycling and yard debris service. Recycling bins and yard debris carts must be placed at the curb.
- Additional stops per week are charged at 125 % of the first stop per week rate.
- A deposit of \$30.00 may be charged when cart is placed. Refunds will be made after return of cart or after five years (whichever comes first).
- A \$10.00 redelivery charge may be charged for redelivery within one year, regardless of reason.
- Maximum weight for 60 gal. cart is 100 lbs and for 90 gal cart is 120 lbs.

Monthly and On-Call Service

Monthly	\$12.25
On Call	\$12.95

- Monthly service includes recycling but not yard debris service.
- Monthly and on-call customers must subscribe for one year in advance for yard debris service.
- On call customers must provide hauler with 24 hours notice

Uniform Monthly Commercial Rates

SERVICE	MONTHLY RATE
---------	--------------

32 Gallon Can/Cart

One Can/Cart (1 time/week).....	\$24.70
Two Cans/Cart (1 time/week).....	\$49.40
Each Addt'l Can/Cart.....	\$20.50
Extra can (occasional).....	\$ 5.00

- Additional stops per week are charged at 100% of the first stop per week rate.

Roller Carts

60 Gallon Cart (1 time/week)	\$35.75
90 Gallon Cart (1 time/week)	\$38.35

- Additional stops per week are charged at 125 % of the first stop per week rate.
- A deposit of \$30.00 may be charged when cart is placed. Refunds will be made after return of cart or after five years (whichever comes first).
- A \$10.00 redelivery chargemay be charged for redelivery within one year.

Compacted Containers

2.2 times the loose container rate

- Containers weighing in excess of 500 lbs per cubic yard will be charged this rate plus disposal for the excess weight.
- Compactors furnished by the customers shall be compatible *with* the equipment of the collector. If the collector agrees to furnish the compactor, the collector may charge a reasonable rental rate based on the value of the compactor and the cost of repair and maintenance.

Uniform Drop Box Rates

Drop Box Service

Loose Material -

10/20 Yards.....	\$113.00 (plus disposal costs)
30 Yards.....	\$130.00 (plus disposal costs)
40 Yards.....	\$147.00 (plus disposal costs)

- An additional \$40.00 per drop box may be charged for one-stop service (plus disposal costs).
- Deposits of no more than \$500.00 may be charged for each drop box.

Compacted Material:

Under 25 Cubic Yards.....	\$128.00 (plus disposal costs)
25-34 Cubic Yards.....	\$169.00 (plus disposal costs)
34 + Cubic Yards.....	\$196.00 (plus disposal costs)

- Rental rate for Permanent boxes hauled at least weekly will be \$50.00 per month
- Rental rate for Occasional boxes after 48 hours on location is \$6.30 per day or \$63.00 a month, whichever is less, if one load per week hauled.
- Mileage charge of \$4.70 per mile (over 18 miles round-trip from shop or Metro South).

Non-Customer Services

(Non-customer includes a regular customer with a less than weekly service frequency.)

Recycling Only

Weekly curbside collection of recyclables \$4.15

Yard Debris Subscription Service Annual rate must be paid in full in advance

60 Gallon Cart \$5.30

Extra can of yard debris \$2.60

Permanent second can..... \$3.85

- Monthly rates predicated on weekly service.
- This service is provided only within the Urban Growth Boundary.
- The subscriber is required to pay for one year of service in advance.

ANY OTHER TYPE OF SERVICE

If, due to changes in technology or needs of residents and business people of Milwaukie, additional or other types of services are needed, the charge for the service shall not be discriminatory, shall be reasonable by being commensurate with the rates above, and shall not exceed the rates most generally applicable in the Portland Metropolitan area.

Bio-Medical Services Rates

Number of units	Tub Rates	
	per Gallon	
	20/21	35/48
1	\$ 81.45	\$ 83.25
2	\$ 61.85	\$ 63.50
3	\$ 54.30	\$ 56.00
4	\$ 49.35	\$ 51.00
5	\$ 46.35	\$ 48.00
6	\$ 44.35	\$ 46.00
7	\$ 41.85	\$ 43.50
8	\$ 40.40	\$ 42.00
9	\$ 37.35	\$ 39.00
10	\$ 35.85	\$ 37.50
11	\$ 34.75	\$ 36.50
12	\$ 33.25	\$ 35.00
13	\$ 32.75	\$ 34.50
14	\$ 32.00	\$ 33.75
15	\$ 31.25	\$ 33.00
16	\$ 26.30	\$ 28.00
17	\$ 26.30	\$ 28.00
18	\$ 26.30	\$ 28.00
19	\$ 26.30	\$ 28.00
20	\$ 26.30	\$ 28.00
60	\$ 17.90	\$ 18.75
75	\$ 17.45	\$ 18.05
90	\$ 12.80	\$ 13.10

Commercial Container Rates

Stops/ Week	Size in Cubic Yards					
	1	Add'l	1 1/3	Add'l	1.5	Add'l
1	\$92.30	\$77.86	\$113.73	\$95.57	\$120.49	\$102.34
2	\$176.87	\$149.64	\$219.73	\$186.00	\$233.21	\$197.22
3	\$261.44	\$219.98	\$325.71	\$275.42	\$345.97	\$292.66
4	\$346.02	\$293.21	\$431.71	\$365.46	\$458.69	\$387.31
5	\$430.59	\$363.54	\$537.71	\$454.89	\$571.45	\$485.62
6	\$515.16	\$435.94	\$643.71	\$543.63	\$684.17	\$579.66

Stops/ Week	Size in Cubic Yards					
	2	Add'l	3	Add'l	4	Add'l
1	\$151.99	\$128.89	\$204.97	\$174.03	\$260.13	\$222.59
2	\$296.25	\$251.98	\$397.51	\$338.18	\$507.83	\$434.05
3	\$440.51	\$374.26	\$590.05	\$502.96	\$755.53	\$644.67
4	\$584.77	\$494.20	\$782.59	\$669.80	\$1,003.23	\$852.69
5	\$729.04	\$621.52	\$975.13	\$832.98	\$1,250.93	\$1,067.28
6	\$873.30	\$742.04	\$1,167.67	\$992.89	\$1,498.63	\$1,278.17

Stops/ Week	Size in Cubic Yards					
	5	Add'l	6	Add'l	8	Add'l
1	\$312.94	\$288.19	\$358.69	\$330.22	\$438.42	\$405.41
2	\$612.27	\$563.48	\$703.77	\$648.96	\$863.23	\$797.88
3	\$911.60	\$836.61	\$1,048.84	\$961.41	\$1,288.04	\$1,190.56
4	\$1,210.93	\$1,111.44	\$1,393.92	\$1,280.38	\$1,712.85	\$1,581.24
5	\$1,510.26	\$1,389.19	\$1,739.00	\$1,598.96	\$2,137.66	\$1,964.94
6	\$1,809.59	\$1,669.54	\$2,084.08	\$1,911.36	\$2,562.47	\$2,361.59

- Collector shall furnish the container.
- Overweight charge for containers over 300 lbs. per cubic yard determined through mutual agreement between hauler and customer.
- Container cleaning, if required more than twice in 12 months, will be charged at actual cost of cleaning.

ATTACHMENT 2

HISTORIC RATE INCREASE EXAMPLES

2011 Garbage Rate Increase Request Info

Res + Comm Can +Cart			Approved by Council
2010 Rate	Service Level	2011 Proposed	Increase
\$ 23.90	20 gal cart	\$ 24.55	\$.65
\$ 27.45	32/35 gal	\$ 28.20	\$.75
\$ 36.10	60/65 gal	\$ 37.10	\$ 1.00
\$ 42.20	90/95 gal	\$ 43.40	\$ 1.20
\$ 12.30	On call customers	\$ 12.70	\$.40
\$ 22.09	Multifamily-1 Bill	\$ 23.70	\$ 1.61
\$ 23.50	Commercial 32 can	\$ 24.25	\$.75
\$ 34.05	Commercial 60/65 gal	\$ 35.05	\$ 1.00
\$ 36.65	Commercial 90/95 gal	\$ 37.65	\$ 1.00

Commercial Container			Adjustment
2010 Rate	Service Level	2011 Proposed	\$
\$ 87.17	1 yard weekly	\$ 89.68	\$ 2.51
\$141.73	2 yard weekly	\$ 146.75	\$ 5.02
\$ 239.61	4 yard weekly	\$ 249.65	\$ 10.04
\$ 327.91	6 yard weekly	\$ 342.97	\$ 15.06

2012 Garbage Rate Info

Res +Com Can +Cart			Increase
2011 Rate	Service Level	2012 Proposed	\$
\$ 24.55	20 gal cart	\$ 24.90	\$.35
\$ 28.20	32/35 gal	\$ 28.65	\$.45
\$ 37.10	60/65 gal	\$ 37.80	\$.70
\$ 43.40	90/95 gal	\$ 44.40	\$ 1.00
\$ 12.70	On call customers	\$ 12.95	\$.25
\$ 23.70	Multifamily-1 Bill	\$ 24.15	\$.45
\$ 24.25	Commercial 32 can	\$ 24.70	\$.45
\$ 35.05	Commercial 60 gal	\$ 35.75	\$.70
\$ 37.65	Commercial 90 gal	\$ 38.35	\$.70

Commercial Container			Adjustment
Current Rate	Service Level	Proposed	Increase
\$ 89.68	1 yard weekly	\$ 92.30	\$ 2.62
\$146.75	2 yard weekly	\$ 151.99	\$ 5.24
\$ 249.65	4 yard weekly	\$ 260.13	\$ 10.48
\$ 342.97	6 yard weekly	\$ 358.69	\$ 15.72



Agenda Item: 2.E.
Meeting Date: 4/16/13

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Portland-Milwaukie Light Rail Project Update

Prepared By: Stacy Bluhm, Light Rail Construction Manager
City Manager Approval: Bill Monahan
Reviewed by City Manager:

ISSUES BEFORE THE COUNCIL

Staff will present an update on the status of the Light Rail Project.

STAFF RECOMMENDATION

This item is informational; there is no recommendation associated with this item.

KEY FACTS & INFORMATION SUMMARY

In June of 2012, the City of Milwaukie and TriMet entered into a Settlement Agreement that outlined how the City would pay its five million funding obligation for the Portland-Milwaukie Light Rail Transit Project. As part of that agreement, there were 18 local enhancements and benefits included in the scope of the PMLRT project. This report elaborates on the status of the utility and street improvements noted in that *Settlement Agreement*.

OTHER ALTERNATIVES CONSIDERED

Not applicable.

CITY COUNCIL GOALS

Not applicable.

ATTACHMENT LIST

None.

FISCAL NOTES

No new fiscal issues.



To: Mayor and City Council

Through: Bill Monahan, City Manager

From: Stacy Bluhm, Light Rail Construction Manager

Subject: Portland-Milwaukie Light Rail Project Update

Date: April 16, 2013, Regular Session

Action Requested

No action is required for this informational update.

History of Prior Actions and Discussions

In June of 2012, the City of Milwaukie and TriMet entered into a *Settlement Agreement* that outlined how the City would pay its five million funding obligation for the Portland-Milwaukie Light Rail Transit Project.

Background

As part of the *Settlement Agreement* approved in June 2012, there were 18 local enhancements and benefits included in the scope of the PMLRT project. This report elaborates on the status of those enhancements and benefits that the PMLRT project has already initiated construction of:

- Provide an aesthetic treatment of retaining walls in Downtown Milwaukie.
- Reconstruct and widen sidewalks at SE Mailwell, SE Harrison, SE Monroe, SE Washington, and SE 21st Avenue.
- Rebuild intersections along alignment; include new light standards, crosswalks, and curbs.
- Underground utilities along alignment in portion of downtown.
- Replace existing water and sewer pipes at intersections along the alignment that are relocated as part of the project with new pipes.
- Construct the Trolley Trail between SE River Road and SE Park Avenue.

Below is a brief summary of the status of the enhancements that we are actively constructing:

1. *Provide an aesthetic treatment of retaining walls in Downtown Milwaukie.*
 - The walls in downtown Milwaukie are required to have an architectural finish known as Ashlar Rock Form Wall Treatment. The walls on the north side of Monroe west and east of the rail crossing have been completed and have the Ashlar Rock finish and the wall on the south side of Monroe west of the rail is also expected to be completed by April 15th.
 - Wall crews are now working on the wall on the north side of Harrison east of the rail and work continues on the walls that parallel the rail alignment (north of Harrison, between Harrison and Monroe, and between Washington and Adams). These walls also have the Ashlar Rock finish.
 - Wall crews are also working on the safety wall that extends along the rail alignment between Mailwell and Harrison Streets. These walls that provide separation between the heavy rail and light rail tracks are required to have an architectural finish known as the Vertical Board Form Wall Treatment. Two safety walls are also required under Hwy 224 to protect the bridge abutments. The wall on the west side of 26th is already complete and has the required Vertical Board Form treatment.

2. *Reconstruct and widen sidewalks at SE Mailwell, SE Harrison, SE Monroe, SE Washington, and SE 21st Avenue.*
 - The new sidewalk and stormwater planter on the north side of Mailwell west of the rail has been completed. Crews are now working on the sidewalk on the north side of Mailwell east of the rail.
 - Crews have also initiated construction of the new sidewalk and stormwater planters on the north side of Harrison extending between 23rd and 26th Avenues.
 - Construction of a new sidewalk on the east side of 26th in the vicinity of Hwy 224 has also been completed.

3. *Rebuild intersections along alignment; include new light standards, crosswalks, and curbs.*
 - All five rail crossings are to be fully rebuilt with improved pedestrian crossings and lighting.
 - The west leg of Mailwell has been rebuilt. This work included changing the grade of the street, retaining walls on both sides of the street, curb and gutter, sidewalk on the north side, two stormwater planters, and increased lighting. Two of the concrete track crossings (out of five total) have been installed as well.

- Crews are now working on the east leg of Mailwell as well and expect to have the new curb and gutter, sidewalks and street paving (other than final lift) completed by the end of April.
- Other rail crossing improvements (and associated street improvements) are currently scheduled for completion as follows:
 - Late June: Washington Street
 - Early July: Harrison Street
 - Late August: Monroe Street
 - Late October: 21st Ave/Adams Street
 - Late 2013: Mailwell Street

Note, however, that the scheduling of these rail crossing improvements is subject to change as the schedule does have to adapt to changing conditions/conflicts. The following website provides weekly updates of PMLRT construction activities in Clackamas County :

<http://trimet.org/pm/construction/index.htm#clackamas>

4. *Underground utilities along alignment in portion of downtown.*

- The subcontractor installing the joint utility trench and vaults for the private utilities has started work on Washington east of the rail. The undergrounding on Washington extends from a point just west of 23rd Avenue to a point west of 21st Avenue.
- Utilities will also be placed underground along 21st Avenue from Lake Road to a point just north of Washington Street, on Adams east of 21st, and on Monroe under the rail crossing.

5. *Replace existing water and sewer pipes at intersections along the alignment that are relocated as part of the project with new pipes.*

- On Harrison, the new stormline, sanitary sewer, and waterline pipes have been installed in the vicinity of the rail. However, the new Spring Creek culvert pipe south of Harrison will not be completed until this summer. Note that the City of Milwaukie's contractor is now starting additional waterline replacement along Harrison.
- On Washington, the new stormline, sanitary sewer, and waterline pipes have been installed in the vicinity of the rail.
- On Lake Road (near the train over-crossing), the new stormline, sanitary sewer and waterline pipes have been installed.
- At 21st & Adams; Crews are working on the new waterlines crossing under the rail on 21st and Adams.
- On Monroe, the new sanitary sewer is installed but work has not begun yet on the new waterline and storm.
- Along the trolley trail, crews are working on the new sanitary sewer and there is new stormline that will be built as well.

6. *Construct the Trolley Trail between SE River Road and SE Park Avenue.*

The grading and excavation has been completed along the trolley trail alignment. Crews are now working on the utilities and retaining walls. These

will need to be constructed before the 12-foot wide asphalt path is built between River Road and Park Avenue.

Concurrence

There is considerable community response and outreach provided by project staff (City and TriMet). Project staff meet every other month with the PMLRT Citizens Advisory Committee and they also hold a monthly meeting (known as the Milwaukie Monthly Light Rail Meeting) that is open to the public to discuss project status and issues. City staff (Engineering, Planning, and Operations) meet with TriMet and contractor staff on a regular basis to discuss project status, impending work, and to resolve design and construction issues.

Fiscal Impact

No new fiscal impacts result from this council update.

Work Load Impacts

No new workload impacts result from this council update.

Alternatives

Not applicable.

3.

CONSENT AGENDA

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
MARCH 19, 2013**

CALL TO ORDER

Mayor Ferguson called the 2146th meeting of the Milwaukie City Council to order at 7:08 p.m. in the City Hall Council Chambers.

Present: Mayor Jeremy Ferguson, Council President Dave Hedges, and Councilors Scott Churchill, Mark Gamba, and Mike Miller

Staff present: City Manager Bill Monahan, City Attorney Tim Ramis, Assistant to the City Manager Teri Bankhead, City Recorder Pat DuVal, Interim Community Development Director Steve Butler, Engineering Manager Jason Rice, and Public Works Director Gary Parkin

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Milwaukie High School Student of the Month for March 2013 Aubrey Daschel-Lloyd

Milwaukie High School Principal Pinder announced that Milwaukie High School had been named the winner of the 2013 ASCD Vision in Action Award. He thanked the Milwaukie City Council and staff for their support.

Mayor Ferguson and Councilors congratulated Aubrey Daschel-Lloyd on being selected as the Milwaukie High School Student of the Month for March 2013.

B. Green Power Partnership Presentation

Thor Hinckley, Manager of PGE's Renewable Power Program, congratulated the City of Milwaukie on meeting its Green Power Challenge by signing up more than 200 renewable power customers.

Teresa Kubo, Environmental Reviewer at the Environmental Protection Agency, congratulated the City Council and forward thinking Milwaukie businesses and residents in joining 44 other Green Power Communities in the country and the 10th community in the State of Oregon.

Mayor Ferguson provided statistics on the number of pounds of carbon dioxide PGE renewal power customers avoided putting in the atmosphere. Shobi Dahl, Dave's Killer Bread CEO, was congratulated on signing up for the highest possible level of Clean Wind Power, with 100% of the company's energy offset by new wind energy.

Mr. Dahl said he had made the decision to purchase green power both at his business and his home in Milwaukie several years ago.

CONSENT AGENDA

It was moved by Councilor Hedges and seconded by Councilor Miller to approve the consent agenda as presented.

A. February 19, 2013 Regular Session City Council Minutes;

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- B. **Resolution 24-2013: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving an Intergovernmental Agreement with the City of West Linn to Temporarily Source Systems and Network Administration Services from the Information Technology Department and Authorizing the City Manager to Sign the Agreement;**
- C. **Resolution 25-2013: A Resolution of the City Council of the City of Milwaukie, Oregon, Establishing a Library Fine Amnesty Week from April 14, 2013 through April 20, 2013 in Recognition of National Library Week;**
- D. **An OLCC Application for The Painted Lady Coffee House, 2045 SE Washington Street, new outlet; and**
- E. **Resolution 26-2013: A Resolution of the City Council of the City of Milwaukie, Oregon, Approving the Award of a Contract for the Construction of Harrison St (Main St to Highway 224) Water System Improvements Phase II.**

Motion passed with the following vote: Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0]

Mr. Monahan provided background on the Fine Amnesty Week that encouraged patrons to return overdue items. The food collected would be sent to the Oregon Food Bank for local distribution.

AUDIENCE PARTICIPATION

Mr. Monahan reported on Audience Participation comments and questions from the previous meeting.

Jean Baker, Milwaukie, had discussed a situation with a neighbor now on her third deployment who had planned to remodel her house. According to Ms. Baker, the neighbor would experience a financial loss unless the permits were extended based on extenuating circumstances. Staff looked at the status of that permit and found it was not in jeopardy. Ms. Baker’s comments did bring to light a potential issue that Building Official Tom Larsen would evaluate.

Mayor Ferguson discussed the Kellogg Good Neighbor Agreement with Clackamas County Service District #1 (CCSD#1) and the recently established Kellogg Good Neighbor Committee that would make recommendations on decisions. He encouraged citizens to attend the RiverHealth Advisory Committee meetings to contribute to the recommendations made to the Board of County Commissioners.

Mr. Monahan reported that Water Environmental Services (WES) had a consultant working on odor control at the Kellogg Treatment Plant, and Mr. Parkin hoped to arrange for the consultant to attend the April 2 work session.

JoAnne Bird, Island Station Neighborhood District Association (NDA) Chair, spoke regarding her feelings on the Kellogg Treatment Plant and Good Neighbor Agreement. She did not think that much money should be spent on a park next to a stinky treatment plant and that the funds should be used to deal with the odor.

Charles Bird, Island Station, Kellogg Good Neighbor Committee, encouraged the City Council to request in writing an updated odor survey. He discussed the previous Brown and Caldwell report and the odor sources it identified. The neighborhood felt the odor was excessive, and he suggested perhaps the standards were not appropriate. He cautioned against putting money toward the Riverfront Park before solving the odor problems.

Mayor Ferguson discussed capital project planning and landscaping opportunities that might deal with some of the issues.

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Mr. Bird suggested the City put some funds into the Park as a show of good faith. He discussed the feasibility of vehicle and boat trailer parking fees to help maintain the Park. Complaints from Park visitors might give the County incentive to make odor control improvements. He noted that this was the best season for planting.

Councilor Gamba said it was his experience that some days the odor was worse than others, so one could get anomalous results. He would like to have more information and readings during the worst case scenarios if possible.

Mr. Bird suggested the next odor survey be done when there were the most complaints and under the direction of the Committee.

Councilor Churchill appreciated Mr. Bird's expertise on the Good Neighbor Committee and wished timelines were not so tight. He suggested visits to plants such as the state of the art Durham and Vancouver treatment facilities and asked Mr. Bird if he would spearhead site visits. Maybe something could be learned from those experiences.

Mr. Bird thought a lot of improvements could be initiated at Kellogg and suggested that Greg Geist, WES Water Quality Manager, be involved.

Mayor Ferguson discussed the green zone around the Oak Lodge Treatment Plant.

Lisa Batey, Island Station Neighborhood, recalled the January 2010 design charrette with the reduced plant footprint and the land being claimed for a higher, better use. After years of battling with WES and paying higher rates, the question of how to confine the odor went unanswered. Now the neighborhood was being asked to give up some money. She challenged people to walk along the Trolley Trail that smelled even on the best of days. It looked as if cedar chips were being used as filtering material. She suggested that once the light rail columns were poured maybe a sign could be installed with a hotline number for people to call if they detected an odor. The neighborhood was being asked to forgo the revenue for the good of the Park without knowing what it took to solve the odor problem. Perhaps the City Council could consider docking or parking fees to remediate any remaining problems.

Mr. Bird explained the odor was coming from the concrete chambers and suggested perhaps the level of filtration was not good enough.

Councilor Churchill thought seeing other plants might help and perhaps there was better technology than bark chips.

Councilor Hedges discussed the make-up of the RiverHealth Advisory Board and felt it was loaded against the City of Milwaukie.

Mayor Ferguson said there were challenges being on that Board and encouraged citizens to attend and express their opinions.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Expedited Annexation of 5621 SE Firwood St, File #A-13-04

Mr. Butler provided the staff report in which the City Council was requested to adopt the ordinance approving the expedited annexation for one tax lot at 5621 SE Firwood St. The annexation was initiated by the property owner who wished to access City services. The subject property is developed with a single family dwelling used as a

residence and would be zone R-10 upon annexation. It is in the NESE project area and the Urban Growth Management Area (UGMA).

All necessary parties, interested persons, and residents and property owners within 400 feet of the subject site had been notified along with the Lewelling Neighborhood District Association (NDA) and the Southgate Planning Association. The City did not receive comments from any necessary parties with objections to the proposed annexation. He understood the property was in the process of being sold.

It was moved by Councilor Gamba and seconded by Councilor Miller for the first and second readings by title only adoption of the ordinance annexing a tract of land identified as 5621 SE Firwood Street into the City limits of the City of Milwaukie and withdrawing the tract from the territory of Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights, File #A-13-04. Motion passed with the following vote: Councilors Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0]

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

Ms. DuVal polled the City Council: Councilors, Hedges, Gamba, Miller, and Churchill and Mayor Ferguson voting “aye.” [5:0]

ORDINANCE NO. 2063:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS 5621 SE FIRWOOD STREET INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. (FILE #A-13-04)

B. Establish Wastewater Treatment System Development Charge

Mr. Parkin requested that the City Council adopt wastewater treatment system development charge (SDC) per the agreement with Clackamas County Service District #1 (CCSD#1) as a pass through charge. The City would continue to charge an SDC for its collection system. Prior to this agreement, the City received a annual true-up bill that was spread among all the rate payers.

Councilor Gamba asked if Milwaukie was paying the same amount as Happy Valley and unincorporated.

Mr. Parkin replied in Milwaukie the fee was for treatment. This was not a new methodology but rather a fee CCSD#1 was requiring Milwaukie to pay as a pass through. The District had gone through the process to be able to collect the SDC. The entire amount, \$5,670 per equivalent dwelling unit (EDU), went to the District, and Milwaukie was not collecting an administrative fee as there was very little staff time involved. Milwaukie currently charges \$890 for its sewer collection SDC.

Mayor Ferguson explained prior to the recently-signed agreement, as a wholesale customer Milwaukie did not have the authority to collect the District SDC and resulted in the true-up process. Having this language included in the new agreement allowed Milwaukie to collect the SDC on behalf of CCSD#1.

Mr. Ramis added Milwaukie was not adopting a methodology or imposing an SDC. It was recouping the costs and charging the amount actually imposed by Clackamas County.

The group discussed the circumstances under which the SDC was collected and when it would be triggered. Staff would look into the accessory dwelling unit (ADU) matter and report back to the City Council as that was not clear.

Councilor Gamba thought clarification was important since the City wished to encourage ADUs.

Councilor Churchill added that some jurisdictions looked at the fixture count and agreed this was an important point to clarify.

Councilor Gamba asked why CCSD#1 was collecting these charges.

Mr. Parkin replied it was to pay back bonds that were used to divert flow from Kellogg.

Councilor Hedges understood the County charged the City this amount no matter what the Council decided to do.

It was moved by Councilor Hedges and seconded by Councilor Churchill to adopt the resolution establishing a fee to recover costs invoiced by Clackamas County Service District No. 1 for new sewer connections and amending Resolution 34-2012, the Master Fee Schedule. Motion passed with the following vote: Councilors Hedges, Gamba, Miller and Churchill and Mayor Ferguson voting “aye.” [5:0]

RESOLUTION 27-2013:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ESTABLISHING A FEE TO RECOVER COSTS INVOICED BY CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 FOR NEW SEWER CONNECTIONS AND AMENDING RESOLUTION 34-2012, THE MASTER FEE SCHEDULE.

C. Council Reports

Councilor Churchill had no report.

Councilor Hedges attended the Clackamas County Coordinating Committee (C4) discussion of the road maintenance fee options. The County gas tax and license fee options were moving forward. There was no discussion of how money would be distributed to jurisdictions that had their own gas taxes like Milwaukie and Sandy. He attended four NDA meetings and the Ukrainian School of Knowledge event.

Councilor Miller attended the North Clackamas Parks and Recreation District (NCPRD) Board meeting, and he commented on the changes taking place at the County level. He was pleased to report that Milwaukie parks projects had moved up in the priority list. He attended the Lake Road NDA meeting where one of the main topics of interest was how money would be spent on the rest of Lake Road.

Councilor Gamba attended an anti-coal rally in Salem and Division of State Lands and the Metro Policy Advisory Committee (MPAC) meeting on whole communities and sustainability. He and Mayor Ferguson attended the Clackamas County Board of Commissioners meeting where the Transportation System Plan (TSP). He noted it would take concerted effort to keep the Sunnybrook Extension from happening.

Mayor Ferguson discussed the meeting with Clackamas County regarding the Sunnybrook Extension.

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Councilor Hedges encouraged people to make reservations for the upcoming annual Milwaukie officer, reserve, and cadet awards dinner.

Mayor Ferguson was working to keep Milwaukie's agenda active both locally and in Salem. He encouraged participation in the March for Meals event and discussed the Mayor's Emergency Preparedness Forum that featured Milwaukie Police Officer Ulli Neitch who spoke about pet safety during emergencies. He announced upcoming events including the Tacoma Station Area Plan meeting, Bike Milwaukie film night and first ride of the season, and the redesigned Adams Street Connector Lanterns Historic Image Survey.

ADJOURNMENT

It was moved by Councilor Hedges and seconded by Councilor Gamba to adjourn the meeting. Motion passed with the following vote: Councilors Hedges, Gamba, Miller and Churchill and Mayor Ferguson voting "aye." [5:0]

Mayor Ferguson adjourned the regular session at 8:52 p.m.

Respectfully submitted,

Pat DuVal, Recorder

6.
OTHER BUSINESS



Agenda Item: 6 .A.
Meeting Date: 4/16/13

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Expedited Annexation, 9101 SE Stanley Ave. – File #A-13-05

Prepared By: Ryan Marquardt, Senior Planner

Dept. Head Approval: Stephen Butler, Planning Director & Interim Community Development Director

City Manager Approval: Bill Monahan

Reviewed by City Manager: 4/4/13

ISSUES BEFORE THE COUNCIL

Expedited annexation for the property at 9101 SE Stanley Ave

STAFF RECOMMENDATION

Approval

KEY FACTS & INFORMATION SUMMARY

The property at 9101 SE Stanley Avenue submitted an application for an expedited annexation application. The property owner wishes to connect to the city's sewer system installed in 2010 by the Northeast Sewer Extension project. The application meets all criteria for approval of an expedited annexation.

OTHER ALTERNATIVES CONSIDERED

None.

CITY COUNCIL GOALS

N/A

ATTACHMENT LIST

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

FISCAL NOTES

Minimal fiscal impact is expected. It is expected that property taxes received by the City for this property will be roughly offset by the cost of providing services to the property.



To: Mayor and City Council

Through: Bill Monahan, City Manager

**From: Stephen Butler, Planning Director & Interim Community Development Director
Ryan Marquardt, Senior Planner**

Subject: Expedited Annexation, 9101 SE Stanley Ave. – File #A-13-05

Date: April 10, 2013, for April 16, 2013, Regular Session

ACTION REQUESTED

Approve application A-13-05, an expedited annexation petition, and adopt the attached ordinance and associated findings in support of approval (Attachment 1). Approval of this application would result in the following actions:

- Annexation of 9101 SE Stanley Avenue (the "Annexation Property") into the City (Tax Map 12E30AC Tax Lot 00100).
- Application of a Industrial (I) land use designation and Manufacturing (M) zoning designation to the Annexation Property.
- Amendments to the City's Land Use Map and Zoning Map to reflect the City's new boundary and the Annexation Property's new land use and zoning designations.
- Withdrawal of the Annexation Property from the following urban service providers and districts:
 - Clackamas County Service District for Enhanced Law Enforcement
 - Clackamas County Service District No. 5 for Street Lights

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

June 2010: Council approved the first annexation of property in the Northeast Sewer Extension (NESE) Project Area, at 5840 SE Morris St (Ordinance #2016, Land use file #A-10-01). Since then, Council has approved the annexation of approximately 140 additional properties in the NESE area.

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

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

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

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

BACKGROUND

Proposal

The property owner proposes annexation of the property to the City in order to connect to sewer service. The Annexation Property has a County zoning designation of I3 and Comprehensive Plan designation of General Industrial (GI). Upon annexation, the city zoning will be Manufacturing (M), with a Comprehensive Plan land use category of Industrial (I).

Site and Vicinity

The Annexation Property is contiguous to the existing city limits as a result of the NESE right-of-way annexation in 2010. The Annexation Property is within the City's urban growth management area (UGMA) and the NESE project area. The area surrounding is predominantly industrial, with some single family dwelling properties in the vicinity.

The business at the site is Family Dogs New Life Shelter. This use is considered to be a legal use in the County's I3 zone as documented by a county business registration from January 2005. The current use would be nonconforming with the uses allowed in the City's M zone. The site has one primary structure with several accessory structures. The site has nonconforming development circumstances, including but not limited to, front yard setback and off street parking.

Like other nonconforming uses and development in the city, the use and structures on the site would be allowed to continue per the provisions of MMC 19.800, Nonconforming Uses and Development. Intensification, modification, or expansions of the buildings or use may require additional land use approval. While nonconforming situations require a higher level of review, staff does not believe this site's nonconformities are inherently different from many other nonconforming sites throughout the city. Staff does not foresee difficulties arising from this particular nonconforming use in terms of provision of city services.

Annexation Petition

The petition is being processed as an expedited annexation at the request of the Annexation Properties' owners. Under the expedited process, a City land use and zoning designation is automatically applied to the Annexation Property upon annexation. Any property that is within the UGMA and contiguous to the city limit may apply for an expedited annexation so long as all property owners of the area to be annexed and at least 50% of registered voters within the area to be annexed consent to the annexation.

Clackamas County has certified that these thresholds are met for the Annexation Property. The expedited annexation process automatically assigns City land use and zoning designations to the Annexation Property based on the existing Clackamas County land use and zoning designations.

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

Expedited Annexation Approval Criteria

Expedited annexations must meet the approval criteria of Milwaukie Municipal Code (MMC) Subsection 19.1102.3. Compliance with the applicable criteria is detailed in Attachment 1 (Exhibit A, Findings).

Utilities, Service Providers, and Service Districts

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

- Wastewater: The Annexation Property is within the City's sewer service area and served by the City's 8-inch sewer lines.
- Water: The Annexation Property is currently served by Clackamas River Water (CRW). Pursuant to the City's IGA with CRW, CRW will continue to serve the property, and it should not be withdrawn from this district at this time.
- Storm: The Annexation Property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.
- Fire: The Annexation Property is currently served by Clackamas County Fire District No. 1 and will continue to be served by this fire district upon annexation, since the entire City is within this district.

- Police: The Annexation Property is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the site. In order to avoid duplication of services, the site should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.
- Street Lights: The Annexation Property is currently within Clackamas County Service District No. 5 for Street Lights (the "District"). As of July 1, 2011, an intergovernmental agreement between the City and the District transferred operational responsibility to the City for the street lights and street light payments in the NESE area, though the property itself remains in the District until it annexes to the City. The Annexation Property should be withdrawn from the District upon annexation, as the City provides street lighting for properties within the city as part of its package of city services.

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

CONCURRENCE

All City departments, necessary parties, interested persons, and residents and property owners within 400 feet of the Annexation Property were notified of these annexation proceedings as required by City, regional, and State regulations. The Lewelling Neighborhood District Association and the Southgate Planning Association also received notice of the annexation petition and meeting.

The City did not receive comments from any necessary parties with objections to the proposed annexation.

FISCAL IMPACTS

The annexation will have minimal fiscal impact on the City. Costs of providing governmental services will likely be off-set by the collection of property taxes. Per Clackamas County Assessor data, the total assessed value of the Annexation Property in 2012 was \$153,184. Total property tax collection of approximately \$2,917 is anticipated for the Annexation Property, and the City will receive approximately \$622 of this total. No incremental costs in the general fund are anticipated as a result of the annexation of this property.

WORK LOAD IMPACTS

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

ALTERNATIVES

The application is subject to Milwaukie Comprehensive Plan Chapter 6 City Growth and Governmental Relationships, Oregon Revised Statutes Chapter 222 City Boundary Changes, Metro Code Chapter 3.09 Local Government Boundary Changes, and MMC Chapter 19.1100 Annexations and Boundary Changes.

The City Council has two decision-making options:

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

ATTACHMENTS

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

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS 9101 SE STANLEY AVENUE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. (FILE #A-13-05).

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

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

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

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

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

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

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

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

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

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

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

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

Section 4. The tract of land annexed by this ordinance and described in Section 2 is hereby assigned a Comprehensive Plan land use designation of Industrial and a Municipal Code zoning designation of Manufacturing Zone M.

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

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

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

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Document1 (Last revised 09/18/07)

FINDINGS IN SUPPORT OF APPROVAL

Based on the expedited annexation staff report for 9101SE Stanley Avenue (the "Annexation Property"), the Milwaukie City Council finds:

1. The Annexation Property consists of one tax lot comprising 0.38 acres (Tax Map 1S2E30AC, Tax Lot 100). The site is contiguous to the Milwaukie city limits on its north, east, and west borders. The Annexation Property is also within the City's urban growth management area (UGMA).

The Annexation Property is developed with a commercial structure and accessory structures. The current use of the property is a canine shelter and adoption center. The surrounding area consists mostly of industrial uses, with some single-family dwellings in the vicinity.
2. The property owner seeks annexation to the City to access City sewer service.
3. The annexation petition was initiated by Consent of All Owners of Land on February 11, 2013. It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1102.2.A.1.
4. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC 19.1104.
5. The annexation petition is being processed as an expedited annexation at the request of the property owner. It meets the expedited annexation procedural requirements set forth in MMC 19.1104.
6. The expedited annexation process provides for automatic application of City land use and zoning designations to the Annexation Property based on its existing land use designation in the County. The County land use and zoning designations are General Industrial and I3, respectively. Pursuant to MMC Table 19.1104.1.E, the automatic City Comprehensive Plan land use and zoning designations for the Annexation Property are Industrial and Manufacturing Zone M, respectively.
7. The applicable City approval criteria for expedited annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.
 - A. The subject site must be located within the City's urban growth management area (UGMA);
The Annexation Property is within the City's UGMA.
 - B. The subject site must be contiguous to the existing city limits;
The Annexation Property is contiguous to the existing city limits along its northern, eastern, and western edges.

- C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;

The owner of the Annexation Property consented to the annexation by signing the petition. There are no registered voters residing at the Annexation Property. As submitted, the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors residing at the Annexation Property.

- D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies;

Chapter 6 of the Comprehensive Plan contains the City's annexation policies. Applicable annexation policies include: (1) delivery of City services to annexing areas where the City has adequate services and (2) requiring annexation in order to receive a City service. City sewer service is available to the Annexation Property. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

- E. The proposal must comply with the criteria of Metro code Sections 3.09.050(d) and, if applicable, (e).

The annexation proposal is consistent with applicable Metro Code sections for expedited annexations as detailed in Finding 8.

- 8. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045.D of the Metro Code. They are listed below with findings in italics.

- A. Find that the change is consistent with expressly applicable provisions in:

- (1) Any applicable urban service agreement adopted pursuant to ORS 195.205;

There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the proposed annexation. The City, however, has an UGMA agreement with Clackamas County that states that the City will take the lead in providing urban services in the area of the proposed annexation. Pursuant to this agreement, the City recently completed construction of a public sewer system in this area. The proposed annexation is in keeping with the City's policy of requiring properties to annex to the City in order to connect to City services such as the new sewer line.

- (2) Any applicable annexation plan adopted pursuant to ORS 195.205;

There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.

- (3) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;

There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.

- (4) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The City subsequently adopted this plan as an ancillary Comprehensive Plan document. The plan contains four elements:

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

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

Sewer: *The City is the identified sewer service provider in the area of the proposed annexation and recently completed construction of a public sewer system that can adequately serve the Annexation Property.*

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

Transportation: *The City will require public street improvements along the Annexation Property's frontage when new development occurs.*

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

- (5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous page. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. It does,

however, contain the City-County UGMA agreement, which identifies the area of the proposed annexation as being within the City's UGMA. The UGMA agreement requires that the City notify the County of proposed annexations, which the City has done. The agreement also calls for City assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The City has already annexed and taken jurisdiction of the Stanley Avenue right-of-way adjacent to the proposed Annexation Property.

B. Consider whether the boundary change would:

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

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

The City has recently expanded City sewer service into this area. The area is currently served by CRW, and the City does not propose to duplicate CRW's water system to serve the Annexation Property.

- (2) Affect the quality and quantity of urban services; and

The Annexation Property is a tax lot developed with commercial structure. Annexation of the site is not expected to affect the quality or quantity of urban services in this area, given the surrounding level of urban development and the existing level of urban service provision in this area.

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

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

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

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

Wastewater: The Annexation Property is within the City's sewer service area and is served by the City's 8-inch sewer line in Stanley Avenue.

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

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

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

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

Street Lights: The Annexation Property is currently within Clackamas County Service District No. 5 for Street Lights (the "District"). There are no street lights on Firwood St near the Annexation Property. As of July 1, 2011, an intergovernmental agreement between the City and the District transfers operational responsibility to the City for the street lights and street light payments in the NESE area, though the properties themselves remain in the District until they annex to the City. The Annexation Property should be withdrawn from the District upon annexation, as the City provides street lighting for properties within the city as part of its package of city services.

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

Exhibit B

Annexation to the City Of Milwaukie
LEGAL DESCRIPTION

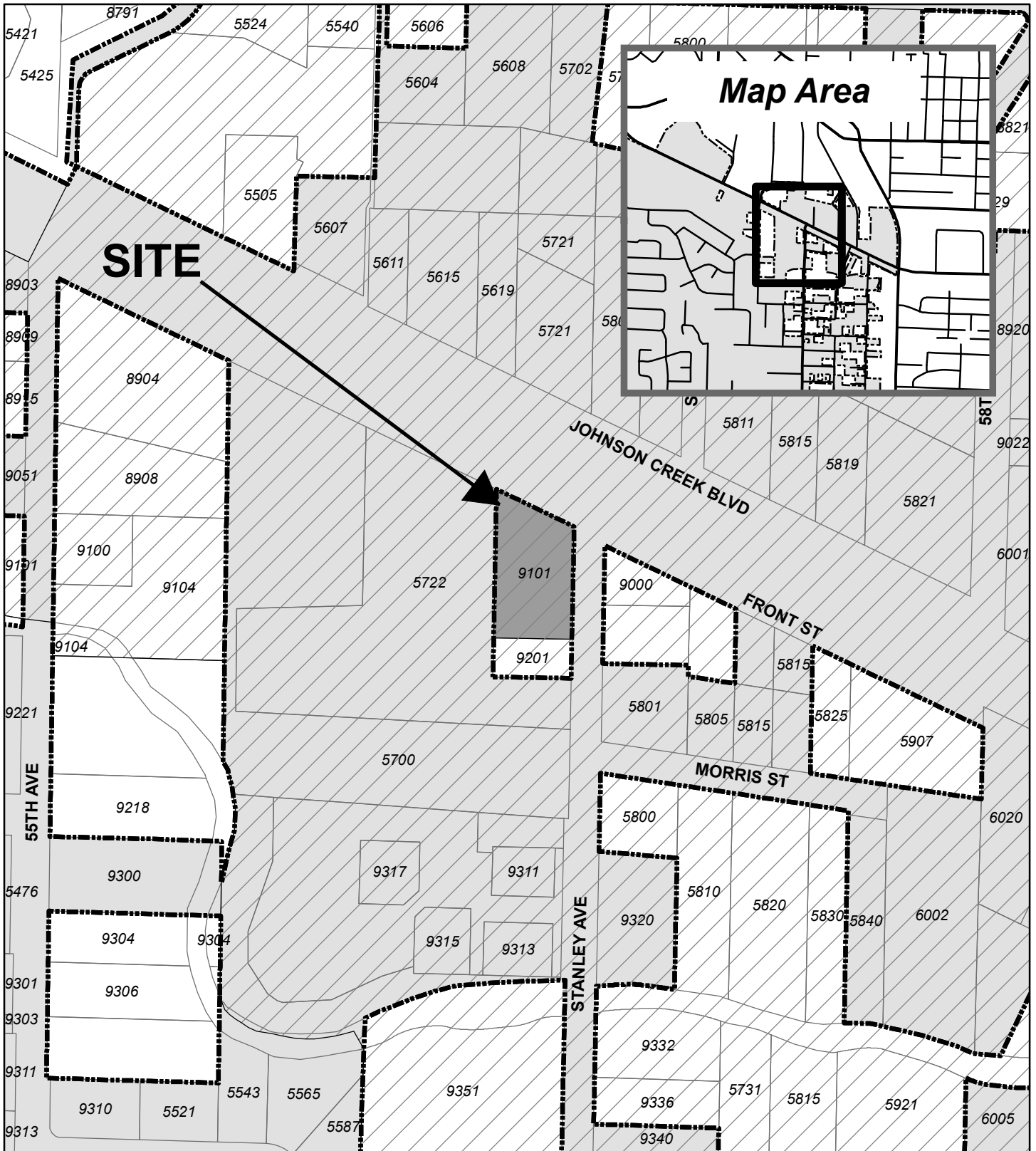
Milwaukie Annexation File No. A-13-05

Property Address: 9101 SE Stanley Avenue, Milwaukie, OR 97206

Tax Lot Description: 12E30AC00100



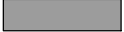


Legal Description: Part of the Hector Campbell D.L.C. in Section 31, T.1 W., R.2 E., of the W.M., in the County of Clackamas and State of Oregon, more fully described as:

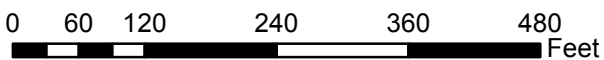
A part of the Hector Campbell D.L.C. No. 59 T. 1S., R.2 E., of the W.M., more particularly described as follows: Beginning in the south line of the Oregon Water Power Co's right of way at the intersections of the west line of Stanley Avenue; thence South along the West line of said Stanley Avenue, 144 feet; thence West 100 feet; thence North and Parallel with the west line of Stanley Avenue, 189.75 feet to the south line of Said Oregon Water Power Co's right of way; thence Southeasterly along the south line of said right of way, 110 feet to the place of beginning. EXCEPTING a strip of land 20 feet wide along the North side of the above described tract and adjoining said right of way reserved for road purposes.



Site Map
9101 SE Stanley Ave
(Tax Lot ID 12E30AC00100)
File#A-13-05

Legend

- City Limit 
- NE Sewer Extension Project Boundary 
- A-13-05_Site 
- Tax lots 
- City Limit 





PLANNING DEPARTMENT
 6101 SE Johnson Creek Blvd
 Milwaukie OR 97206

PHONE: 503-786-7630
 FAX: 503-774-8236
 E-MAIL: planning@ci.milwaukie.or.us
 WEB: www.cityofmilwaukie.org

Expedited Annexation Application

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant): <i>Marjory Huff Nase</i>		
Mailing address:	<i>3445 NW Ranff Portland</i>	Zip: <i>97229</i>
Phone(s):	<i>503 888 8765</i>	E-mail: <i>daven0517@aol.com</i>
APPLICANT'S REPRESENTATIVE (if different than above): <i>David I Nase</i>		
Mailing address:	<i>15485 NW Norwich Cir Beaverton</i>	Zip: <i>97006</i>
Phone(s):	<i>503 888 8765</i>	E-mail: <i>canuc</i>

SITE INFORMATION:

Address(es):	<i>9101 SE Stanley</i>	Map & Tax Lot(s):	<i>12E30AC00100</i>	Property size:	<i>.38</i>
Existing County zoning:	<i>I3</i>	Proposed City zoning:	<i>M</i>		
Existing County land use designation:	<i>GI</i>	Proposed City land use designation:	<i>I</i>		

PROPOSAL (describe briefly):

<i>Annexation into city</i>

LIST OF ALL CURRENT UTILITY PROVIDERS:

Check all that apply (do not list water or sewer service providers)

Cable, internet, and/or phone:	<input checked="" type="checkbox"/> Comcast	<input type="checkbox"/> CenturyLink (formerly Qwest)	
Energy:	<input checked="" type="checkbox"/> PGE	<input checked="" type="checkbox"/> NW Natural Gas	
Garbage hauler:	<input type="checkbox"/> Waste Management	<input checked="" type="checkbox"/> Mel Deines	<input type="checkbox"/> Hoodview Disposal and Recycling
	<input type="checkbox"/> Wichita Sanitary	<input type="checkbox"/> Oak Grove Disposal	<input type="checkbox"/> Clackamas Garbage
<input type="checkbox"/> Other (please list):			

SIGNATURE: *[Signature]*

ATTEST: I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. I have attached all owners' and voters' authorizations to submit this application. I understand that uses or structures that were not legally established in the County are not made legal upon annexation to the City. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: *David I Nase* Date: *1/25/13*

CONTINUED ON REVERSE

THIS SECTION FOR OFFICE USE ONLY:

File #: A-13-05 Fee: \$ 150 Receipt #: Rcd. by: RWH	Date stamp:
Associated application file #'s:	RECEIVED FEB 11 2013 CITY OF MILWAUKIE PLANNING DEPARTMENT
Neighborhood District Association(s):	
Notes (include discount if any):	

PETITION SIGNERS

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

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	<i>Margory Nase</i>	<input checked="" type="checkbox"/>			<i>1/25/13</i>
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
<i>9101 SE Stanley</i>	<i>1</i>	<i>2E</i>	<i>4C</i>	<i>100</i>	

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

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

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

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

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

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

Until a change is requested,
all tax statements shall be
sent to the following address:



\$36.00

01040126200601039790030033

11/08/2006 03:58:53 PM

No Change

D-D Cnt=1 Stn=1 ELIZABETH
\$15.00 \$11.00 \$10.00

After recording, return to:

J. Michael Gleeson
12450 SW First Street
Beaverton, OR 97005

STATUTORY WARRANTY DEED

Richard E. Nase deceased September 1, 2006. MARJORIE HUFF NASE, sole remaining successor Trustee of the RICHARD E. NASE LIVING TRUST, dated September 6, 2000, restated August 17, 2004 (Grantor) conveys and warrants to MARJORIE HUFF NASE, Trustee of the Marjorie Huff Nase Living Trust dated September 6, 2000, restated August 17, 2004 (Grantee) Grantor's entire interest in and to real property being situated in Clackamas County, Oregon and more particularly described in Exhibit "A" attached hereto:

The property is subject to encumbrances of record, if any.

The true consideration for this conveyance is none.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37(2004)). THIS INSTRUMENT DOES NOT ALLOW VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES (AND) TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37) (2004)

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR

///
///

1 STATUTORY WARRANTY DEED
2C:\clients\jmg\bb

COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND EXISTENCE
OF FIRE PROTECTION FOR STRUCTURES.

DATED: November 6, 2006.

GRANTOR:

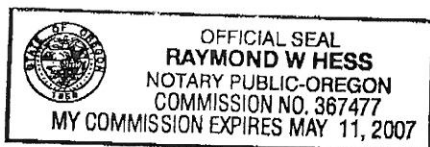
Marjorie Huff Nase trustee
MARJORIE HUFF NASE, Trustee
of the Richard E. Nase Living
Trust dated September 6, 2000,
Restated August 17, 2004

ACCEPTED AND ACKNOWLEDGED BY GRANTEE:

Marjorie Huff Nase trustee
MARJORIE HUFF NASE, Trustee
of the Marjorie Huff Nase Living
Trust dated September 6, 2000,
Restated August 17, 2004

STATE OF OREGON, County of Washington: ss. Nov 6, 2006.

Personally appeared before me the above named MARJORIE
HUFF NASE, in the capacities above indicated and acknowledged to
me that the foregoing was her voluntary act and deed.



Raymond W Hess
NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

2 STATUTORY WARRANTY DEED
2C:\clients\jmg\bb

2

2006-103979

EXHIBIT "A"

Part of the Hector Campbell D.L.C. in Section 31, T.1 W., R.2 E., of the W.M., in the County of Clackamas and State of Oregon, more fully described as:

A part of the Hector Campbell D.L.C. No. 59 T. 1S., R.2 E., of the W.M., more particularly described as follows:

Beginning in the south line of the Oregon Water Power Co's right of way at the intersections of the west line of Stanley Avenue; thence South along the West line of said Stanley Avenue, 144 feet; thence West 100 feet; thence North and Parallel with the west line of Stanley Avenue, 189.75 feet to the south line of Said Oregon Water Power Co's right of way; thence Southeasterly along the south line of said right of way, 110 feet to the place of beginning. EXCEPTING a strip of land 20 feet wide along the North side of the above described tract and adjoining said right of way reserved for road purposes.

02.11.2013

MN

3

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

I hereby certify that the attached petition contains the names of the owners¹ (as shown on the last available complete assessment roll) of 100% of the land area of the territory proposed for annexation as described in the attached petition.

Name Mary Neigel
Title Cartographer II
Department Assessment & Tax
County of Clackamas
Date 02.11.2013

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

CERTIFICATION OF LEGAL DESCRIPTION AND MAP

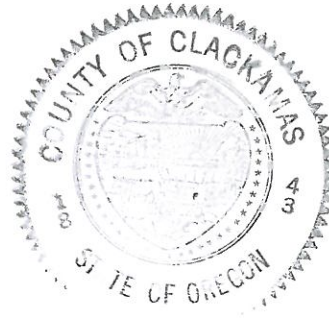
I hereby certify that the description of the territory included within the attached petition (located on Assessor's Map 12E 30 AC 00100) has been checked by me. It is a true and exact description of the territory under consideration and corresponds to the attached map indicating the territory under consideration.

Name Mary Neigel
Title Cartographer II
Department Assessment & Tax
County of Clackamas
Date 02.11.2013

CERTIFICATION OF REGISTERED VOTERS

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

Paul Hanes
Name PAUL HANES
Title DEPUTY CLERK
Department CLACKAMAS COUNTY ELECTIONS
County of CLACKAMAS
Date 2/11/13



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

NOTICE LIST

(This form is NOT the petition)

LIST THE NAMES AND ADDRESSES OF ALL PROPERTY OWNERS AND REGISTERED VOTERS IN THE TERRITORY PROPOSED FOR ANNEXATION.

	Mailing Street Address	Property Address
	Name of Owner/Voter	Mailing City/State/Zip
		Property Description <small>(township, range, ¼ section, and tax lot)</small>
1	<i>Marjory Huff Nase</i>	
2		
3		
4		
5		
6		
7		
8		
9		
10		

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Permit Manager

Welcome to Clackamas County, Oregon



Clackamas County Building Codes Division, Dept. of Transportation & Development

Detail

[Inspections](#) [Status](#)

Case / Application / Permit Number	B0013405
Type / Classification	C
	ACOM: Add/Alter Commercial
	BLDG: Building
Address	9101 SE STANLEY AVE Clackamas County, OR 97206
Parcel Number	12E30AC00100
File Date	2005-01-11
Status	FINAL
Status Date	N/A
Valuation	\$0.00
Fees	\$62.00
Payments	\$62.00
Balance	\$0.00
Description	CHANGE OF OCC FROM AUTO PART TO DOG RESCUE

[View Map](#) (Click the "Back" button on the browser to return to Permit Manager.)

Contacts

Name	FAMILY DOGS NEW LIFE SHELTER
Business	N/A
Relationship	APPLICANT
Phone	N/A

[New Search](#)

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Accela Citizen Access(tm) Version 2.5



To: Mayor and City Council

Through: Bill Monahan, City Manager

From: Dave Rash, Police Captain

**Subject: Recommendation to Repeal Milwaukie Municipal Code 10.50.030
(Inventories of Impounded Vehicles)**

Date: April 8, 2013

ACTION REQUESTED

Staff recommends that Milwaukie City Council repeal Milwaukie Municipal Code 10.50.030 (Inventories of Impounded Vehicles) and create a new Milwaukie Municipal Code granting the Chief of Police authority to establish and maintain policy on inventories of impounded Vehicles

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

On August 20, 1996 Milwaukie City Council adopted Municipal Code 10.50.030 (Ord.1811 § 1996). On August 19, 2003, Milwaukie City Council adopted an amendment to Milwaukie Municipal code 10.50.030 (Ord. 1925 § 10, 2003), which included closed containers.

In April 2007, the Milwaukie Police Department adopted its police policy manual from the company Lexipol. Under Policy 510.6, there is a section covering vehicle inventories.

Though both Milwaukie Municipal Code 10.50.030 and Milwaukie Police Policy 510.6 cover vehicle inventories, there were some discrepancies with each document creating two different policies which was brought to our attention from the Clackamas County District Attorney's Office when they were trying a recent case that the Milwaukie Police Department submitted.

BACKGROUND

In the mid 1990's, new case law concerning vehicle inventories was created due to an increase in impounded vehicles when jurisdictions in the State of Oregon were allowed to enact laws for towing vehicles when drivers licenses were suspended or they could not provide valid insurance.

To be in accordance with the court rulings, the City of Milwaukie adopted Milwaukie Municipal Code 10.50.030. As case law developed an amendment in 2003 was added to Milwaukie Municipal Code 10.50.030. There has been further case law established that has not been added to the Municipal Code. An example is prior to ordering a tow for a third party tow company, an officer has to inventory the vehicle first. A second example; is prior to inventorying and towing a vehicle, an officer has to articulate that the contents in a vehicle that is legally parked would not be safe.

The Milwaukie Police Policy is reviewed every six months by Lexipol and new case law rulings are put into the policy manual and adopted by the police department.

After the discovery of two different city policies in regard to vehicle inventories, it was recommend both by the District Attorney's Office and the City Prosecutor Rhett Bernstein that the city repeals the City Municipal Code and leave the vehicle inventory in the police policy.

This action would leave one policy that would be updated if needed by the Chief of Policy.

One policy would be consistent with current case law and practices.

The requested change would allow the Chief of Police to keep our policies current with case law and would eliminate the need for City Council to adopt a policy every time new case law was established that was not consistent with the department's current practice.

CONCURRENCE: The City Council concurs in the adoption of this Recommendation.

FISCAL IMPACTS: None

WORK LOAD IMPACTS: None

ATTACHMENTS

1. Current City of Milwaukie Municipal Code 10.50.030
2. Current Milwaukie Police Policy 510
3. Ordinance 1811
4. Ordinance 1925
5. Proposed Changes to Milwaukie Police Policy 510
6. Proposed Ordinance

Milwaukie Municipal Code

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[TITLE 10 VEHICLES AND TRAFFIC](#)

[CHAPTER 10.50 INVENTORY OF PERSONAL PROPERTY OF ARRESTED PERSON AND CONTENTS OF IMPOUNDED VEHICLES](#)

10.50.030 INVENTORIES OF IMPOUNDED VEHICLES

- A. The contents of all vehicles impounded by a Police Officer will be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:
1. If there is a reasonable suspicion to believe that the safety of either the Police Officer(s) or any other person is at risk, a required inventory will be done as soon as safety practical; or
 2. If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.
- B. The purpose for the inventory of an impounded vehicle will be to:
1. Promptly identify property to establish accountability and avoid spurious claims to property;
 2. Assist in the prevention of theft of property;
 3. Locate toxic, flammable, or explosive substances; or
 4. Reduce the danger to persons and property.
- C. Inventories of impounded vehicles will be conducted according to the following procedures:
1. An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats, and under the seats.
 2. In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:
 - a. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked cartop containers; and
 - b. Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks, and locked cartop containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
 3. Closed containers located either within the vehicle or any of the vehicle's compartments will have its contents inventoried only when the closed container is designed for carrying money and/or valuables. Such containers include but are not limited to: closed purses, closed coin purses, closed wallets, closed backpacks, closed briefcases, and closed fanny packs.
 4. Upon completion of the inventory, the Police Officer will complete a report as directed by the Police Chief.

5. Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such a manner as directed by the Police Chief. (Ord. 1925 § 10, 2003; Ord. 1811 § 1 (part), 1996)

Vehicle Towing Policy

510.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Milwaukie Police Department.

510.1.1 VEHICLE IMPOUND REQUIREMENTS

Officers may tow vehicles as a result of the following circumstances:

- (a) Abandoned vehicles.
- (b) Vehicles left standing in or partially blocking the roadway and constituting a hazard.
- (c) For safekeeping in the event the owner is arrested, cannot be located, or is incapable of caring for the vehicle.
- (d) As a recovered stolen vehicle.
- (e) A vehicle disabled in a collision.
- (f) As evidence pursuant to a criminal investigation.
- (g) When probable cause exists to believe the vehicle is subject to forfeiture under the Oregon Criminal Forfeiture Law, HB 3457, 2005.
- (h) When the operator is cited for one of the following traffic crimes and a public safety or community caretaking risk would result if the vehicle were left at the scene:
 1. Driving while suspended or revoked (Oregon Revised Statutes 809.720).
 2. Operating without driving privileges, or in violation of license restrictions (Oregon Revised Statutes 809.720).
 3. Driving while under the influence of intoxicants (Oregon Revised Statutes 809.720).
 4. Driving uninsured (Oregon Revised Statutes 809.720).

510.2 RESPONSIBILITIES

The responsibilities of those officers impounding a vehicle are as follows.

510.2.1 VEHICLES CONSTITUTING A HAZARD OR OBSTRUCTION

Officers may take custody of and tow a vehicle that is disabled, abandoned, parked or left standing unattended when it creates a hazard or obstruction. Hazards and obstructions may include vehicles that are (ORS 819.120):

- (a) Parked so that any part of the vehicle extends into the paved portion of the travel lane.
- (b) Parked so that any part of the vehicle extends into the highway shoulder or bicycle lane of any freeway ORS 819.120 (2)(b).

Officers should use sound judgment in balancing the need to correct a hazardous situation with the potential hardship to a vehicle owner/operator before towing such a vehicle.

Officers impounding a vehicle shall complete a vehicle impound report. A copy is to be given to the tow truck operator and the original is to be submitted along with the incident report to the Records Division as soon as practicable after the vehicle is stored.

Milwaukie Police Department

Policy Manual

Vehicle Towing Policy

Records Division personnel shall promptly enter pertinent data from the completed vehicle impound report into the state's Law Enforcement Data Systems (LEDS).

Once a vehicle impound report is approved and forwarded to the Records Division, it shall be placed into the auto-file at the front desk to be immediately available for release or for information should inquiries be made.

510.2.2 REMOVAL OF VEHICLE DISABLED IN A TRAFFIC COLLISION

When a vehicle has been involved in a traffic collision and must be removed from the scene, the officer shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the no preference towing company list in LOCom (Lake Oswego Communications).

If the owner is incapacitated, or for any reason it is necessary for the Department to assume responsibility for a vehicle involved in a collision, the officer shall request the dispatcher to call a no preference towing company. The officer will then have the vehicle towed to the tow company's storage lot for safekeeping, and complete a Vehicle Impound form.

510.2.3 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Police Department should not be driven by police personnel unless it is necessary to move the vehicle a short distance to eliminate a hazard, to prevent the obstruction of a fire hydrant, or to comply with posted signs.

510.2.4 DISPATCHER'S RESPONSIBILITIES

Upon receiving a request for towing, the dispatcher shall promptly telephone the specified authorized towing service. The officer shall be advised when the request has been made and the towing service has been dispatched.

If the request is for no preference towing, the dispatcher shall call the firm whose name appears next on the No Preference Towing Service log and shall make appropriate entries on that form to ensure that the next firm is called on the next request.

510.2.5 NOTICE TO OWNERS

Once the vehicle is impounded, Records personnel shall mail a copy of the approved Vehicle Impound Report form, along with information describing the location of the vehicle and the procedures for its release, to the legal and registered owners of the stored vehicle within 48 hours after it has been stored, unless the vehicle has been previously released (ORS 819.180).

510.3 TOWING SERVICES

The City of Milwaukie periodically selects a firm to act as the official tow service and awards a contract to that firm. This firm will be used in the following situations:

- (a) When a vehicle is being held as evidence in connection with an investigation
- (b) When it is otherwise necessary to impound a motor vehicle. This would include situations involving the recovery of stolen or abandoned vehicles, and the removal from the streets of vehicles obstructing traffic in violation of state or local regulations

Nothing in this policy shall require the Department to tow a vehicle.

Milwaukie Police Department

Policy Manual

Vehicle Towing Policy

510.3.1 NO PREFERENCE TOW SERVICES

Upon proper application, the department may approve qualified towing services to be called when a citizen needs towing but has no preference as to which service to call.

Any complaint alleging a violation or other misconduct by a no preference operator shall be referred to the police department for investigation. The department may periodically review the performance of no preference operator and companies.

The department will assist citizens by calling any towing company desired. If the citizen has no preference and requests towing service, the authorized department towing firm shall be called.

All officers are specifically prohibited from directly or indirectly soliciting for or recommending any garage or tow service.

510.4 IMPOUNDS RELATED TO CRIMINAL INVESTIGATIONS

Officers should impound vehicles that are needed for the furtherance of an investigation or prosecution of a case or are otherwise appropriate for seizure under ORS 133.535. State law requires the impounding officer to take reasonable steps to protect against loss or damage to impounded vehicles and any contents that may have been taken as evidence (ORS 133.537). Officers should make reasonable efforts to return a recovered stolen vehicle to its owner rather than store it, so long as the vehicle is not needed for evidence.

510.5 IMPOUND AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this department to provide reasonable safekeeping by leaving the vehicle secured and lawfully parked at the scene or storing the arrestee's vehicle subject to the exceptions described below. However, the vehicle shall be stored, subject to applicable laws and warrant requirements, whenever it is needed for the furtherance of an investigation or prosecution of the case or when the community caretaker doctrine, reasonably suggests that the vehicle should be stored. For example, the vehicle would present a traffic hazard if not removed or, due to a high crime area, the vehicle would be in jeopardy of theft or damage if left at the scene.

While the Oregon Revised Codes may authorize the impoundment of a vehicle for issues such as driving with a suspended or revoked license (ORS 809.720), impounds are only authorized if, in such cases, leaving the vehicle would create a hazard, obstruction or a risk of loss.

The following are examples of situations where the arrestee's vehicle should not be stored, provided the vehicle can be legally parked, left in a reasonably secured and safe condition and the vehicle is not needed for the furtherance of an investigation:

- The vehicle is parked on private property on which the registered owner or operator is legally residing, or the property owner does not object to the vehicle being left parked at that location.
- When the arrestee or a passenger is the registered or legal owner of the vehicle and requests that the vehicle be released to a person who is present, willing and able to legally take control of the vehicle.
- Whenever the vehicle is legally parked and otherwise does not need to be stored and the owner requests that it be left at the scene.

Milwaukie Police Department

Policy Manual

Vehicle Towing Policy

In such cases, the handling employee shall inform the arrestee and note in the report that the Department will not be responsible for theft or damages.

510.6 VEHICLE INVENTORIES

The contents of all impounded vehicles shall be inventoried in accordance with the following procedure:

- (a) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, the glove box, other accessible areas under or within the dashboard area, any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats.
- (b) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:
 1. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked glove compartments, unlocked vehicle trunks and unlocked car top containers; and
 2. Any locked compartments including, but not limited to, locked glove compartments, locked vehicle trunks, locked hatchbacks and locked car-top containers, provided the keys are available and are to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.
- (c) Closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes except for the following, which shall be opened for inventory: wallets, purses, coin purses, fanny packs, personal organizers, briefcases or other closed containers designed for carrying money or small valuables, or closed containers which are designed for hazardous materials.
- (d) Other closed containers shall be opened and inventoried if the owner acknowledges they contain cash in excess of \$10, valuables or a hazardous material.
- (e) Any valuables, to include cash in excess of \$10 or property valued at more than \$200, located during the inventory process will be listed on a property receipt and stored in this agency's property/evidence room. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present.
- (f) The inventory is not a search for evidence of a crime, however, officers shall seize evidence or contraband located during the inventory. Items should be scrutinized to the extent necessary to complete the inventory.
- (g) Tow truck operators are to receive a copy of the tow report.

These inventory procedures are for the purpose of protecting an owner's property while in police custody, to provide for the safety of officers, and to protect the Department against fraudulent claims of lost, stolen, or damaged property.

510.7 VEHICLE SEARCHES

Vehicles may be searched when one or more of the following conditions are met:

- (a) When probable cause to search the vehicle exists.

Milwaukie Police Department

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Vehicle Towing Policy

- (b) When it is reasonable to believe that the vehicle contains evidence of the offense of the arrest of the occupant(s).
- (c) With consent of the operator.
- (d) Incident to an arrest if the occupant(s) of the vehicle have not been secured and remain within reaching distance of the passenger compartment.
- (e) To search for weapons when reasonable suspicion exists that a weapon may be present.
- (f) When necessary to examine the vehicle identification number or to determine the ownership of the vehicle.
- (g) Under emergency circumstances not otherwise enumerated above.
- (h) Pursuant to a valid search warrant.

510.8 SECURITY OF VEHICLES AND PROPERTY

After a thorough inventory of the vehicle has been completed and all contraband, evidence and weapons have been removed the officer should make reasonable accommodations to permit a driver or owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions).

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, search personnel shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

510.9 RELEASE CRITERIA

A vehicle impounded under this section shall be released to a person entitled to lawful possession of the vehicle upon compliance with the following:

- (a) Proof that a person with valid driving privileges will be operating the vehicle.
- (b) Proof of compliance with financial responsibility requirements for the vehicle.
- (c) Payment of the Milwaukie Police Department administrative fee and any towing and storage charges.
- (d) A security interest holder in the vehicle is not required to comply with (a) and (b) and may obtain release by paying the administrative fee, towing and storage fees.

ORDINANCE NO. 1811

MILWAUKIE, OREGON

AN ORDINANCE AMENDING TITLE 10 OF THE MILWAUKIE MUNICIPAL CODE BY ADOPTING PROVISIONS AUTHORIZING INVENTORY OF PERSONAL PROPERTY OF AN ARRESTED PERSON AND THE CONTENTS OF IMPOUNDED VEHICLES, AND DECLARING AN EMERGENCY.

WHEREAS, state and federal appellate courts have upheld the use of administrative searches of private property where properly authorized; and

WHEREAS, disputes can arise about the disposition of the contents of impounded vehicles and the personal property of an arrested person; and

WHEREAS, impounded vehicles can contain hazardous materials requiring immediate disposal; and

WHEREAS, the carrying of weapons by arrested persons presents a danger to law enforcement personnel; and

WHEREAS, a written inventory of the contents of every vehicle impounded pursuant to an order of City staff will protect the interests of both the City as well as the owners of such vehicles; and

WHEREAS, the Milwaukie City Council wishes to grant authority to the Chief of Police to implement rules as to the conduct of such inventory; and

WHEREAS, such authority must limit, to the greatest extent possible, any discretion as to which vehicles and what contents are subject to this inventory; and

WHEREAS, the City Council finds that this inventory process shall be limited in its scope to those items of personal property which are accessible without forced entry; and

WHEREAS, the City Council does not wish to limit authority to search for evidence of a crime; and

WHEREAS, the City Council finds that the authority granted herein is immediately necessary, so that the public peace, health, safety and welfare can be protected;

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

Section 1:Title 10 of the Milwaukie Municipal Code is amended by adding Chapter 10.50, Inventory of Personal Property of Arrested Person and Contents of Impounded Vehicles to read as follows:

10.50.010 Purpose. This Chapter is meant to exclusively apply to the process for conducting an inventory of the personal property in an impounded vehicle and the personal possessions of a person in police custody and shall not be interpreted to affect any other statutory or constitutional right(s) that police officers may employ to search persons or search or seize possessions for other purposes.

10.50.020 Definitions. For the purpose of this Chapter, the following definitions shall apply:

- (1) "Valuable" means:
 - (a) Cash money of an aggregate amount of \$50.00 or more; or
 - (b) Individual items of personal property with a value of over \$100.00.
- (2) "Open container" means a container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.
- (3) "Closed container" means a container whose contents are not exposed to view.
- (4) "Police custody" means:
 - (a) The imposition of restraint as a result of an arrest as that term is defined at ORS 133.005(1); or
 - (b) The imposition of actual or constructive restraint by a police officer pursuant to a court order; or
 - (c) The imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 426; or
 - (d) The imposition of actual or constructive restraint by a police officer for purposes of taking the restrained person to an approved facility for the involuntary confinement of persons pursuant to Oregon law.

- (5) "Police officer" means any officer of the Milwaukie police department.

10.50.030 Inventories of Impounded Vehicles

(1) The contents of all vehicles impounded by a police officer will be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:

(a) If there is a reasonable suspicion to believe that the safety of either the police officer(s) or any other person is at risk, a required inventory will be done as soon as safely practical; or

(b) If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.

(2) The purpose for the inventory of an impounded vehicle will be to:

(a) Promptly identify property to establish accountability and avoid spurious claims to property;

(b) Assist in the prevention of theft of property;

(c) Locate toxic, flammable or explosive substances; or

(d) Reduce the danger to persons and property.

(3) Inventories of impounded vehicles will be conducted according to the following procedures:

(a) An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats;

(b) In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:

(i) Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car-top containers; and

(ii) Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks and locked car-top containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.

(c) Unless otherwise provided in this Chapter, closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes.

(d) Upon completion of the inventory, the police officer will complete a report as directed by the Chief of Police.

(e) Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such a manner as directed by the Chief of Police.

10.50.040 Inventories of Persons in Police Custody

(1) A police officer will inventory the personal property in the possession of a person taken into police custody and such inventory will be conducted whenever:

(a) Such person will be either placed in a secure police holding room or transported in the secure portion of a police vehicle; or

(b) Custody of the person will be transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon Revised Statutes.

(2) The purpose of the inventory of a person in police custody will be to:

(a) Promptly identify property to establish accountability and avoid spurious claims to property; or

(b) Fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the police officer for safekeeping; or

(c) Assist in the prevention of theft of property; or

(d) Locate toxic, flammable or explosive substances; or

- (e) Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or
 - (f) Reduce the danger to persons and property.
- (3) Inventories of the personal property in the possession of such persons will be conducted according to the following procedures:
- (a) An inventory will occur prior to placing such person into a holding room or a police vehicle, whichever occurs first. However, if reasonable suspicion to believe that the safety of either the police officer(s) or the person in custody or both are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.
 - (b) To complete the inventory of the personal property in the possession of such person, the police officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of such personal property from all open containers in the possession of such person.
 - (c) A closed container in the possession of such person will have its contents inventoried only when:
 - (i) The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room; or
 - (ii) Such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or
 - (iii) The closed container is designed for carrying money and/or small valuables on or about the person including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.
- (4) Valuables found during the inventory process will be noted by the police officer in a report as directed by the Chief of Police.
- (5) All items of personal property either left in the immediate possession of the person in custody or left with the facility or agency accepting custody of the person, will be handled in the following manner:
- (a) A property receipt will be prepared listing the property to be retained in the possession of the respective police department and a copy of that receipt will

be tendered to the person in custody when such person is released to the facility or agency accepting custody of such person; or

(b) The property will be dealt with in such manner as directed by the Chief of Police.

(6) All items of personal property either left in the immediate possession of the person in custody or dealt with as provided in subsection (5) above, will be released to the facility or agency accepting custody of the person so that they may:

(a) Hold the property for safekeeping on behalf of the person in custody; and

(b) Prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody.

Section 2. The City Council declares that an emergency exists because recent decisions of the Oregon Court of Appeals and Oregon Supreme Court demand that procedures for inventory searches be mandated by an appropriate legislative body. Therefore, this ordinance shall be in full force and effect upon its passage by the City Council.

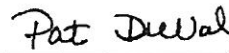
Read the first time on August 20, 1996 and moved to second reading by 4-0 vote of the City Council.

Read the second time and adopted by the City Council on August 20, 1996.

Signed by the Mayor on 8/27/96


Craig Lomnicki, Mayor

ATTEST:


Pat DuVal, City Recorder

APPROVED AS TO FORM:


O'Donnell Ramis Crew Corrigan & Bachrach

pcc/acm/65021/inventor.or2(8/12/96)

ORDINANCE NO. 1925

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE SECTION 10.50.030 SECTION C, SUBSECTION 3 – TO ALLOW PROPER INVENTORY OF IMPOUNDED VEHICLES.

WHEREAS, the City Council of the City of Milwaukie recognizes that a complete inventory of impounded vehicles will safeguard the vehicles contents and reduce improper claims of property loss while the vehicle was impounded and will create a greater deterrent for false claims;

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

Section 10. Section 10.50.030.C-3 of the Milwaukie Municipal Code is amended to read as follows:

10.50.030 SECTION C, SUBSECTION 3 – Inventories Of Impounded Vehicles.

C-3 Closed containers located either within the vehicle or any of the vehicle's compartments will have its contents inventoried only when the closed container is designed for carrying money and/or valuables. Such containers include but are not limited to; closed purses, closed coin purses, closed wallets, closed backpacks, closed briefcases, and closed fanny packs.

Read the first time on August 19, 2003, and moved to second reading by 4-0 vote of the City Council.

Read the second time and adopted by the Council on August 19, 2003.

Signed by the Mayor on August 19, 2003.



Mayor

ATTEST:



Pat DuVal, City Recorder

APPROVED AS TO FORM:
RAMIS CREW CORRIGAN &
BACHRACH, LLP



City Attorney

Ordinance No. 1925

Recommended Changes to Milwaukie Police Policy 510.6. Changes include language from Milwaukie Municipal Code 10.50.030 and incorporates some new case law changes.

510.6 Vehicle Inventories

- A. The contents of all vehicles impounded by a Police Officer will be inventoried. The inventory shall be conducted before arrangements are made for the vehicle to be towed.
- B. The purpose for the inventory of an impounded vehicle will be to:
 - 1. Promptly identify property to establish accountability and avoid spurious claims to property;
 - 2. Assist in the prevention of theft of property;
 - 3. Locate toxic, flammable, or explosive substances;
 - 4. Reduce the danger to persons and property.
 - 5. Locate weapons and instruments that facilitate escape; or
 - 6. To protect the suspect's or vehicle owner's personal property while in police custody and ensure its return.
- C. Areas of an impounded vehicle to be inventoried shall include:
 - 1. The entire passenger compartment including but not limited to:
 - a. Any pockets or storage areas found on doors or seats;
 - b. Any console areas between seats or in the dash;
 - c. Under floor mats and under seats;
 - d. Any other areas that are part of the vehicle and designed to store items.
 - 2. Hatchback areas;
 - 3. Glove boxes;
 - 4. Trunks;
 - 5. Car-Top containers;
 - 6. Flat-bed areas
- D. Closed containers, portable or otherwise, that are found within an impounded vehicle shall be inventoried before such containers or the contents of such containers are released as follows:
 - 1. The following containers, portable or otherwise, that are found within an impounded vehicle shall be inventoried before such containers or the contents of such containers are released as follows:
 - a. Containers normally used to carry money and/or valuables. Examples include, but are not limited to; money bags, deposit bags, purses, coin purses, wallets, billfolds, money belts, fanny packs, briefcases, and computer cases;
 - b. Clear containers. This includes any container the content of which can be viewed in whole or in part without opening the container; and
 - c. Containers that appear to contain hazardous or other materials imminently harmful to persons or property.
 - 2. Where a container is not otherwise subject to being opened, the deputy shall seek consent to open the container to inventory its content and shall inquire if the container contains any valuables. If proper consent is obtained or if the container is identified as containing valuables it shall be opened and the contents inventoried shall be listed in the inventory as a container with a description of its outward appearance.

- E. Any locked compartment described in subsection B of this section or locked container subject to inventory under subsection C of this section shall be unlocked and inventoried if the keys are available and shall be released with the vehicle to a third party towing company, or an unlocking mechanism is located within the vehicle.
- F. Upon completion of the inventory, the Police Officer will complete a report as directed by the Police Chief.
- G. Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt shall be given directly to the owner or operator of the vehicle, or, if such person is not present, shall be left in a conspicuous place inside the vehicle and a copy shall be mailed to the registered owner of the vehicle. The valuables will be dealt with in such a manner as directed by the Police Chief.
- H. The inventory is not a search for evidence of a crime, however, officers shall seize evidence or contraband located during the inventory. Items should be scrutinized to the extent necessary to complete the inventory.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REINCINDING CHAPTER 10.050.030 OF THE MILWAUKIE MUNICIPAL CODE RELATING TO THE INVENTORY OF VEHICLES.

WHEREAS, the City adopted Ordinance 1811 in 1996 to adopt an inventory policy to address the concerns identified above; and

WHEREAS, changes in law since 1996 require the City to revise its vehicle inventory policy; and

WHEREAS, Milwaukie Municipal Code Chapter 10.050.030 states;

A. The contents of all vehicles impounded by a Police Officer will be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:

1. If there is a reasonable suspicion to believe that the safety of either the Police Officer(s) or any other person is at risk, a required inventory will be done as soon as safety practical; or

2. If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.

B. The purpose for the inventory of an impounded vehicle will be to:

1. Promptly identify property to establish accountability and avoid spurious claims to property;

2. Assist in the prevention of theft of property;

3. Locate toxic, flammable, or explosive substances; or

4. Reduce the danger to persons and property.

C. Inventories of impounded vehicles will be conducted according to the following procedures:

1. An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats, and under the seats.

2. In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:

a. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked cartop containers; and

b. Any locked compartments including, but not limited to, locked vehicle trunks, locked hatchbacks, and locked cartop containers, if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.

3. Closed containers located either within the vehicle or any of the vehicle's compartments will have its contents inventoried only when the closed container is designed for carrying money and/or valuables. Such containers include but are not limited to: closed purses, closed coin purses, closed wallets, closed backpacks, closed briefcases, and closed fanny packs.

4. Upon completion of the inventory, the Police Officer will complete a report as directed by the Police Chief.

5. Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such a manner as directed by the Police Chief. (Ord. 1925 § 10, 2003; Ord. 1811 § 1 (part), 1996) ;and

WHEREAS, changes in law since 1996 require the City to revise its vehicle inventory policy; and

WHEREAS, the Chief of Police would be able to keep the vehicle inventory policy current with case law in the Milwaukie Police Policy Manual; and

WHEREAS, the Chief of Police recommends Milwaukie Municipal Code 10.050.030 be rescinded.

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

Section 1. Section 10.050.030 of the Milwaukie Municipal Code is hereby rescinded; and

Section 2. This ordinance shall take effect immediately.

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

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

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney