

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
November 20, 2007**

CALL TO ORDER

Mayor Bernard called the 2018th meeting of the Milwaukie City Council to order at 7:05 p.m. in the City Hall Council Chambers.

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

Staff present: City Manager Mike Swanson

PLEDGE OF ALLEGIANCE

Mr. Swanson announced the City Attorney was excused pursuant to Resolution 9-2003.

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

Mayor Bernard announced December community events including the Poetry Reading Series, the Umbrella Parade, and the Winter Solstice.

Christmas Fleet Proclamation

Mr. Swanson read a Proclamation honoring the Christmas Ships.

CONSENT AGENDA

- A. Resolution No. 67-2007: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City Manager to Execute an Intergovernmental Agreement with North Clackamas School District to Collect a Construction Excise Tax and Remit Funds to North Clackamas School District on a Quarterly Basis.**
- B. Resolution No. 68-2007: A Resolution of the City Council of the City of Milwaukie, Oregon, Determining the First Regular Council Session of January 2008 Will Be Called to Order on January 2, 2008 at 7:00 p.m. and the First Work Session of January 2008 Will Be Called to Order on January 2, 2008 at 5:30 p.m.**

It was moved by Councilor Barnes and seconded by Councilor Loomis to adopt the consent agenda. Motion passed unanimously. [4:0]

AUDIENCE PARTICIPATION

- **Ed Parecki, Milwaukie business owner**

Mr. Parecki said the purpose of his being here was to find out if the Council was aware of Municipal Code 3.15.015 that related to the disposition and sale of property that the City owned. If not, he was there to make the Council aware of what the code said and to see what the intent of the Council was in that future. The code stated the proposed

sale of any City property had to go through a hearing process through the Council. It also said at least 5 days prior to the hearing it had to be put into a newspaper and let people know it was happening. Notice should also be given to property owners within 300 feet of such a property. The Council was to have public testimony regarding the sale of the property. Most important prior to the sale of real property is that an appraisal of the property shall be conducted. That appraisal was required to be available for the public to view to see what the appraised value of the property was. The highest bid on the sale of the property shall be accepted by the city manager or the designee. The purpose of his being there was to find out whether any of these conditions of the code had been met in regards to the Town Center property. He had not seen any of this happen as of yet. He would love to see the appraisal on that property and find out why we were offering a piece of property that was worth about \$2 million for sale for \$250,000. He would like to make sure the City abided by its own codes since he was being expected to do the same on his property and his project. He left it at that unless there were any questions.

- **Dave Aschenbrenner, Milwaukie**

Mr. Aschenbrenner was present at this meeting because he could not attend the next meeting. He wanted to express his support for the Transportation System Plan (TSP). The staff, consultants, and all the volunteers worked hard in putting the document together that was in his opinion a very good framework for where the City's transportation system needed to go. Like everyone there were probably 1 or 2 things he was not keen on, but overall it was an excellent document that involved a great number of citizens. Staff needed a big pat on the back for doing such a stellar job. He participated on several groups, and there were still some citizens working to this day on that document to make sure everything was clearly defined. The Planning Commission liked what it saw, and he hoped it would go through the City Council as well.

PUBLIC HEARING

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

Mr. Swanson reported these were the two code amendments first considered in June last year dealing with major utilities and spoke directly to the Kellogg Treatment Plant. It would be deemed to be nonconforming and removed or cease operations by December 31, 2015 or suffer major civil penalties if it continued to operate. The practice had been to consider it each month and enact the amendments if the process appeared to be going south. At this point there still appeared to be a process underway that hopefully would lead to a solution. He understood the Site Selection Committee had gotten the options down to 3. He attended a Board of County Commissioners (BCC) meeting where it talked about future wholesale agreements. Milwaukie would be the only city, should it choose to continue, with a wholesale agreement because annexation would be required. His recommendation was to continue the matter rather than sticking a stick in the hornet's nest.

It was moved by Councilor Barnes and seconded by Councilor Stone to continue the hearing on the amendments to the Milwaukie Municipal Code Sections

**19.321.7 and 19.321.3 to the regular City Council meeting of December 18, 2007.
Motion passed unanimously. [4:0]**

OTHER BUSINESS

Council Reports

Councilor Loomis attended the Oregon Recreation and Park Association Conference where he accepted a design award for the North Clackamas Ball Fields. He attended a National American Softball Association Conference in Louisville and showed some pictures of interesting bike racks. He also worked the last Farmers' Market, was involved with the Milwaukie Rotary Historical Tour, and attended a meeting of people who wanted to improve Milwaukie High School athletics. He commented on the recent Ardenwald Neighborhood District Association Meeting attended by approximately 200 residents regarding the Balfour house. He commended NDA Chair Ronn Palmer on his handling of the meeting.

Councilor Barnes recommended a Council member attend each Milwaukie Poetry Series reading. She attended the Ardenwald NDA meeting which offered her good perspectives. She would meet with Linwood representative regarding the Harmony Road project and the Sunnybrook connection. She discussed the upcoming Willamette Reader Show that would feature Sen. Kate Brown and Mr. Swanson as the readers.

Councilor Stone attended the Ardenwald NDA meeting regarding the residential facility on Balfour Street. It had a good outcome. The City came forward and purchased the property with the intent to remarket it. She thought the City needed to look at its code and look at the broader picture along with the County about appropriate places to site these facilities. The Council heard from TriMet there was a lot of crime, and there were mentally ill walking amongst us. She could vouch for that as the emergency rooms were full of them. It was community problem and not just that of the City or County. People needed to work together to find more appropriate places than a neighborhood to site their facilities because they were needed.

Mayor Bernard attended the Ardenwald meeting. He felt the City really listened to the community, and he appreciated that the County was there to answer some tough questions. He spoke at the BCC meeting the next day and urged finding a solution to help the mentally ill.

Mr. Swanson updated the City Council on the Council vacancy applications.

Mayor Bernard understood there would be information on the Parecki appeal at the next work session.

Councilor Stone understood if there was no decision on filling the vacancy that the City Manager would call for an election, but there would be one anyway. The Council did not have to make its decision that night. She asked if there would be any time between the interview and regular meeting to have a discussion amongst the Council members.

Mr. Swanson did not see anything prohibiting the Council from making an appointment after 30-days were up. He would ask the City Attorney for clarification. The work session would recess and reconvene after the regular meeting, so the Council could recess the regular meeting and go back into it for a vote.

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APPROVED MINUTES

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Councilor Stone asked Mr. Swanson to get back to the Council on Mr. Parecki's issues about the code.

Councilor Loomis asked about the length of time for the interviews.

Mr. Swanson thought the Council would have about an hour. The only item on the agenda that night was the TSP adoption, but if the Council needed more time for interviews it could start a little later.

Councilor Loomis thought an hour was adequate, but he wanted to ensure the process was fair.

The group agreed to e-mail each other questions.

Mr. Swanson suggested that if each member could come up with questions and ask each applicant the same question. He agreed to working out a process that was fair to all.

ADJOURNMENT

It was moved by Councilor Barnes and seconded by Councilor Stone to adjourn the meeting. Motion passed unanimously. [4:0]

Mayor Bernard adjourned the regular session at 7:43 p.m.

Pat DuVal

Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL NOVEMBER 20, 2007

MILWAUKIE CITY HALL
10722 SE Main Street

2018th MEETING

REGULAR SESSION – 7:00 p.m.

I. CALL TO ORDER
Pledge of Allegiance

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Christmas Fleet Proclamation (Mike Swanson)

3. CONSENT AGENDA *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the “Consent” portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*

- A. School District Excise Tax – Resolution**
- B. Setting First Meeting In January 2008 - Resolution**

4. AUDIENCE PARTICIPATION *(The Presiding Officer will call for statements from citizens regarding issues relating to the City. Pursuant to Section 2.04.140, Milwaukie Municipal Code, only issues that are “not on the agenda” may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and return it to the City Recorder. Pursuant to Section 2.04.360, Milwaukie Municipal Code, “all remarks shall be directed to the whole Council, and the Presiding Officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous.” The Presiding Officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak.)*

5. PUBLIC HEARING *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*

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

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

A. 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.

PROCLAMATION

WHEREAS, commencing December 7, 2007 and ending on December 20, 2007, with a special performance in Camas, Washington on December 1, 2007, the Christmas Ship Parade will be sailing the Columbia and Willamette Rivers, and;

WHEREAS, 2007 marks the fifty-third year that the annual Christmas Ship Parade has made its voyages part of the Portland Metro area's annual holiday tradition; and

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

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

WHEREAS, the Willamette Fleet will visit the City of Milwaukie on December 7, 2007, December 10, 2007, December 12, 2007, December 14, 2007, December 17, 2007, and December 19, 2007; and

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

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

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

NOW, THEREFORE, I, James Bernard, proclaim December 7, 2007 through December 20, 2007 as

CHRISTMAS SHIPS PARADE WEEKS

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

IN WITNESS WHEREOF, I hereunto set my hand this
20th Day of November, 2007

ATTEST:

James Bernard, Mayor

Pat Duval, City Recorder



To: Mayor and City Council

Through: Mike Swanson, City Manager
Kenny Asher, Director of Community Development and Public Works

From: Tom Larsen, Building Official

Subject: Adoption of an IGA regarding the North Clackamas School District Construction Excise Tax

Date: November 2, 2007 for November 20, 2007 meeting

Action Requested

Adopt a resolution authorizing the City Manager to execute an Intergovernmental Agreement (IGA) with North Clackamas School District to collect a Construction Excise Tax and remit the funds to North Clackamas School District on a quarterly basis.

Background

On June 26, 2007, Senate Bill 1036 (see Exhibit A) was passed requiring builders to pay a construction excise tax on improvements to real property for school district capital improvements. The tax for new residential square footage is \$1.00 per square foot and nonresidential new square footage is \$0.50 per square foot of additional area. The City is authorized to collect the tax on behalf of North Clackamas School District, which will use the funds for land acquisition and the construction, reconstruction or improvement of school facilities.

The tax was effective October 1, 2007 and will continue until January 2, 2018. Construction for private school improvements, public improvements, residential housing that is guaranteed to be affordable under guidelines established by the US Department of Housing and Urban Development, public or private hospital improvements, religious facilities primarily used for worship or education associated with worship, new structures and additions less than 1000sf, manufactured dwellings, and agricultural buildings are exempt.

Under the proposed IGA, the City of Milwaukie Building Department will collect the fee, prepare reports, and remit the money to North Clackamas School District on a quarterly basis. The department will retain 1% of the fees to cover costs incurred.

The process is exactly the same as the process the department currently follows in collecting the Metro Excise Tax, which was approved by Council in June of this year.

Concurrence

The City Attorney has reviewed the IGA and has approved it as to form. The City of Happy Valley and Clackamas County have or soon will adopt similar resolutions allowing them to collect the tax for the school district.

Staff recommends that the City collect the tax as a service to the builders and to the school district.

Fiscal Impact

No fiscal impact. The bill specifically sets a 1% cap for this service, which is sufficient to offset the cost for administering the tax. On a typical 2000 square foot home, the department will retain \$20.00, as compared to \$12.00 for the same amount of work currently done for Metro.

Work Load Impacts

Staff will be required to perform increased reporting, record keeping and accounting tasks. Staff anticipates extra time spent at the counter explaining the tax in the early stages. The department has sufficient staff at this time to do this work.

Alternatives

Should council elect not to follow staff's recommendation, the builders are not exempt from paying the tax. They will need to go to the school district, pay the tax and bring back a receipt. That is an unnecessary extra step and conflicts with the Building Department's goal of providing excellent customer service.

Attachments

1. IGA
2. Senate Bill 1036
3. School District Adopting Resolution
4. Resolution

CONSTRUCTION EXCISE TAX INTERGOVERNMENTAL AGREEMENT

Date: November 20, 2007

Parties: North Clackamas School District, a school district as defined under ORS 330.005. (“School District”).
City of Milwaukie, a political subdivision of the State of Oregon.
 (“City”).

Recital:

ORS 190.003 to 190.030 allows units of local government to enter into agreement for performance of any or all functions and activities which such units have authority to perform.

Pursuant to Chapter 829, Oregon Laws 2007 (SB 1036), on December 6, 2007, School District will adopt a Resolution establishing a Construction Excise Tax (“CET”) throughout its regional jurisdiction. The Resolution will provide that a Construction Excise Tax be collected by local jurisdictions and remitted to School District pursuant to an Intergovernmental Agreement. The Parties desire to agree to certain procedures needed to collect the Construction Excise Tax and remit the tax to School District.

Agreement:

1. *Information and Forms.* School District will create and provide: (i) information, forms, and assistance explaining the Construction Excise Tax; (ii) information and forms for CET exemptions; and, (iii) any other forms or information necessary for implementation of the CET.

2. *Staffing.* City of Milwaukie will provide sufficient staff to calculate and collect the Construction Excise Tax along with the collection of other permit fees.

3. *Collection; Start date.* City of Milwaukie agrees to assess and collect the Construction Excise Tax on behalf of School District. City of Milwaukie will begin assessing and collecting the CET on December 10, 2007, and will continue assessment and collection until the expiration of the CET. If City of Milwaukie determines that the Resolution adopted by School District does not meet the requirements of Chapter 829, Oregon Laws 2007, City of Milwaukie may not collect the CET until such time as the Resolution meets the requirements of SB 1036.

4. *Exemptions.* If a Person claims to be exempt from the CET and files a School District CET Exemption Form at the time the CET would otherwise be due, City

of Milwaukie will grant the exemption if it appears to be a valid claim of exemption under the Resolution. It will then be School District's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy School District and City of Milwaukie may have under law, if the person was not entitled to the exemption.

5. *Construction Tax Rate.* School District may revise the CET by School Board resolution. If any change is made to the amount of the CET imposed, a policy for considering exemptions, or any other substantive change in the CET program, School District shall provide written notice to City no less than twenty days prior to the effective date of the change.

6. *Remittance.* Following the effective date of this IGA, City of Milwaukie will remit the collected CET to School District on a quarterly basis within thirty (30) days following the end of each quarter. CET remittance will be by electronic funds transfer to: School District CET Account at U.S. Bank, or such other similar account as School District will hereafter designate. Contemporaneous with remittance of the CET, City of Milwaukie will issue a CET Report to School District, directed to North Clackamas School District. Attn. Chief Financial Officer, 4444 Lake Rd., Milwaukie Or 97222. Construction Tax Rate.

7. *CET Reports.* Along with the CET remittance, City of Milwaukie will prepare and submit to the School District a report of (i) the building permits issued, and (ii) CETs processed, whether paid or exempted, for the reporting period's construction activities. To the extent City of Milwaukie has this information, the report shall include: the number of building permits issued or denied that reporting period; the aggregate amount of square foot permitted for residential purposes; the aggregate amount of square footage permitted for nonresidential purposes; the number of building permits for which CET exemptions were given; the aggregate amount of square footage for the exempted construction; complete copies of all exemption claims; the aggregate amount of CET paid; and, the amount of CET administrative fee retained by City of Milwaukie pursuant to this CET IGA.

8. *Failure to Pay CET.* Construction taxes shall be paid by the person undertaking construction at the time that the permit authorizing the construction is issued. Upon a person's refusal to or failure to pay the CET when due, the City of Milwaukie will not issue the permit. In no event shall the City of Milwaukie be liable for failure to collect CET when due.

9. *Records.* City of Milwaukie shall make all records related to building permit activity, Construction Excise Tax collections, and CET exemptions available to School District or its designated auditors, as necessary for School District to audit Construction Excise Tax collections.

10. *Administrative Fee.* As consideration for the above described services, City of Milwaukie will retain 1% of the CET collected by the City of Milwaukie. Prior to

submitting the CET to School District, City of Milwaukie will deduct this administrative fee directly from the CET collected, and the amounts deducted and retained shall be identified on the report submitted to School District. In the event a refund of CET is made to a taxpayer, such refund shall be made exclusively out of CET revenues and shall not operate to reduce the amount of administrative fees retained by City of Milwaukie. City of Milwaukie shall retain its records a minimum of six (6) years.

11. *General Provisions.* This Agreement is binding on and inures to the benefit of the parties and their successors, and assigns. Except with the other party's prior written consent, a party may not assign any rights or delegate any duties under this Agreement. This Agreement may be amended only by an instrument in writing executed by all the parties. The headings used in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement. This Agreement sets forth the entire understanding of the parties with respect to the subject matter of this Agreement and supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter. A provision of this Agreement may be waived only by a written instrument executed by the party waiving compliance. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision. From time to time, each of the parties shall execute, acknowledge, and deliver any instruments or documents necessary to carry out the purposes of this Agreement. Time is of the essence for each and every provision of this Agreement. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the parties to this Agreement, any right or remedy of any nature whatsoever. Each party shall bear its own expenses in connection with this Agreement and the transactions contemplated by this Agreement. This Agreement shall become effective upon the approval of School District's Board of Directors and the City of Milwaukie City Council.

12. *Other Agreements.* This CET Collection IGA does not affect or alter any other agreements between School District and City of Milwaukie.

13. *Defense and Indemnification.* School District agrees to defend, indemnify and hold harmless the City of Milwaukie, and its officers, agents and employees, against all claims and actions, and all damages and expenses related thereto, arising from the City of Milwaukie's performance of this agreement, except for those caused by the sole negligence of the City of Milwaukie or its officers and employees.

Dated this ____ day of _____ 2007

Dated this ____ day of _____ 2007

North Clackamas School District No. 12

Michael F. Swanson, City Manager

Enrolled
Senate Bill 1036

Sponsored by Senator DECKERT; Senators BATES, BROWN, BURDICK, DEVLIN, JOHNSON, METSGER, MONNES ANDERSON, MONROE, MORSE, PROZANSKI, STARR, WALKER, WESTLUND, WINTERS, Representatives BERGER, BEYER, BONAMICI, BOONE, BRUUN, BUCKLEY, BURLEY, CANNON, CLEM, DALLUM, DINGFELDER, FLORES, GALIZIO, GILLIAM, GREENLICK, HANNA, HOLVEY, HUNT, KOMP, KRUMMEL, MACPHERSON, MERKLEY, NOLAN, READ, RILEY, ROBLAN, SCHAUFLEER, SCOTT, SHIELDS, G SMITH, P SMITH

CHAPTER

AN ACT

Relating to local government construction excise taxes; and prescribing an effective date.

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

SECTION 1. (1) A local government or local service district, as defined in ORS 174.116, or a special government body, as defined in ORS 174.117, may not impose a tax on the privilege of constructing improvements to real property except as provided in sections 2 to 8 of this 2007 Act.

(2) Subsection (1) of this section does not apply to:

(a) A tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007;

(b) A tax on which a public hearing was held before May 1, 2007; or

(c) The amendment or increase of a tax adopted by a county for transportation purposes prior to May 1, 2007, provided that the proceeds of such a tax continue to be used for those purposes.

(3) For purposes of this section and sections 2 to 8 of this 2007 Act, construction taxes are limited to privilege taxes imposed under sections 2 to 8 of this 2007 Act and do not include any other financial obligations such as building permit fees, financial obligations that qualify as system development charges under ORS 223.297 to 223.314 or financial obligations imposed on the basis of factors such as income.

SECTION 2. (1) Construction taxes may be imposed by a school district, as defined in ORS 330.005, in accordance with sections 2 to 8 of this 2007 Act.

(2) Notwithstanding subsection (1) of this section, construction taxes imposed by a school district may be collected by another local government, local service district or special government body pursuant to a written agreement with a school district.

SECTION 3. Construction taxes may not be imposed on the following:

(1) Private school improvements.

(2) Public improvements as defined in ORS 279A.010.

(3) Residential housing that is guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that

earn no more than 80 percent of the median household income for the area in which the construction tax is imposed, for a period of at least 60 years following the date of construction of the residential housing.

(4) Public or private hospital improvements.

(5) Improvements to religious facilities primarily used for worship or education associated with worship.

(6) Agricultural buildings, as defined in ORS 455.315 (2)(a).

SECTION 4. (1) Construction taxes imposed under sections 2 to 8 of this 2007 Act may be imposed only on improvements to real property that result in a new structure or additional square footage in an existing structure and may not exceed:

(a) \$1 per square foot on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and

(b) \$0.50 per square foot on structures or portions of structures intended for nonresidential use, not including multiple-unit housing of any kind.

(2) In addition to the limitations under subsection (1) of this section, a construction tax imposed on structures intended for nonresidential use may not exceed \$25,000 per building permit or \$25,000 per structure, whichever is less.

(3)(a) For years beginning on or after June 30, 2009, the limitations under subsections (1) and (2) of this section shall be adjusted for changes in construction costs by multiplying the limitations set forth in subsections (1) and (2) of this section by the ratio of the averaged monthly construction cost index for the 12-month period ending June 30 of the preceding calendar year over the averaged monthly construction cost index for the 12-month period ending June 30, 2008.

(b) The Department of Revenue shall determine the adjusted limitations under this section and shall report those limitations to entities imposing construction taxes. The department shall round the adjusted limitation under subsection (2) of this section to the nearest multiple of \$100.

(c) As used in this subsection, "construction cost index" means the Engineering News-Record Construction Cost Index, or a similar nationally recognized index of construction costs as identified by the department by rule.

SECTION 5. (1) A school district imposing a construction tax shall impose the tax by a resolution adopted by the district board of the school district. The resolution shall state the rates of tax, subject to section 4 of this 2007 Act.

(2) Prior to adopting a resolution under subsection (1) of this section, a school district shall enter into an intergovernmental agreement with each local government, local service district or special government body collecting the tax that establishes:

(a) Collection duties and responsibilities;

(b) The specific school district accounts into which construction tax revenues are to be deposited and the frequency of such deposits; and

(c) The amount of the administrative fee that the entity collecting the tax may retain to recoup its expenses in collecting the tax, not to exceed one percent of tax revenues.

SECTION 6. (1) After deducting the costs of administering a construction tax and payment of refunds of such taxes, a school district shall use net revenues only for capital improvements.

(2) A construction tax may not be imposed under sections 2 to 8 of this 2007 Act unless the school district imposing the tax develops a long-term facilities plan for making capital improvements. The plan shall be adopted by resolution of the district board of the school district.

(3) As used in this section, "capital improvements":

(a) Means:

(A) The acquisition of land;

(B) The construction, reconstruction or improvement of school facilities;

(C) The acquisition or installation of equipment, furnishings or other tangible property;
(D) The expenditure of funds for architectural, engineering, legal or similar costs related to capital improvements and any other expenditures for assets that have a useful life of more than one year; or

(E) The payment of obligations and related costs of issuance that are issued to finance or refinance capital improvements.

(b) Does not include operating costs or costs of routine maintenance.

SECTION 7. A school district may pledge construction taxes to the payment of obligations issued to finance or refinance capital improvements as defined in section 6 of this 2007 Act.

SECTION 8. Construction taxes shall be paid by the person undertaking the construction at the time that a permit authorizing the construction is issued.

SECTION 9. Section 1 of this 2007 Act is repealed on January 2, 2018.

SECTION 10. This 2007 Act takes effect on the 91st day after the date on which the regular session of the Seventy-fourth Legislative Assembly adjourns sine die.

Passed by Senate May 10, 2007

Received by Governor:

Repassed by Senate June 24, 2007

.....M.,....., 2007

Approved:

.....
Secretary of Senate

.....M.,....., 2007

.....
President of Senate

.....
Governor

Passed by House June 18, 2007

Filed in Office of Secretary of State:

Repassed by House June 26, 2007

.....M.,....., 2007

.....
Speaker of House

.....
Secretary of State

RESOLUTION No. 07/08- 44

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE NORTH CLACKAMAS SCHOOL DISTRICT No. 12 ENACTING A CONSTRUCTION EXCISE TAX; AND, AUTHORIZING INTERGOVERNMENTAL AGREEMENTS TO IMPOSE AND COLLECT SAID TAX.

WHEREAS, the North Clackamas School District No. 12 is authorized and responsible for the locating, construction, operation and maintenance of public school capital improvements within its jurisdiction; and

WHEREAS, the North Clackamas School District No. 12 is a school district as defined in ORS 330.005 which has a long-term facilities plan for making capital improvements adopted by resolution of the district board of the school district; and

WHEREAS, the Board of Directors of the North Clackamas School District No. 12 having considered and deliberated at a public meeting the public interest and necessity of imposing a construction excise tax to finance protecting and preserving its existing capital improvements and for the construction of new capital improvements to serve a growing population within its jurisdiction, and to finance or refinance the same; and

WHEREAS, pursuant to Oregon Laws 2007 Chapter 829 the Board of Directors of the North Clackamas School District No. 12 has determined that there is a compelling public need to finance or refinance said capital improvements; now, therefore:

BE IT RESOLVED BY THE NORTH CLACKAMAS SCHOOL DISTRICT No. 12 THAT:

SECTION 1.

(1) The North Clackamas School District No. 12 enacts a construction excise tax to be imposed only on improvements to real property that result in a new structure or additional square footage in an existing structure at a rate of:

(a) One dollar (\$1.00) per square foot on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and

(b) Fifty cents (\$0.50) per square foot on structures or portions of structures intended for nonresidential use, not including multiple-unit housing of any kind.

(2) In addition to the limitations under subsection (1) of this section, a construction tax imposed on structures intended for nonresidential use may not exceed \$25,000 per building permit or \$25,000 per structure, whichever is less.

(3) (a) For years beginning on or after June 30, 2009, the limitations under subsections (1) and (2) of this section shall be adjusted for changes in construction costs by multiplying the limitations set forth in subsections (1) and (2) of this section by the ratio of the averaged monthly construction cost index for the 12-month period ending June 30 of the preceding calendar year over the averaged monthly construction cost index for the 12-month period ending June 30, 2008.

(b) The adjusted limitations under this section and shall be pursuant to the report of the construction cost index published by the Oregon Department of Revenue. As used in this section, the “construction cost index” means the Engineering News-Record Construction Cost Index, or a similar nationally recognized index of construction costs as identified by the department by rule.

(4) Construction taxes shall be paid by the person undertaking the construction at the time that a permit authorizing the construction is issued.

SECTION 2. The construction taxes shall not be imposed on the following:

(1) Private school improvements.

(2) Public improvements as defined in ORS 279A.010.

(3) Residential housing that is guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income for the area in which the construction tax is imposed, for a period of at least 60 years following the date of construction of the residential housing.

(4) Public or private hospital improvements.

(5) Improvements to religious facilities primarily used for worship or education associated with worship.

(6) Agricultural buildings, as defined in ORS 455.315(2)(a).

(7) Improvements to real property that result in a new structure or additional square feet totaling 1,000 square feet or less.

SECTION 3.

(1) After deducting the costs of administering a construction tax and payment of refunds of such taxes, pursuant to intergovernmental agreement with collecting agencies, the District shall use net revenues only for capital improvements.

(2) As used in this section, “capital improvements” means:

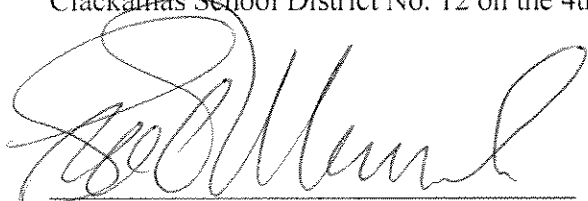
- (A) The acquisition of land;
- (B) The construction, reconstruction or improvement of school facilities;
- (C) The acquisition or installation of equipment, furnishings or other tangible property;
- (D) The expenditure of funds for architectural, engineering, legal or similar costs related to capital improvements and any other expenditures for assets that have a useful life of more than one year; or
- (E) The payment of obligations and related costs of issuance that are issued to finance or refinance capital improvements.

It does not include operating costs or costs of routine maintenance.

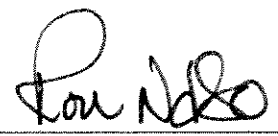
SECTION 5. The school district may pledge construction taxes to the payment of obligations issued to finance or refinance capital improvements as defined herein.

SECTION 6. This Resolution takes effect on October 5, 2007.

Considered and enacted at the regular meeting of the Board of Directors of the North Clackamas School District No. 12 on the 4th day of October, 2007.



North Clackamas School Board Chair



Attest

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH NORTH CLACKAMAS SCHOOL DISTRICT TO COLLECT A CONSTRUCTION EXCISE TAX AND REMIT FUNDS TO NORTH CLACKAMAS SCHOOL DISTRICT ON A QUARTERLY BASIS.

WHEREAS, Senate Bill 1036 requires builders to pay an excise tax on the square footage of improvements to real property that result in a new structure or additional square footage in an existing structure; and

WHEREAS, North Clackamas School District desires to collect the excise tax; and

WHEREAS, The taxes collected are to fund North Clackamas School District for the construction, reconstruction or improvements to school facilities; and

WHEREAS, The City of Milwaukie Building Department has the resources to collect and remit the tax and will retain 1% of the funds to cover costs incurred;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milwaukie adopt a resolution authorizing the City Manager to sign an Intergovernmental Agreement with North Clackamas School District to collect a construction excise tax and remit funds to North Clackamas School District on a quarterly basis.

Introduced and adopted by the City Council on November 20, 2007

This resolution is effective on November 20, 2007.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, & Corrigan, LLP

Pat DuVal, City Recorder

City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DETERMINING THE FIRST REGULAR COUNCIL SESSION OF JANUARY 2008 WILL BE CALLED TO ORDER ON JANUARY 2, 2008 AT 7:00 P.M. AND THE FIRST WORK SESSION OF JANUARY 2008 WILL BE CALLED TO ORDER ON JANUARY 2, 2008 AT 5:30 P.M.

WHEREAS, the Municipal Code Chapter 2.04.070 states that the City Council must provide notice of any changes to its regularly scheduled meeting times and locations; and

WHEREAS, the first Council meeting of January 2008 is on New Year's Day;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Milwaukie, Oregon, that the first regular City Council meeting of January 2008 will be called to order at 7:00 p.m. on Wednesday, January 2, 2008 and the first regular work session of January 2008 will be called to order at 5:30 p.m. on January 2, 2008 in Milwaukie City Hall, 10722 SE Main Street;

Introduced and adopted by the City Council on November 20, 2007.

This resolution is effective on November 20, 2007.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis, PC

City Attorney