

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
FEBRUARY 7, 2006**

**CALL TO ORDER**

**Mayor Bernard** called the 1975<sup>th</sup> meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Deborah Barnes	Joe Loomis
Susan Stone	Carlotta Collette

Staff present:

Mike Swanson, City Manager	Tom Larsen, Building Official
Gary Firestone, City Attorney	George Macgregor, Civil Engineer
Ken Asher, Community Development/ Public Works Director	Paul Shirey, Engineering Director

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**

**A. Recognize Kathy Buss for Service to the Community on the Park and Recreation Board**

**Ms. Herrigel** recognized Kathy Buss for serving on the Milwaukie Park and Recreation Board for 8 years. The Mayor and Councilors thanked Ms. Buss for her contributions to the community on the Board and through the neighborhood programs.

**B. Metro Natural Areas Bond Measure**

**Metro Councilor Brian Newman** commented on the improvements he saw coming into Milwaukie for the meeting including Three Bridges, North Main, and McLoughlin Boulevard Enhancement. The Metro Council was currently deliberating on referring a bond measure to build on two successful programs in November 2006. The first successful effort was the \$136 million 1995 bond measure that acquired over 8,000 acres regionally and 74 miles of river frontage. Those funds would be expended by this October. Metro had also adopted a moderate regional fish and wildlife program that related to stream corridors as well as the Nature in the Neighborhoods program. He discussed regional growth and development and the importance of protecting these natural areas. \$25 million of the 1995 bond went to local share projects in cities and parks districts. Volunteers put in about 25,000 hours to maintain the parks and plant over 1 million trees. In 1995, Milwaukie received \$334,853 in local shares that was spent on the Minthorn North wetland, Springwater corridor connection in Ardenwald, native plantings in Furnberg Park, trail access improvements to Kellogg Lake, and the

Willow Place wetland enhancement. He discussed the strategies employed by the various jurisdictions in using their local shares.

Metro wants to build on the successes of the 1995 bond measure and purchase land before it was developed. The ballot measure would contain three general elements: regional natural areas acquisition, local acquisitions and improvements, and the opportunity grant program. A Blue Ribbon Committee chaired by Fred Miller, retired PGE executive, recommended 11 target areas, 6 greenways or trail corridors, and continued investment in existing areas. The total package was \$220 million with \$44 million going to local share, \$11 million to opportunity grants, and \$165 million for regional target areas. The rate was approx \$0.18 per thousand assessed value. A scientific work group that was a subcommittee of the Blue Ribbon Committee selected the target areas. Their work focused on water quality, habitat, rarity, parcel size, restoration, connectivity, scenic resources, public access, and partnerships. He pointed out the target areas on a map that included areas both inside and outside the urban growth boundary (UGB). Target areas in and near Milwaukie were the Willamette Greenway, Springwater Trail completion, and Johnson Creek and watershed. All the purchases would be from willing sellers. The local share allowed councils, commissions, and parks districts to acquire property to land bank for natural areas or active recreation uses. Jurisdictions can also use local share funds for restoration, improved public access to nature, trail design and construction, and environmental education facilities. Milwaukie's proposed local share would be approximately \$657,000. Metro was working with Ms. Herrigel to identify priorities for the use of those local share dollars, and he urged the Council to adopt a resolution listing its priorities by March 1. The North Clackamas Parks and Recreation District, which included the City of Milwaukie, would receive about \$2.4 million some of which could conceivably be spent in Milwaukie.

The opportunity grant program was directed toward making funds available to cities, neighborhoods, watershed councils, and non-profits to re-nature areas and build partnerships. He discussed Nature in the Neighborhood grants that focused on leveraging resources for unique opportunities. Preference would be given to projects in economically distressed areas or those with few natural resources.

The vision was to build on the success of the 1995 bond measure to renew and extend efforts to protect water quality and critical habitat and to secure a legacy for future generations. Metro was in the process of doing outreach to city councils in the region, and that would be followed up by public forums and Metro Council public hearings. If approved, the measure would be on the November 7 general election ballot.

**Councilor Loomis** understood there was some money spent on the trail access at Kellogg Lake. He asked for clarification of the term active park.

**Councilor Newman** said there was property acquired between the Cash Spot and the trestle for access. The regional program was focused on natural areas, but the local share could be used to acquire land for either natural areas such as the Minthorn Springs or land for playgrounds and ballfields. Based on feedback from Clackamas County Coordinating Committee (C4) and other groups, Metro decided to be more flexible in the new program by allowing property acquisition for land banking. Metro funds could not be used for capital development.

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**Councilor Loomis** commented that Clackamas County had different needs and was lacking in active recreation facilities.

**Councilor Newman** received calls from people in Milwaukie regarding their properties and encouraged the owners to contact the Council regarding the local share program.

**Councilor Collette** understood Metro was not asking the Council to locate projects on a map but rather to identify priorities.

**Councilor Newman** replied that if the Council already knew of a willing seller, then it would be appropriate to identify the site.

The group discussed the Three Bridges color that was orange.

**Mr. Shirey** introduced George Macgregor, licensed professional engineer.

### **C. Riverfront Concept Survey Results**

**Ms. Herrigel** discussed the public input process that included two open houses and surveys that were available to the public via direct mail, the City website, the Farmers' Market, and open houses. The City received 1,871 paper responses from the 97222 zip code, an 11% return, and 2,244 total responses. Seventy-five percent of those responding preferred Concept #2 that included a boat ramp and parking between the creeks. Twenty percent of the respondents preferred Concept #1 that had a dock but no boat ramp with parking south of Kellogg Creek. Five percent marked neither concept or both concepts. Some amenities like picnic tables and parking between the creeks were ranked highly on both concepts.

The next was a discussion of the responses at a January 2006 Riverfront Board meeting. The Riverfront Board recommended that Council allow the Board to integrate the results of the survey into a final concept. The Board would meet in February to finalize a package of policy issues and what it would convey to a consultant or designer about the desired outcome. The March and April meetings would be facilitated at which time the Board would actually work on the design. She would solicit help from people with expertise in landscaping, boat ramps, and parking lots along with manufacturers of materials such as pavers.

**Mayor Bernard** appreciated the Board members' years of work and fully supported the proposed direction.

**Councilor Loomis** appreciated the time and hoped the Board would come up with a final design and concept. In reading some of the comments, he noted that respondents wrote that they wanted to see something done. He hoped Ms. Herrigel would deliver that message to the Board.

**Councilor Barnes** agreed that should be a strong message.

**Councilor Collette** observed that the Board had served the City well, and the survey provided more insight into the community's desires. Let the Board take it to the next step and move forward on the project. She added that it would be a challenge to get all those amenities into a relatively small area.

**Councilor Stone** liked the idea of having professionals in the room looking at design concepts and ways to solve parking issues. Parking was the biggest issue. The land

was finite and the future of Clearwater was unknown. She hoped people would be open-minded and creative in looking at ways to solve the parking issue. She was reluctant to see precious green space devoted to parked vehicles. She supported the Riverfront Board's taking it forward and developing some ideas for the City Council.

**Mayor Bernard** did not believe parking needs could ever be accommodated on that property. Trailers had been lined up along McLoughlin Boulevard as long as he could remember. His goal was to move the Farmers' Market to the riverfront someday, and Mayor Bernard hoped the Board would keep that in mind.

**Ms. Herrigel** would report back in May with either an answer or a deadlock.

#### **CONSENT AGENDA**

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

##### **A. Milwaukie City Council Minutes**

1. Work Session January 3, 2006
2. Regular Session January 3, 2006
3. Work Session January 17, 2006

##### **B. Contract Award for North Main Village Streetscape.**

#### **AUDIENCE PARTICIPATION**

- **Greg Chaimov, Library Board Vice-Chair, 12323 SE 25<sup>th</sup> Avenue.**

**Mr. Chaimov** commended the Council on behalf of the Board for having the foresight to purchase the property located at 2215 SE Harrison Street next to the Ledding Library. The Library, run by a fantastic staff, was a facility much smaller than it should be for the number of patrons it served according to state and federal standards. He hoped this acquisition would help alleviate that problem to some degree. He expressed concern with the suggestion that the School District would be using the building for the next 15 years and not the Library. To put that in context, by the time the Library got to use the property, he would be on social security. He hoped that the City would have a chance to make broad use of that building for the community.

#### **PUBLIC HEARING**

**Findings and Conditions for Norm Scott Subdivision, 8555 SE 28<sup>th</sup> Avenue, Appeal File AP-05-03**

**Mayor Bernard** said the Council first heard this matter on November 15, 2005 at which time Council took testimony from the appellant and other interested parties. The public testimony portion of the hearing was closed on that date. The hearing was continued to February 7, 2006 so the Council could consider the findings and conditions in support of the tentative subdivision approval and denial of the street vacation requests. The public comment portion of the hearing was closed.

**Mayor Bernard** asked if any members of the Council wished to announce any ex-parte contacts that may have taken place since the November 15, 2005 hearing.

**Councilor Collette** had conversations with Mr. Scott about whether this matter was on the agenda.

**Councilor Stone** said on the night of the public hearing she and Mr. Scott talked briefly. She had asked Mr. Scott about the houses he was planning to develop on the property, and Mr. Firestone astutely suggested she might not want to do that.

**Mr. Firestone** provided the staff report. The City Council made a tentative decision subject to the adoption of additional findings and conditions. The additions were findings 17 through 26 and were intended to justify the transportation public improvements including street, sidewalk, and pathway based on the area of the subdivision and the number of authorized dwelling units. Staff recommended that the Council affirm its earlier decision and approve the findings and conditions as presented.

**It was moved by Mayor Bernard and seconded by Councilor Barnes to approve findings and conditions in support of the Council's November 15, 2005 tentative subdivision approval and denial of the street vacation requests. Motion passed 4 -0 with the following vote: Mayor Bernard and Councilors Barnes, Loomis, and Stone voting 'aye' and Councilor Collette abstaining.**

**Mayor Bernard** provided Land Use Board of Appeals (LUBA) information.

## **OTHER BUSINESS**

### **A. Municipal Code Amendments to Title 15 – Ordinance**

**Mr. Larsen** discussed the three elements of the proposed ordinance amending the code. These included adoption of new Residential Code Standards and Appendix J of the Structural Specialty Code, the grading ordinance. The third element had to do with swimming pool barriers. Until 1996 it was up to the individual jurisdictions whether those regulations were adopted or not. In 1979, Milwaukie created an ordinance that was similar to the provisions in the building code. This was retroactive, and code enforcement would respond to any complaints. Staff recently received a complaint about an indoor pool but could not act because of the existing ordinance. The code did not require self-closing doors when the walls of a house comprised part of the required barrier around a swimming pool. Any pool built after 1996 with a permit needed the barrier as outlined in the proposed ordinance. This was a good safety feature, and he noted annually there were 500 drowning deaths of children under the age of 6 plus several thousand emergency room visits.

**Councilor Stone** understood the City had to add the self-closing door requirement in order to comply.

**Mr. Larsen** said anything built after 1996 was in the code. It was adopted in 1979 that a barrier was required. Even if a pool were built in 1930, one technically had to have some kind of barrier. Enforcement of that section of the code was primarily complaint driven.

**Councilor Stone** asked if the City would be liable if it did not add that requirement to its code and a child drowned in a pool that did not have a self-closing door.

**Mr. Firestone** would argue the City was not liable because it is a legislative decision. The City was not required to ensure people's safety but was authorized to provide

safety regulations. If the City could strengthen the code to provide additional safety measures, then that was to the benefit of the community.

**Councilor Stone** was concerned about fingers getting smashed in self-closing doors.

**Mr. Larson** said as an alternative, one could use a powered pool safety cover.

**Councilor Stone** asked if other cities in the regional had similar self-closing door requirements.

**Mr. Larsen** believed West Linn and Oregon City had similar provisions in their codes.

**Councilor Barnes** asked for clarification for the public of what people would be required to do if they bought a pool from K-Mart.

**Mr. Larsen** replied one would need to contact the building department for a permit, have a fence that was at least 4-feet tall with openings of less than 1-1/2 inches, self-closing gates, and self-closing doors if the house was part of the barrier. The requirements would apply to any pool that was 24-inches deep or greater.

**Councilor Stone** understood one could not have a pool that was more the 24-inches deep without a barrier.

**Mr. Firestone** understood these regulations applied to pre-existing, and new construction requirements were addressed in the statewide building code.

**Mr. Larsen** said residential, meaning one- and two-family dwellings, pools were regulated by the building department through the building code. Pools in apartment complexes were regulated by the state health division and had similar requirements.

**Councilor Barnes** understood that referred to new construction of the fences rather than the K-Mart pool.

**Mr. Firestone** did not know the extent to which the regulations applied to temporary inflatable pools. It was his understanding the building code had to do with permanent structures.

**Mr. Larsen** explained an in-ground pool would require a permit. A pool one bought from K-Mart that was a foot or two high did not require a permit, but the barrier would be required. That was how the City ensured the barrier was constructed correctly.

**Councilor Stone** asked how this would realistically be regulated. She understood anything currently being constructed would be covered by the building codes in effect. If someone bought a K-Mart pool that was 24-inches deep, then he would have to get a permit to install a self-closing door. That seemed to be over-regulating things, and she was not sure she could support the code amendment. Small children and especially those who did not know how to swim should not be left unattended for any period of time. The problem was not whether or not there was a self-closing door. She knew of people who had been right next to the pool when their child drowned. It was not the door that would necessarily prevent them from drowning; it was a matter of supervision. She did not like the idea of the Council's making such strict regulations. Everyone had pools in the yards during the summer, and some of them were quite large. She thought it would be ridiculous to expect people to obtain a permit from the City and questioned whether the regulation would be enforceable.

**Mr. Larsen** said this regulation had been in effect since 1979 and did not exempt anyone from having a barrier.

**Mayor Bernard** understood that someone buying a large pool at Costco would be required to put a barrier around it. The code was not being changed.

**Councilor Barnes** said the requirement of a self-closing door was being proposed.

**Mr. Larsen** explained it would apply to anything built since 1996. The ordinance was being proposed for problem cases of existing pools. In 1979 the City felt it was important enough to adopt an ordinance, and this was an attempt to give it more teeth.

**Councilor Loomis** asked if the door to the house had to be self-closing.

**Mr. Larsen** said a pool with a fence entirely around it with a self-closing gate would meet the criteria. In that case, a self-closing door to the house would not be required. In most cases the house was the barrier, and a self-closing door or a powered safety cover would be required. One alternative was a self-latching screen door.

**Mayor Bernard** suggested that Council adopt the ordinance but delete 15.28.020.

**Mr. Firestone** said in that case, the Council would be adopting amendments to 15.04.170 but not to § 15.28.020

**It was moved by Mayor Bernard and seconded by Councilor Barnes for the first and second readings by title only of the ordinance amending Section 15.04.170 – various specialty codes and standards adopted – of the Milwaukie Municipal Code.**

**Mr. Swanson** explained the Council would only be adopting the changes on staff report pages 6.A.4. and 6.A.6.

**Motion passed unanimously. [5:0]**

The City Manager read the ordinance two times by title only and explained the change that amended Milwaukie Municipal Code § 15.28.020 and declaring an emergency.

**Mr. Firestone** said apart from the change read by the City Manager, Exhibit A was amended by keeping the first page while deleting the second page.

**The City Recorder polled the Council: Mayor Bernard and Councilors Barnes, Collette, Loomis, and Stone voting ‘aye.’ Motion passed unanimously. [5:0]**

**ORDINANCE NO. 1957:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 15 OF THE MILWAUKIE MUNICIPAL CODE REGARDING STATE BUILDING CODE UPDATES AND DECLARING AN EMERGENCY.**

**B. Electrical Fee Update**

**Mr. Larsen** reported that Clackamas County administered the City’s electrical inspection program, and the proposed resolution allowed the City to update the fee schedule by reference.

It was moved by Mayor Bernard and seconded by Councilor Stone to adopt the resolution setting fees for services. Motion passed unanimously. [5:0]

**RESOLUTION NO. 4-2006:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SETTING FEES FOR SERVICES; CLASSIFYNIG THE FEES IMPOSED BY THIS RESOLUTION AS NOT SUBJECT TO ARTICLE XI, SECTION 11B, OF THE OREGON CONSTITUTION.**

**C. Purchase of Property Located at 2215 SE Harrison Street – Resolutions**

Mr. Swanson reported the first resolution conformed the purchase of the property located at 2215 SE Harrison to Milwaukie Municipal Code § 3.15.030 requiring that the City Council approve the purchase of real property in excess of \$25,000 and included a statement that the appraisal had been commissioned and provided to the Council. The second resolution was a transfer of appropriation authority in the amount of \$80,000 from the general fund intergovernmental account to the Library in order to meet the escrow payment, amount due at closing, and the closing costs.

For some time the Library Board had been considering future Library expansion. The challenge in doing that was the fact that the current Library site was a gift and included within the deed a restriction on an alternate use of the property. If the property ceased to be used as a Library, then it would revert to the estate and any heirs. Planning was limited on that site because the Library was located there. It was a good facility but difficult. Plans have been prepared, but expansion would have to be vertical because of the size of the property.

Several months ago the property at 2215 SE Harrison Street was listed for sale. It was directly east of the current Library on the other side of the pond. It was Mr. Swanson's experience that if something became available adjacent to or had a future use then it was worth looking at. He felt the property had potential for Library expansion in a way that was not as restricted, and the pond and its possible uses intrigued him. He thought there could be a great marriage between the existing facility and 2215 by using the water feature to create a signature area. He had proposed to the Council that the City enter into negotiations with the seller, but the first attempt did not reach a meeting of the minds. After some time passed, discussions took place again, and the City made an offer that the seller accepted. The purchase price was \$400,000 with a real market value of \$403,000. The current owner would carry the paper at 7% interest with a 15-year amortization. That would work out to about \$2,800 per month and would be budgeted in the Library fund for the 15-year period.

There were discussions with the School District about using in the building as an interim community learning center, and talks were continuing. County Community Development Block Grant (CDBG) staff indicated that it would recommend a \$100,000 grant to help renovate the facility for School District purposes. It would be a 15-year use. Mr. Swanson stressed that the ultimate use of the property would be for the expansion of the Ledding Library, and this purchase was banking for the future. He thought the property presented numerous opportunities for the community. Once the City put itself out there and made the commitment, the possibility for grants or

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foundations appeared to be better. Closing was scheduled for February 8 if approved by Council. The Budget Review Board considered this matter and supported it.

**Mayor Bernard** understood the CDBG agreement would have to come to the City Council for approval.

**Councilor Collette** asked if there was any idea of how much space the District wanted.

**Mr. Swanson** replied there would be a tour the house on Friday. One of the immediate uses for a portion was for storage. Another possibility was to reserve a certain amount of property for a booktique to raise funds for the Library. He did not know at this time how much the District would use, but it was important to identify Library space.

**Mr. Asher** added the District was not sure it was interested in the space at this time. Further, the District had not done any preparation other than to work on a grant application based on the idea of a community learning center. The acquisition and interim use were separate projects. It was rather a surprise to both the City and District that this grant might come together. The house was listed as being 1,800 square feet, and there would be ADA issues with the hallways and stairs.

**Councilor Stone** was concerned about the 15-year commitment if the CDBG grant were awarded. She hoped by then there would be funding to use that building for a true Library expansion.

**Mr. Asher** agreed. The Library Foundation could repay the grant with interest and reclaim the use. If that were the case, then there would need to be an operating agreement as to how the tenant would occupy the space.

**Councilor Stone** asked if it was remotely possible that the City could apply for Metro funds for this property.

**Mr. Asher** suggested asking Ms. Herrigel that question.

**Councilor Loomis** asked if the District would pay rent.

**Mr. Asher** said the District made it clear that it would not have been interested in the grant if it were a matter of renting space. The value to the District was that programs could be consolidated in that building and it would save funds. Maintenance and utilities could be subject to an agreement. Unless it was cost neutral, the proposal might not make sense for the District. The City would have to make a decision about the interim use of the property. Some use was more desirable than no use, and Mr. Asher was willing to seek grant funds. Right now this was an opportunity, and there was a population in need of those services.

**Councilor Barnes** added that the clientele and demographics included migrant workers and ELL students, and there was no place in downtown Milwaukie for a family to seek help. That segment of the population was growing in the community. The Library already included foreign language books and movies because the demographic was becoming huge. She noted the current facility at Lol Whitcomb was being overwhelmed. The \$100,000 was just a start, and more grants could be generated. She was motivated by being able to help people in the community, and the money would help renovate the building to start up a new relationship with the District while helping people in the community.

**Mr. Swanson** agreed there was a need and thought there might be another potential location.

**Mr. Asher** spoke with the Library Board and county community development staff. It appeared the Library could certainly use the conference room and part of the building for storage as long as it could be shown it was not the primary use.

**Mayor Bernard** agreed with Councilor Barnes that there needed to be a location, and he discussed the Library's being responsible for the administrative fee. He was concerned the Library might end up being the loser in this situation.

**Councilor Stone** noted in the staff report that there were some models for this type of center. She asked how much traffic it might generate.

**Mr. Asher** thought there could be 5 – 6 District employees, and a couple of people using the facility at one time. The site was constrained and had parking issues. Another use was an option for the City Council to consider.

**Mr. Swanson** understood there was an interest in making certain the intent of this purchase was followed through on and that there was a need for this type of facility. He agreed with Councilor Barnes that for some period of time there was a less than cordial relationship with the District. He would look into the other option that might serve both interests.

**Councilor Collette** commented that if there was another opportunity to house the school facility, then it would be a good partnership to build. She was concerned about tying up the use for 15 years. She heard no disagreement in purchasing the property and pursuing uses of the site.

**Ed Zumwalt** 10888 SE 29<sup>th</sup> Avenue. He spoke informally on behalf of the Library Board. This matter came up quickly, and the Board had not met although he spoke with members Greg Chaimov and Jeff Dahl. Mayor Bernard, Mr. Swanson, and Mr. Asher had answered some of his questions. If the City went through with the CDBG application, then he understood preliminarily there would be basement storage, a meeting room, and perhaps a booktique and coffee shop. He was concerned about book storage in the basement and the parameters and limitations of the loan. The booktique would be a good source of revenue for the Friends. He had concerns about facility maintenance charges and other potential budget liabilities. What condition would the building be in after 15 years of use by the District? Would it be a parking lot if the building to the north were purchased? There was mention of paying off the loan early with foundation funds, and he noted that most of the members were looking for money to build a new wing on the Library. He commented that every room had to have a Library employee to watch over it. He would discourage bleeding money off from building a new wing. These were all matters he hoped the City would consider when it looked for tenants.

**It was moved by Councilor Barnes and seconded by Councilor Collette to adopt the resolution approving the purchase of real property located at 2215 SE Harrison Street.**

**Councilor Loomis** noted the resolution stated that the seller would have naming rights according to the City policy.

**Mr. Swanson** explained the City had a policy that outlined the process for naming facilities. The seller had originally wanted the facility named after him, and the trust deed said he had such naming rights as may be available pursuant to the City's policies related to the naming of City property. It went on to say that was to notify him that may result in no naming of the facility. The City had discretion, and it might be that there was no recommendation positive in renaming.

**Councilor Loomis** understood the \$100,000 grant was for renovation for purposes of the School District program and that that matter would come back to the Council for final approval.

**Councilor Stone** asked if naming property after a person was more in conjunction with a donation rather than a sale.

**Mr. Swanson** said in the 1991 agreement for the Kronberg property there was a finding that there was \$44,000 in value that was not paid to the seller. That one would be pursuant to a donation. The Board would look at that if there were a request made. The matter might come up, but the seller was still on notice that it might be rejected in the City's process.

**Motion passed unanimously. [5:0]**

**RESOLUTION NO. 5-2006:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING THE PURCHASE OF REAL PROPERTY LOCATED AT 2215 SE HARRISON PURSUANT TO MILWAUKIE MUNICIPAL CODE SECTION 3.15.030.**

It was moved by Mayor Bernard and seconded by Councilor Collette to adopt the resolution transferring appropriation authority in the amount of \$80,000 from intergovernmental to library. Motion passed unanimously. [5:0]

**RESOLUTION NO. 6-2006:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON TRANSFERRING APPROPRIATION AUTHORITY IN THE AMOUNT OF \$80,000 FROM INTERGOVERNMENTAL TO LIBRARY.**

**Mr. Swanson** briefly reviewed the naming policy and the standards that would be used.

- **Jim Lotz, 5537 Harlow Street.**

**Mr. Lotz** expressed concerns about police brutality and traffic situations related to senior citizens. Many Milwaukie citizens were arming themselves. He alleged that no one would disclose to him how many officers the City had.

**Mr. Swanson** said the City had 29 sworn officers and 2 sworn command staff, and the numbers were included in the budget.

**Council Reports**

**Mayor Bernard** attended a meeting at the Bomber, and the County announced it would not be using the motel across the street to house sex offenders. He was scheduled to

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go to Washington, D.C. with the Joint Policy Advisory Committee on Transportation (JPACT) group later in February.

**Councilor Loomis** announced the Saturday Coffee with Council and suggested the Council talk about reinstating the open public forum. He recommended the Council discuss the regional committee assignments. He was interested in being on the District Parks Advisory Board.

**Councilor Barnes** thanked the Ledding Library for graciously allowing her students to film an on-location breakfast club.

**ADJOURNMENT**

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

**Mayor Bernard** adjourned the regular session at 8:57p.m.

*Pat DuVal*

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Pat DuVal, Recorder

# AGENDA

## MILWAUKIE CITY COUNCIL FEBRUARY 7, 2006

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**1975<sup>th</sup> MEETING**

### REGULAR SESSION – 7:00 p.m.

- I. **CALL TO ORDER**  
Pledge of Allegiance
  
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
  - A. **Recognize Kathy Buss for Service to the Community on the Park and Recreation Commission (JoAnn Herrigel)**
  - B. **Metro Natural Areas Bond Measure (Metro Councilor Brian Newman)**
  - C. **Riverfront Concept Survey Results (JoAnn Herrigel & Grady Wheeler)**
  
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. **Milwaukie City Council Minutes**
    1. **Work Session January 3, 2006**
    2. **Regular Session January 3, 2006**
    3. **Work Session January 17, 2006**
  - B. **Contract Award for North Main Village Streetscape (Jay Ostlund)**
  
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.)*

**Findings and Conditions for Norm Scott Subdivision**  
**8555 SE 28<sup>th</sup> Avenue, Appeal File AP-05-03 (Gary Firestone)**

**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. Municipal Code Amendments to Title 15 – Ordinance (Tom Larsen)**
- B. Electrical Fee Updates – Resolution (Tom Larsen)**
- C. Purchase of Property Located at 2215 SE Harrison Street – Resolution (Mike Swanson)**
- D. Council Reports**

**7. INFORMATION**

- A. Citizens Utility Advisory Board Minutes October 5, 2005**
- B. Riverfront Board Minutes September 13 and December 13, 2005**

**8. ADJOURNMENT**

**Public Information**

- Executive Session: The Milwaukie City Council may go into Executive Session immediately following adjournment at 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.



# Johnson Creek Watershed Council

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January 26, 2006

Mayor Benard and Milwaukie City Council  
10722 SE Main Street  
Milwaukie, OR 97222

Dear Mayor Benard and City Council,

We are writing in regard to the City of Milwaukie's proposed list of projects for the local share component of the 2006 Regional Greenspaces Bond Measure and specifically how we feel local share dollars should be spent in Milwaukie.

We understand and generally support the greater flexibility intended for the local share component that allows for a broader range of park-related capital projects. We also understand why some want to try to use local share dollars to develop existing parks. However we strongly urge that natural areas remain a primary focus of land acquisition funded by Milwaukie's local share and that all projects have clear water quality, watershed health, and wildlife habitat benefits. The 2006 Regional Greenspaces Bond Measure had its genesis in the Metro Council's decision to provide performance measures rather than specific regulatory mandates to achieve protection of regionally significant wildlife habitat. Growth pressures continue to result in the loss of habitat throughout the region. Local share dollars from the Bond Measure will be needed to protect key riparian areas, upland wildlife habitat, and urban forest canopy. For these reasons, we believe a significant portion of local share dollars should go toward protection of natural areas for wildlife, water quality, and nature-based recreation in the City of Milwaukie.

Metro's polling data clearly indicates voters strongly favor water quality and wildlife as a focus for the bond measure. That's why the Blue Ribbon Commission (BRC) urged "local projects should directly complement the larger regional vision by focusing on the protection of water quality and fish and wildlife habitat, and the restoration of areas important to our quality of life." The BRC's draft guidance for eligible local share projects specifies these funds must be tied to capital projects or acquisition that supports improved water quality and/or habitat protection. Therefore we urge that a *significant* portion of local share dollars should go toward the protection of natural areas for wildlife and nature-based recreation in the City of Milwaukie and *all* Milwaukie's local projects improve watershed health and enhance water quality, habitat or the public's access to them.

The Johnson Creek Watershed Council is in the unique position of offering a watershed-based view of conservation needs across jurisdictional boundaries. We are developing a systematic approach to prioritizing natural area and trail acquisition for the entire watershed. We hope this will provide an approach to re-evaluating local share funding priorities for the City. We are using the Oregon Watershed Enhancement Board's (OWEB) *Framework for Land Acquisition Priorities* to ensure prioritization of natural area acquisition is informed by science-based conservation principles and are considering important areas to increase public access as well. Using OWEB's *Framework* ensures prioritization of land acquisition is informed by science-based conservation principles and is

consistent with both Metro's regional habitat inventory and Oregon Department of Fish and Wildlife's Statewide Wildlife Conservation Strategy. Supporting these existing programs, plans and priorities will position the City well to compete for regional, state and federal matching dollars, not only for acquisition, but also for habitat restoration and environmental education projects at the acquired sites in the future.

OWEB's *Framework* lays out seven conservation principles to guide natural area acquisition: 1) protecting large, intact areas; 2) stabilizing areas "on the brink" of degradation, 3) securing transition areas threatened by development or habitat loss, 4) areas with restoration potential, 5) areas with exceptional biodiversity, 6) habitat that can improve connectivity, and 7) securing areas that complement existing protection efforts. Our preliminary evaluation of the Johnson Creek Watershed in the City of Milwaukie highlights the following priority areas for natural area acquisition:

**Johnson Creek Reach 1 and 6 (ODFW reach classification):** Both these reaches have key parcels that could be secured in public ownership for habitat protection and restoration. The Council is particularly interested in reconnecting Johnson Creek to its floodplain along these two reaches to restore habitat, improve water quality, and reduce the occurrence of nuisance floods.

**Wetland enhancement:** There are opportunities for wetland protection and enhancement within the City of Milwaukie that would benefit water quality and wildlife within the Johnson Creek Watershed.

The Council is also very interested in opportunities for enhancement and restoration of Spring Creek in downtown Milwaukie although we recognize that given available resources, this should probably be a lower priority than mainstem Johnson Creek acquisition.

Thank you for your consideration. We would be interested in working with the City and staff in developing more specific recommendations as planning for the bond measure and other opportunities to secure acquisition dollars.

Sincerely,

Jeff Uebel, Chair  
Johnson Creek Watershed Council Board of  
Directors

Jim Labbe, Board of Directors and Chair  
Johnson Creek Watershed Council,  
Land Use Committee

Michelle Bussard  
Johnson Creek Watershed Council  
Executive Director

cc: JoAnn Herrigel, Jim Desmond, Metro Council, Clackamas County Commissioners, Portland City Council

Inspiring and facilitating community investment in the Johnson Creek  
Watershed for the protection and enhancement of its natural resources.



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: JoAnn Herrigel, Community Services Director

Subject: Metro Open Space Bond Measure – Project Selection

Date: January 24, 2006

**Action Requested**

None. Information only. This staff report updates Council on Milwaukie staff and Board activities related to the Greenspace bond measure Council will hear more about from Brian Newman at the February 7 regular session.

**Background**

Metro will place a Parks and Open Space Measure on the November 2006 ballot. The likely size of the measure will be \$220 million. One component of the measure will be an allocation to local governments and park providers known as the “local share.” The amount of the “local share” will be \$44 million. Of this amount, approximately \$10,507,200 will be distributed among Clackamas County, eligible cities and North Clackamas Parks and Recreation District (NCPRD). NCPRD’s estimated allocation is \$2,406,149. The City of Milwaukie’s estimated allocation is \$657,751.

Other pertinent information related to this bond measure:

- Metro passed a similar bond measure in 1995 for a total of \$135.6 million that had a local share component of \$25 million. Milwaukie’s allocation was \$350,000. Local share projects in the City included: Purchase and enhancement of Minthorn North; Enhancement of Furnberg Park; and Path development at Homewood Park.
- The proposed 2006 measure will cost taxpayers \$32 a year (\$2.67 a month or \$.18/1000 assessed value based on an average home value of \$170,000.)
- The 1995 bond will not be paid off until 2015. Thus, \$.11/1000 assessed value from the 1995 bond will remain on tax bills until that time. The total,

then, for tax payers, will be .29/1000 until 2015 and then the amount would decrease to .18/1000 until 2026, when the proposed bond would be paid off.

- Metro completed public polling regarding the proposed 2006 ballot measure in June of 2005. In general, polling showed that open space acquisition and enhancement was preferred to park improvements like ball fields and picnic shelters.
- The proposed criteria for eligible Local Share projects for the 2006 measure is focused on land acquisition for open space and future park use and enhancement of open space areas. At this point, the criteria for property *enhancement* does allow the construction of play structures but more active recreation facilities is not be included.
- The 2006 measure will also include a grant program (1:1 match required) for capital projects including acquisitions and improvements to properties owned at least in part by a public agency. The total amount of the bond allocated to this grant program has yet to be determined.

The City has been asked to provide Metro with a list of potential local share projects by March 1, 2006. To that end, staff has met with the Milwaukie Parks Board (PARB) to discuss potential projects and has reviewed this draft project list with the NDA leadership group. The PARB recommended that the City focus the majority of local share funds on land acquisition (maybe 65%) and spend the remaining dollars (35%) on projects like the Riverfront Park and Spring Park.

Attached is a list of proposed projects. A more formal list will be reviewed by Council at their February 21 meeting along with a resolution approving these projects.

## Milwaukie Local Share Projects

### DRAFT

#### Priority # 1 - Acquisition

In the mid 1990s, the City went through an extensive process to identify areas of the City that were underserved by parks and open space and to target these areas for acquisition. As a part of this process, the Homewood Park and the Lewelling Community Park properties were purchased. The two target areas that remain underserved in the City are:

	Estimated Cost
• Land Acquisition – West of 32 <sup>nd</sup> Ave	\$ 150,000
• Land Acquisition – South of Lake Rd.	<u>\$ 150,000</u>
	\$ 300,000

Staff is in discussions with the Johnson Creek Watershed Council, Friends of Kellogg and Mount Scott Creek and the City of Portland regarding potential creek-side properties that the City might target.

• Creek-side acquisition	\$150,000
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**Total Acquisition estimate: \$450,000**

#### Priority #2 - Improvements

Given the restrictions proposed for use of local share funds, the most likely candidates for park or open space enhancements to properties *already owned* by the City are:

	Estimated Cost
• Wetland Enhancement + Trail at Spring Park	\$ 100,000
• Play equipment – Homewood Park	\$ 20,000
• Milwaukie Riverfront Park Development (Natural areas or paths)	<u>\$ 80,000</u>
	\$ 200,000

**Total Improvement estimate: \$200,000**

**Priority # 3 – Other Improvements**

- Trail for Minthorn Wetland \$100,000
- ADA Ramp for 3 Bridges @ McLoughlin \$ 500,000
- 17<sup>th</sup> Street bike lanes/sidewalks \$ 500 -1,000,000



To: Mayor and City Council  
Through: Mike Swanson, City Manager  
From: JoAnn Herrigel, Community Services Director  
Subject: Riverfront Concept Survey Results  
Date: January 24, 2006

**Action Requested**

Approve the Riverfront Board's recommendation for integration of recent public survey data into a final Riverfront Park concept.

**Background**

As you know, staff mailed a survey to all 97222 postal code accounts in October 2005. The survey asked respondents to select one of two proposed concept plans for the Riverfront Park in Milwaukie and to rate park amenities on a 5-point scale. The City web site also hosted the survey between October and December 9, the cut off date for all surveys. The surveys were made available at the Farmers Market and at all four City facilities during the survey period.

Staff forwarded to Council the entire package of survey results in the December 16, 2005 Friday memo. In summary, the results were as follows:

**TALLY OF SUBMITTALS**

Surveys mailed out to 97222:	16,645	
Paper surveys received by City from 97222:	1,871	(11% return)
Paper surveys from non-97222	54	
<u>Web site submittals</u>	<u>319</u>	
Total survey submittals:	2,244	

**TOP ZIP CODES PARTICIPATING**

	<u>#</u>	<u>Area</u>
For paper surveys from <b>outside</b> Milwaukie:	23	Oak Grove
For the Web site:	137	97222
	66	Oak Grove
	9	Oregon City
	8	Lents – PDX
	6	Gresham
	6	Oatfield Rd to Clackamette Park
	5	82 <sup>nd</sup> to 122 <sup>nd</sup> (SE PDX)

**SUMMARY OF VOTES**

For All submittals: (2,244)	Concept 1	20%
	Concept 2	75%
	Neither/Both	5%
Paper 97222: (1,871)	Concept 1	21%
	Concept 2	75%
	Neither/both	4%
Outside 97222: (373)	Concept 1	12%
	Concept 2	80%
Web and non 97222	Neither/both	8%

**AMENITY PREFERENCES**

In all 3: (top 4)*	Picnic facilities Parking
In all 3: (top 4)	Picnic facilities Parking
In all 3: (top 4)	Parking

\* Those voting for Concept 1, Concept 2 OR neither/both shared a high preference for the amenities shown. These amenities were ranked among the top four for all three groups.

**Next Steps:**

The Riverfront Board discussed the survey results at their January 10 meeting. The Board discussed various options for integrating the survey results into the final Riverfront concept. The consensus of the 6 members present was that the Riverfront Board should have two special meetings at which they attempted to develop a final Riverfront concept that integrated the results of the recent survey. The Board staff person, JoAnn Herrigel, agreed to solicit the assistance of various resource people to assist the group in this process. The resource people would include, but not be limited to: landscape architects, boat ramp designers/engineers, and project coordinators from other jurisdictions where riverfront projects have been developed.

The Riverfront Board agreed that after the two design sessions they would review their progress. If they determined that they could not reach consensus on a final concept they agreed that they would recommend that Council hire a consultant to complete the final concept.

**Concurrence**

The Riverfront Board did not solicit any opinions or support for this recommended process.

**Fiscal Impact**

Staff and the Riverfront Board members will solicit services of professional resource people on a pro-bono basis. No fiscal impact is anticipated.

**Work Load Impacts**

The Community Services Director and some of the Community Services staff will continue to assist the Riverfront Board with developing the final concept.

**Alternatives**

Deny approval of the Riverfront Board's proposed process and direct staff to pursue an alternative course of action.

## MINUTES

### MILWAUKIE CITY COUNCIL WORK SESSION JANUARY 3, 2006

**Mayor Bernard** called the work session to order at 5:34 p.m. in the City Hall Conference Room.

Council Present: Councilors Barnes, Collette, Loomis, and Stone.

Staff Present: City Manager Mike Swanson, Finance Director Stewart Taylor, and Engineering Director Paul Shirey.

#### **Budget Committee Interview**

**Mr. Ferguson's** interview would be rescheduled.

#### **Council Process**

**Mr. Swanson** discussed process and how parties communicated verbally, in e-mail, and through body language. His intent was to discuss process, and he was not questioning whether or not each Council member had the best interest of the City in mind when substantive decisions were made. Each member looked at the decision on the transit center from the perspective of what he or she thought was best for the City and would enhance respect for the Council. He would focus his comments on process and how members communicated. He asked that no one use anything others had done as a good or bad example. He wanted the Council to focus on the City's business. In the "Friday Memo" and during discussions with David Aschenbrenner, he realized that a lot had been accomplished, but only one or two issues had taken away from the positives. City business was not about the Council member and his/her future, and members did not have to like each other. The Council members were responsible for ensuring his/her actions advanced the best interests of the City and furthered respect for the Council as an institution, which sometimes meant supporting people one did not like. If someone was addressing Council in an abusive manner, then one may want to say the behavior was inappropriate. It was a matter of defending the Council as an institution that would outlive everyone in the room. He wanted the Council members to focus on their individual responsibilities and to do the best job possible for the City. He wanted a clean slate without discussion of past problems or practices. He urged Council members to do their own report cards – not someone else's.

Why was the discussion important? There were a couple initiatives what were in danger – for example, Clearwater. The County decision was not known at this time. If the City wanted to realize the goals embodied for Milwaukie – which he recommended not just be the removal of the Kellogg Treatment Plant from the riverfront – then he suggested it had to do with how best to provide wastewater treatment services throughout the entire eastern side of the Willamette in Clackamas County. Now there was an answer to one of the transit center

matters, but the City had to re-group and solve that issue. The City could not continue its current trend and hope to come close to where it wanted to be on both of those issues.

Why was this discussion important? Morale. For him, it was hard coming into work, and he did not like the first and third Tuesdays of the month. He gets his paycheck but also wants to accomplish something. Thoreau said most people lead quiet lives of desperation, and he did not want to do that. One of his feelings was sadness. The conduct and outcomes of the meetings needed to change because they simply did not look good. He heard more comments about the meeting rather than the substance.

Why were things not happening the way they should? He thought one of the reasons, from a process point of view, was that the Council needed to be looking at the best outcome for the City while maintaining respect for the City Council as an institution. There is a space between a stimulus and a response, and in that space was everything – the point at which one was able to make a decision on how to deal with what came next. He probably writes 50 e-mails to the President and sends three of them. Over the next couple of weeks, he asked that each time a Council member be presented with an opportunity to communicate to think before responding. The standard was what was best for the City and for maintaining respect for the Council. Elected people have to put up with a lot, and the ones who are really good think before responding.

**Mr. Swanson** would talk about the rules set forth in the Charter and Code at a future work session. Over the next two weeks, he asked the Council members to stop and take a breath and to think about the best interest of the City and respect of the Council. He would provide copies of *Roberts Rules of Order*. He asked the Council members to focus only on their personal responsibility to ensure that every communication – even a simple response to something in a meeting or in an e-mail – furthers the best interests of the City and maintains respect for the Council as an institution. At the next work session he would spend a few minutes reviewing how each Council member felt about taking that time to think. Councilor Loomis made similar closing comments at the last meeting about stopping to think about what he was going to say to make sure it was in the best interest of the City. The stakes were high in order to make headway on those important City initiatives.

**Councilor Loomis** noted past surveys indicated how goes Mike so goes the staff. It was important for the Council to work together because it reflected on everyone. He thought it was a good start and was willing to try.

**Mr. Swanson** observed it was difficult to put emotional responses aside, so this was not easy.

**Councilor Barnes** thanked people for working together as a team on her behalf and especially Councilor Stone. That was a chance to be a team under adverse conditions, and she appreciated all the help.

**Councilor Loomis** noted that Mr. Swanson's comments about the good things getting lost in the shuffle, and the "Friday Memo" was excellent. Most of the problems were self-inflicted, and the point gets lost in the negative.

**Councilor Stone** commented that she had not looked forward to the first and third Tuesdays for a very long time. She hoped in 2006 that everyone could look forward to the meetings.

**Councilor Collette** said from a practical perspective, it would help her to have an opportunity to comment on the agenda before it went out. When she gets the agenda, she has no idea why an item is on it. The last couple of weeks she tried to call Mr. Swanson but had not been able to connect. The Council sometimes came into the meetings not knowing what the agenda items were and had not discussed them in a work session. She felt unprepared to deal with them in a public setting. The Lake Oswego Council has early morning public meetings that no one actually attends to go through the agenda and review the items. Short of that, even sending out a draft agenda would help her out. She would like to know what was going to be on the agenda and why it was on the agenda the way it was. For example, the transit center issue was a public hearing, and she felt problems could have been avoided with a different heading. She wished the Council could provide feedback before the agenda was finalized. Since this discussion was on Council process, she asked if this was something that could be discussed.

**Councilor Stone** had concerns with the number of things on the consent agenda that a Council member had questions about or wished they had had the opportunity to have staff review it at a work session. There were times rather than having something on a blanket agenda, she would like more information as a group.

**Councilor Collette** said it struck her as odd that the only thing the Council could comment on before the meeting was the consent agenda. Sometimes she could call staff and get her questions answered, but that was not always the case. She suggested that the Council have an opportunity ahead of time to review the agenda and to at least have the chance to suggest an item be addressed in work session. She recommended the Council have its questions addressed before it became a public document and a final agenda. She heard it was an issue for Councilor Stone and asked if it was for anyone else.

**Councilor Stone** did not have a problem with a final agenda but with certain items appearing on the consent agenda without an open discussion. Her only suggestion had to do with the Council's being more informed. The work sessions were long enough to do that.

**Councilor Barnes** suggested copying e-mail questions and answers to all members of Council.

**Councilor Collette** wanted to do less with e-mails for reasons that had become obvious and was just calling people to ask her questions.

**Councilor Barnes** thought as everyone's schedules were so different, communication-wise it might be easier if everyone read the information at their own convenience.

**Councilor Collette's** concerns had to do with getting information on items before the agenda was set. Who sets the agenda and how the issues are described on the agenda? The agenda forecaster provided a rough idea, but it was not followed closely. She liked it for what it was, but it would be very useful to have an opportunity to glance at the agenda and be briefed before it became final.

**Mayor Bernard** suggested going through the consent agenda in a work session. Some of the Councilors, for example, were not on Council for the wastewater master plan of 2003. He asked if sending the consent agenda out a few days early would give her time.

**Councilor Collette** said it was not the consent agenda that concerned her because items could be removed for discussion. There was no opportunity to take something off the regular agenda. Not that she wanted that opportunity, but she did want to know what was going out before it became public and was posted on the website. Part of that had to do with strategy and the manner in which issues were addressed and in what context. The meetings were the Council's only opportunity to do that as a group. She felt the Council should have an advanced heads-up and play a role in setting the agenda.

**Mr. Swanson** said he and Ms. DuVal would work on the issue, and it might be a list of items at the meeting before. It could just be a list with a brief description the meeting before; however, things do come up on short notice.

**Councilor Collette** was concerned about how things were described on the agenda and if it was a public hearing or other business.

**Mayor Bernard** said one of the discussions at the League of Oregon Cities had to do with the term "public hearing."

**Councilor Collette** thought the Council needed to know when something was coming up on the agenda and at what level it was. Just getting the draft agenda the day it was available to the public would be helpful – before it went up on the website.

**Councilor Barnes** agreed because it was on the website before she even got home and the packet was on her doorstep. If the Council could get it a day before it was posted on the website, then members would have time to ask questions.

**Councilor Collette** could say up front if Council did not reply by a certain time that the agenda was a go. That would be very helpful for her.

**Councilor Stone** did not feel the need to see the agenda before but wanted information on topics before going into the meeting. She trusted Mr. Swanson in putting the agenda together and how it needed to be presented. There were many times she had questions and would have liked more information. For her it was not so much seeing the agenda but getting information. The agenda

forecaster was helpful in knowing what was coming up in the future. She did agree it would be helpful to get more information about some of the topics and clarification of why some things were a public hearing versus other business.

**Mr. Swanson** asked if there were any other comments or thoughts on the outline.

**Councilors Stone** and **Loomis** thought it was good.

**Mr. Swanson** discussed the consent agenda item regarding the Wastewater Master Plan and its relationship to Clearwater. The Master Plan had been a hostage for some time. It was largely focused on collection, and Clearwater was a treatment issue. The City needed to move forward on the master plan because it would not get disposition on Clearwater for some time. The collection system was built-out, and the City needed to establish its plans for the future. If Clearwater were ratified tomorrow or pulled with the instruction that it would never happen ever, the master plan would still have to go forward. He recommended keeping it on the agenda because the City needed to address the strained collection system.

**Mr. Swanson** provided a list of questions he posed to the city attorney regarding the six agreements executed with Clackamas County Service District #1 since 1970 regarding wastewater treatment. All six agreements to some extent were still in force.

**Mr. Swanson** would make some comments before the audience participation portion of the agenda. He would cover Municipal Code section 2.04.360 having to do with oral communications. "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." Mr. Swanson intended to change the description of that section of the agenda to quote code language. In two weeks the Council would discuss rules that existed to promote orderly process and were not chances to cry foul. When one read *Roberts Rules*, it was the Council's meeting. All remarks were to be addressed to the whole Council in recognition of the fact that it was the Council's meeting as a group. He would warn people that the language on the agenda was going to be changed in the future.

**Mr. Swanson** called Dena Swanson after the last meeting, and the answer to Ms. Crites' question about whether Councilor Barnes had talked to her either after the first vote on November or after he got Ms. Swanson's decision. The answer was simply 'no, she did not.' He felt that was left unanswered after the last meeting.

**Mayor Bernard** understood when someone addressed Council that the code did not allow him or her to ask specific Councilors for anything.

**Mr. Swanson** said that was correct. Remarks should be addressed to the whole Council and not individuals. It was not a forum in which the Council was grilled; it was a forum in which questions were asked. The Council was listening to

information in order to make its decision and not people eliciting information or grilling the members. People would be able to get the information in other ways.

**Councilor Loomis** understood if it was like the last meeting and people addressed the whole Council then they could ask their questions and expect a response at a later time. There was a proper time and place.

**Mr. Swanson** would never say 'no' to a request, and it was not a confrontation situation in that forum.

**Councilor Loomis** did not believe anyone was comfortable at the last meeting, even those who were not being grilled at the time. It did not do the City any good on either side.

**Mayor Bernard** discussed the Town Hall with Sen. Ron Wyden at Milwaukie High School.

**Mayor Bernard** adjourned the work session at 6:19 p.m.

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
JANUARY 3, 2006**

**CALL TO ORDER**

**Mayor Bernard** called the 1973<sup>rd</sup> meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Deborah Barnes	Joe Loomis
Susan Stone	Carlotta Collette

Staff present:

Mike Swanson, City Manager	Kelly Somers, Operations Director
Bill Monahan, City Attorney	Beth Ragel, Program Coordinator
Paul Shirey, Engineering Director	

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS**

**Ms. Ragel** recognized Silke Silverman and Ashley Anderson for working with the Community Services Department in compiling Riverfront Survey data.

**Mayor Bernard** acknowledged Ms. Ragel's and Mr. Salyer's work on the project.

**CONSENT AGENDA**

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

- A. Resolution No. 1-2006: A resolution of the City Council of the City of Milwaukie, Oregon, designating *The Clackamas Review*, *The Oregonian*, and *The Daily Journal of Commerce* as papers of record for the City of Milwaukie.
- B. Contract Amendment for Dryer Electric.
- C. Contract Amendment Wastewater Master Plan.
- D. Resolution No. 2-2006: A resolution of the City Council of the City of Milwaukie, Oregon acting as the Local Contract Review Board repealing the Local Contract Review Board Administrative Rules, adopting amended public contracting rules and findings, stating that the model public contracting rules proposed by the Attorney General do not apply, and repealing Resolution 9-2005.

**Mr. Swanson** discussed Milwaukie Municipal Code (MMC) Section 2.04.360 which dealt with oral communications to Council. He announced his intent to change the narrative in the agenda that explained audience participation section as he felt it was

**CITY COUNCIL REGULAR SESSION – January 3, 2006**

**DRAFT MINUTES**

**Page 1 of 5**

necessary after the past few meetings. The Council rules were adopted in 1981 pursuant to Ordinance 1480, which was adopted pursuant to authority granted to the Council in the Charter to establish rules for the conduct of their meetings. He read several provisions:

“Persons addressing the council shall also complete an information card for the record and return it to the city recorder. 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. In the event a member of the audience refuses to abide by the presiding officer’s order, that person may be denied further opportunity to address the council and may be removed...”

He did not mention it for any reason other than to bring up the fact that the Council had rules that governed conduct. The rules were not meant to be a way to single out persons and call foul. The intentions of the rules were to provide for the orderly conduct of business and to maintain some dignity and respect for the institution of the Council and the City. The Council in 1981 likely did not lightly adopt them. On the next agenda, the audience participation narrative would be different.

There was question left hanging from the last meeting asked of Councilor Barnes. He felt it was not answered. If he remembered the question correctly it was, “did Councilor Barnes contact Ms. Dena Swanson either after the November 1 vote when the Council voted not to talk to her about the Kellogg Lake site or after Mr. Swanson spoke with Ms. Swanson in December when she had informed him of her decision.” Mr. Swanson called Ms. Swanson the day after the last Council meeting and asked her if Councilor Barnes had called her at either of those times. Ms. Swanson’s answer was a very direct “no, she had not.” Mr. Swanson did not feel that question was answered at the last meeting and needed to be answered at this point. He felt the best way to do it was to contact Ms. Swanson directly.

## **AUDIENCE PARTICIPATION**

- **Lisa Batey, 11912 SE 19<sup>th</sup> Avenue, Island Station Neighborhood Association Chair**

**Ms. Batey** observed that the end of last year was tense and filled with what some people perceived as bad news. She was disappointed over the decision on the Kellogg Lake Kronberg site, but she thought it was important to move forward. There were many things going on about which one could be united with others on common goals. There were so many positive things that she hated to see people mired and re-opening past decisions. As a start to the new year, although she did not agree with some of the positions some Council members took, she felt all were doing what they felt was the best for the City. She did not perceive that anyone had parochial interests at heart. There was an honest disagreement in opinion, and she thought it was important to work together. There was the Texaco site and other opportunities and Clearwater to sort out. There were many things about which people could be united. It was a new year, and she urged getting off to a new start to address the challenges ahead. The Council, Planning Commission, and neighborhoods all had a lot on their plates, and it was

important to move forward in the new year. She thanked the City Council for its service and wished everyone a happy and productive new year.

- **Rick Frank, 4485 SE Rhodessa.**

**Mr. Frank** was a long-time resident and voter in Milwaukie. Because of commitments to work and his family he did not have a lot of time to get deeply involved in local politics although he did like to keep an eye on what was happening. He was like the vast majority of Milwaukie's 20,000 residents and was at this meeting to speak on their behalf. The majority of Milwaukie voters elected the people serving on the Council. They were selected because of their previous service to the community, and voters felt they would represent the citizens' best interests. People realized that while they might not agree with every decision, each Councilor was doing what he/she felt was in the best interest of the citizens of Milwaukie. Each Councilor volunteered time and effort to make our City a better place to live. They were given a difficult job along with people's trust. He watched with interest the great projects that this Council helped bring to the City. He knew he spoke for the vast majority of Milwaukie residents when he said this City Council had done an excellent job. He watched the transit center siting process with great interest. He had no doubt that each Councilor reviewed the options carefully and voted in a manner he/she felt would best serve the citizens of Milwaukie. Then the issue of the 1991 letter came up. The Councilors were again faced with a difficult decision. He watched both the regular and special sessions with great interest. It was obvious that again it was a difficult decisions, but he honestly felt that each Councilor was doing what he/she felt was best for the citizens of Milwaukie. Whether or not he agreed with that decision, he respected the efforts the Council made on the citizens' behalf, and he would support those decisions. The majority of voters in Milwaukie elected these people to make tough decisions for them, and they would support the Council. A vast majority of Milwaukie citizens were outraged by the recent attacks on the Council and the attempts to turn it into a witch-hunt or inquest. The accusations were false, and people stood behind their Councilors. The Councilors did an excellent job, and people respected them for that. He felt people needed to move into the future and follow the lead set by one of the hardest working citizens in Milwaukie, Ed Zumwalt. He and his Neighborhood Association stepped forward to try to take this situation into the future in a positive manner to help solve the problem. The City of Milwaukie would be well served if all citizens, Councilors, and nearby residents worked toward that end. Everyone should be part of the solution and not part of the problem. He thanked the Mayor and Councilors for the efforts they made on behalf of the citizens and appreciated their hard work.

- **David Aschenbrenner, 11505 SE Home Avenue**

**Mr. Aschenbrenner** thought Council and staff did a great job, and unfortunately a good staff member was lost with John Gessner's leaving. The City would find someone good to fill his shoes. There was a lot going on, and he recommended people go to the City's website and read "Mike's Friday Memo." A lot of good things have happened over the past year in Milwaukie, and things were just getting started. People will work together, and there will be disagreements – that's acceptable. The Council was doing a great job. He encouraged Council and staff to keep up the good work.

**Mr. Swanson** wanted to make it clear that he had not stolen his “Friday Memo” material from Councilor Barnes or Mr. Aschenbrenner as they had written similar pieces for *The Pilot*.

## **PUBLIC HEARING**

None scheduled.

## **OTHER BUSINESS**

### **A. Proposed Resolution Rescinding Resolution No. 31-2004 Recommending the Tillamook Branch Light Rail Alignment and Alternative 2.5 (Kellogg Lake) Transit Center Site and Reaffirming that the Relocation of the Present On-Street Milwaukie Transit Center is a Priority and is Essential to a Vibrant, Thriving Downtown**

**Mr. Swanson** prepared this resolution for a number of reasons not the least of which was that he was constantly battling old resolutions that were rescinded or in some way altered without a cross reference. It also gave closure to this chapter of the transit center issue that had been around since 1993. He also felt it was important, although the Kellogg Lake site was no longer in contention, to reaffirm that the transit center was a priority. The regional commitment to relocate the on-street transit center as part of Phase I of the South Corridor process was a big step forward for the City. For the first time, it was actually promised something concrete, and that should not be forgotten. The City should celebrate that the region made that commitment, and some decisions had to be made in 2006. The resolution was to establish the City’s record cleanly and give closure to the Kellogg Lake portion of that issue. It would also reaffirm that there was still work to do.

**It was moved by Councilor Barnes seconded by Councilor Collette to approve the resolution rescinding Resolution No. 31-2004 and reaffirming the Council’s commitment that relocation of the present on-street Milwaukie transit center was a priority.**

**Councilor Stone** commented about the body of the resolution. She referred to the bottom of the first page. She noticed Mr. Swanson had given specific dates under all of the explanatory statements about the process up to this point. She wondered if a date could be inserted at the very bottom – “on December 21, 2005, Mrs. Dena Swanson indicated her desire in writing that the whole of the real property transferred pursuant to the 1991 Agreement remain in park use.” On the second page under section 2 to read “The City Council hereby reaffirms that the relations of the present on-street Milwaukie transit center is a priority for 2006 and is essential to a vibrant, thriving downtown.”

**Mr. Swanson** thought both of those would work.

**It was moved by Councilor Stone to amend the motion currently on the floor to add, “Whereas, on December 21, 2005, Mrs. Dena Swanson indicated her desire in writing that the whole of the real property transferred pursuant to the 1991 Agreement remain in park use” and Section 2 was to add a date regarding “The City Council hereby reaffirms its that the relocation of the present on-street**

**Milwaukie transit center is a priority for 2006 and is essential to a vibrant, thriving downtown.”**

**Councilor Barnes and Councilor Collette as the maker and seconder of the motion accepted the amendment.**

**Motion passed unanimously. [5:0]**

**RESOLUTION NO. 3-2006:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, RESCINDING RESOLUTION NO. 31-2004 “RECOMMENDING THE TILLAMOOK BRANCH LIGHT RAIL ALIGNMENT AND ALTERNATIVE 2.5 (KELLOGG LAKE) TRANSIT CENTER SITE” AND REAFFIRMING THAT RELOCATION OF THE PRESENT ON-STREET MILWAUKIE TRANSIT CENTER IS A PRIORITY AND IS ESSENTIAL TO A VIBRANT, THRIVING DOWNTOWN.**

**B. Council Reports**

- **Councilor Barnes** thanked Mr. Swanson and staff who helped her at the last meeting along with those who had sent her their best wishes. She thanked the Council and particularly Councilor Stone for their help.
- **Councilor Loomis** announced that Coffee with Council would resume January 14 at 9:00 a.m. at City Hall.

**ADJOURNMENT**

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

**Mayor Bernard** adjourned the regular session at 7:26 p.m.

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Pat DuVal, Recorder

## MINUTES

### MILWAUKIE CITY COUNCIL WORK SESSION JANUARY 17, 2006

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

Council Present: Councilors Barnes, Collette, Loomis, and Stone.

Staff Present: City Manager Mike Swanson, Community Development/Public Works Director Kenny Asher, and Engineering Director Paul Shirey.

#### **Budget Committee Interview**

The Council interviewed Jeremy Ferguson for a vacant position on the Budget Committee.

#### **Council Process**

**Mr. Swanson** asked if there were any questions or comments about the previous work session.

**Councilor Collette** appreciated Mr. Swanson's bringing the ordinance regarding conduct of the Council meetings because she felt it would help. She understood the City of Lake Oswego had requested a copy as that Council was experiencing some disruptive meetings.

**Mr. Swanson** addressed several agenda matters that had occurred that afternoon. Mr. Firestone was ill, and John Pinkstaff would attend the meeting. Mr. Swanson had asked him to review the North Clackamas Parks District application as he understood there would be some public testimony on that matter. Staff also requested that the Norm Scott decision be continued to the February 7 meeting. He noted that staff had contacted the appellant and other interested persons regarding the continuance. Tom Glogau would present the audit, but Mr. Taylor would not be present.

**Mr. Swanson** would discuss the City's relationship with Clackamas County Service District #1 (CCSD#1) and other issues related to real property negotiations in executive session. He recommended reconvening the work session at 6:15 p.m. to discuss the Clearwater decision.

**Mr. Swanson** provided material on procedural matters and copies of *Robert's Rules of Order*. It was important to understand why some of the rules existed to ensure the process was open and accessible. Though some were arcane, many were important to read for background. He distributed copies of "Meeting Protocol City Council Milwaukie" which contained the Charter and Council rules that outlined meeting conduct and procedures including citizen communication. The manual contained information about executive sessions, public meetings, public records, and land use hearings.

**Councilor Stone** thought the Council needed to look at how it was doing its meetings. She disagreed with Mr. Swanson's comments that this was the Council's meeting. She felt it was an honor to sit in the Mayor and Council seats. Because the citizens put them there, it was more their meeting. She did not want it to be construed by the public that the Council was trying in any way to limit them from coming before the Council and being able to speak to the Council.

**Mr. Swanson** discussed the questions posed to Councilor Barnes. If one looked at the section of the code that the group discussed last week, it said someone who came to speak spoke to the Council as a body. Did that limit what could have been done that night? No, but it did change the format. Instead of one person's jabbing questions, that person would speak to the whole Council about the issue. There was no intention of limiting what people said, but there was an intention of preserving decorum. One would see portions of the rules talked about the Council's decorum. It was a two-way street. It was about maintaining some kind of decorum and respect for the institution. It was a pretty extreme situation to call someone down.

**Councilor Stone** thought everyone should take a lesson from the English because they did their Parliament so well and got to the point.

**Councilor Loomis** understood that when Council started having the Saturday meetings it was in public because of the law. The Council meeting got out of hand during audience participation. People understood they would not be stopped from talking, but they could be civil and still get their points across. Both the Council and audience needed some help.

**Mayor Bernard** announced the Council would go into executive session at 5:50 p.m. pursuant to ORS 192.660 (2)(e) – real property transactions and (h) – consultation with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed. The work session reconvened at 6:41 p.m.

### **Clearwater Decision**

**Mr. Swanson** updated the City Council on the January 12, 2006, Clackamas County Board of Commission's (BCC) decision that was made in time to pull the measure from the ballot. The BCC took action to cancel the Clearwater contracts, and there was a question whether the body could unilaterally do that. The BCC also authorized the creation of the Clackamas County Service District #1 Advisory Committee by adopting an amended Board Order. Instead of the ten members, five voting and five non-voting, there were seven voting members with the three chief petitioners being the original members. A super-majority of five would be needed to forward a recommendation to the Commissioners. The three original members, the chief petitioners, would have a voice in appointing the other four members by forwarding a list of seven nominees to the Commissioners who would make the final selection. The scope of work required that the Advisory Committee also coordinate and seek input from other advisory committees appointed by the Commissioners, customers, and cities. The Portland State University (PSU) Consensus Center would assist the Advisory

Committee in reaching its decisions. The work must be completed by September 2006 or an extension requested.

Comments made by the Board members and one of the chief petitioners, Mr. Knapp, were to the effect that the process would eventually be inclusive and collaborative. Tim Ramis, City Attorney, made comments at the BCC hearing on behalf of the City of Milwaukie who was the "suit from Milwaukie" as mentioned in Andy Parker's *Oregonian* column. Mr. Ramis asked how a committee from CCSD #1 could speak for the larger area? Clearwater was basically a CCSD #1, Tri-City, and Milwaukie effort. The unilateral cancellation of the contract was problematic. Mr. Ramis suggested the Board look at paragraph 8 of the contract and consider how to amend those contracts. He stated that the County had set up a committee of conflict rather than one of collaboration. Mr. Swanson recommended, in the words of Ronald Reagan, trust but verify. He would attend the committee meetings so that the group would either have to purposefully neglect Milwaukie or invite it to participate. CCSD #1 staff was directed to take the steps necessary to cancel the contract, but no one knew what those steps were because they had not occurred yet. Mr. Swanson would likely discuss possible legal action with the Council in the future. Milwaukie would not wait for a year and would participate if the process were opened up. He believed the BCC had a desire to do that from a political perspective because the cities would be quite angry with them.

**Councilor Collette** clarified that all of the committee members had to be from CCSD#1. One-third of the people would wag the dog.

**Mr. Swanson** said the people on the committee would have to drive a change to an inclusive and collaborative process.

**Mr. Shirey** reported that eight people attended the recent open house, and there were four Milwaukie residents. Two attendees were clearly allied with the petitioners, and there was several staff from Water Environment Services (WES) along with Jon Mantay. Staff was there to discuss what had occurred at the BCC meeting and seemed reluctant to talk about anything else. Mr. Mantay shared that the County would hire John Lange, former Bureau of Environmental Services (BES) Director, for technical support in working with the committee as WES staff had little credibility in the eyes of the petitioners.

**Mr. Swanson** observed that WES staff was treated rather roughly in the process including some harsh comments that Andy Parker made in his column. Mr. Swanson felt that WES staff did a great job in trying to include people, but now they would be constantly doubted.

**Mr. Shirey** added the committee would not be working with a new study because there was no time. There were five options proposed in the technical report, and Clearwater was the name applied to the consolidation option. The committee would look at those five options to determine which it liked best. They were formerly on records as liking the second option that kept Kellogg and expanded Tri-City to handle the new growth to the east.

**Mr. Swanson** said it was important to remember that Milwaukie had two goals. The first was to make certain there was efficient, cost-effective wastewater treatment, and the second goal was to get rid of Kellogg. The City was no less committed to that first goal than anyone else. Milwaukie could not afford to always be identified with the Kellogg decommissioning and not the treatment issue.

**Councilor Stone** thought people might be able to stomach that more if sewer rates were not going up because of it.

**Councilor Loomis** was fairly hopeful after the town hall because there would be people outside of WES used as information sources. That would lead them to final answer with correct facts, and hopefully they would see that Clearwater was the best option. Getting the waterfront back was a perk, but it would not be free.

**Councilor Stone** asked if there was a sense of how open-minded the three petitioners were.

**Mr. Swanson** replied trust but verify.

**Councilor Stone** observed that the committee as it seemed heavily weighted.

**Mayor Bernard** adjourned the work session at 6:54 p.m.

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Pat DuVal, Recorder



To: Mayor and City Council

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

From: Jack R. Ostlund Jr., Civil Engineer  
Paul Shirey, Engineering Director

Subject: North Main Streetscape – Phase 2 Bid Award

Date: January 23, 2006 for February 7, 2006 City Council Meeting

#### Action Requested

Authorize the City Manager to execute a contract for the North Main Streetscape Project – Phase 2 with Kodiak Bengé Construction, in the amount of \$798,655.88 for streetscape improvements, that includes option A (brick pavers). This amount includes a 10% project contingency. This was the low bid.

#### Background

On June 21, 2005 Council authorized a contract for Phase 1 of the North Main Streetscape project. This work consists of water, stormwater and wastewater extensions to serve the North Main Village mixed-use development. Phase 2 must now begin to meet the needs of the North Main building contractor. The project is part of the scheduling agreement with the North Main Village developer to construct off-site street and utility improvements.

The proposed streetscape improvement includes construction of approximately 750 feet of half street improvements along SE Main and SE Harrison Street and 200 feet of full street reconstruction along SE 21<sup>st</sup> Avenue. The work also includes the placement of conduits and vaults for placing overhead utilities underground, installation of storm pipe and catch basins, fire hydrants, street lighting, landscaping, pavement striping, irrigation and streetscape furnishings.

A project vicinity map is attached. Project bid advertising was completed as required. 31 sets of plans went out to contractors and plan centers for bidding, and six bids were

received for the January 19, 2006, bid opening. A brief bid summary follows, including the engineer's estimate.

<b>Contractor</b>	<b>Base Bid (does not include 10% contingency)</b>	<b>Option A (does not include 10% contingency)</b>
Kodiak Bengé Construction	\$ 694,370.80	\$ 31,680.00
Parker NW Paving Co.	\$ 701,955.75	\$ 34,560.00
D & D Concrete & Utilities	\$ 736,089.00	\$ 33,600.00
Civil Works NW Inc	\$ 736,192.00	\$ 38,400.00
Eagle Elsner Inc.	\$ 746,258.65	\$ 31,200.00
Clackamas Construction	\$ 924,351.36	\$ 31,200.00
Engineers Estimate	\$ 644,682.90	\$ 21,600.00

Note: Option A is optional brick paving surface for 25% of the sidewalk, ramp, and driveway areas.

#### Concurrence

Engineering staff, Director of Community Development, and Public Works Operations concur with the execution of this contract and the use of these funds.

#### Fiscal Impact

The total construction costs are \$838,655.00, which includes a 10% contingency, professional construction (inspection) services, and survey staking. Primary funding for the project is from a State Public Works Fund (SPWF) loan of \$738,000 and a grant from Mt. Hood Economic Alliance in the amount of \$25,000. Approximately \$104,000 is also budgeted from streets System Development Charge (SDC), creating a total resource amount of \$867,000. The first loan payment is due in December 2006. The City is scheduled to repay this loan over a 25-year period with installment payments totaling \$38,156.63 (principal and interest) from the general fund each year.

Total budgeted funds that are available in the current 2005/06 budget for the project are \$544,000. The balance of costs of approximately \$295,000 will be budgeted in 2006/07 street funds. The project is scheduled to begin in late February and should be complete by September 1, 2006.

#### Work Load Impacts

This project is in the Engineering Department and Street Department annual work programs.

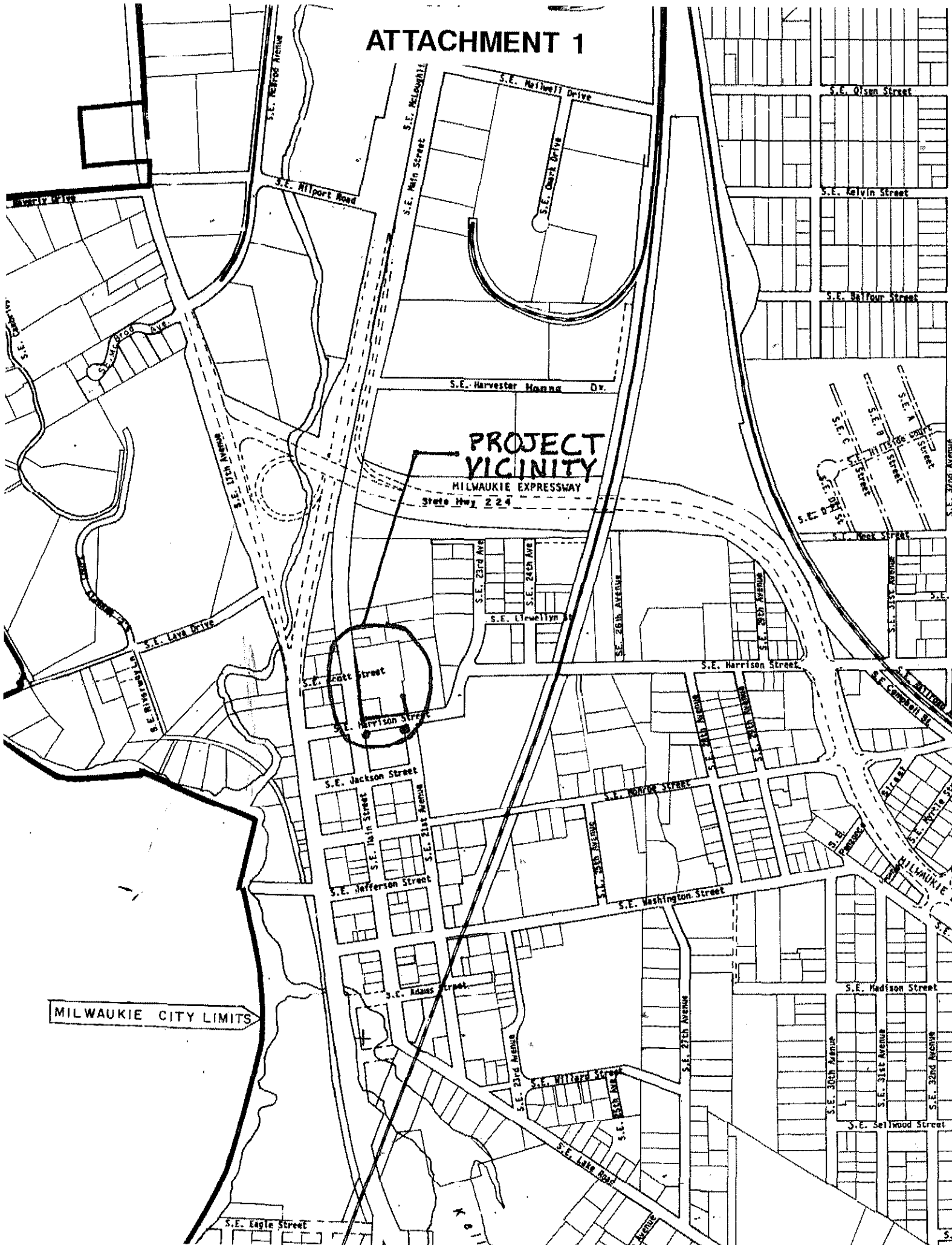
### Alternatives

1. Authorize the City Manager to approve the bid as proposed.
2. Elect to defer the project to a later date. The North Main Village project needs permanent power by May 1, 2006. Delay in acting on this item will jeopardize the building project schedule.
3. Take no action.

### Attachments

1. Vicinity Map

# ATTACHMENT 1





**To** Mayor and City Council

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

**From:** Gary Firestone, City Attorney

**Date:** December 21, 2005 for the January 17, 2006 Public Hearing

**Subject:** Norm Scott Subdivision  
Appeal File AP-05-03

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### **Action Requested**

Approve findings and conditions in support of the Council's November 15, 2005 tentative subdivision approval and denial of the street vacation requests.

### **Background**

On November 15, 2006, the City Council conducted a public hearing and made a tentative decision approving denying the appeal, upholding the Commission decision with conditions, and denying the requested street vacations.<sup>1</sup> The final decision was deferred based on the advice of the City Attorney to prepare additional findings that address the need for pedestrian improvements along 28<sup>th</sup> Avenue.

The applicant provided written comments to staff following the December 6, 2005 Council meeting, which have been addressed in the revised findings and conditions. The proposed findings now distinguish street requirements from sidewalk requirements to clearly demonstrate that all required sidewalks are directly related and proportional to the impacts of the subdivision.

### **Concurrence**

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<sup>1</sup> On December 20, 2005, the public hearing on this matter was continued to January 17, 2005

The City Attorney and Engineering Director concur with the recommended findings and conditions.

**Fiscal Impact**

No fiscal impacts have been identified.

**Workload Impacts**

Not applicable.

**Decision-Making Alternatives**

The Council may accept the prepared findings as written or modify the findings.

**Attachments**

Recommended Findings and Conditions.

## Attachment 1

### Recommended Findings

1. The applicant proposes to replat the 1.5-acre site at 8555 SE 28<sup>th</sup> Avenue into 4 residential lots and one wetland tract.<sup>2</sup> The existing single-family house will remain on one lot with 3 new lots being created. The following land use approvals have been requested:
  - a. Replat 4 lots and one wetland tract.
  - b. Variance to not construct road improvements on Depot Street, 28<sup>th</sup> Avenue and parts of Rockvorst Avenue.
  - c. Water Quality Resource review since the proposed subdivision contains a protected water feature.
  - d. Transportation Plan Review with Transportation Adjustment to not install a landscaping strip and narrow the required sidewalk width from 6 feet to 5 feet.
  - e. Street vacation for 10 feet of right-of-way on Rockvorst Avenue and 15 feet on 28<sup>th</sup> Avenue.
2. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
  - a. Title 17 Land Division Ordinance
  - b. Title 19.303 R-5 Zone
  - c. Title 19.322 Water Quality Resources
  - d. Title 19.700 Variances, Exceptions, and Home Improvement Exceptions
  - e. Title 19.1400 Transportation Planning Design Standards and Procedures.
3. The applicant has proposed the following street improvements, some of which have been modified by this decision; see details in subsequent findings. All dimensions cited are as shown on the applicant's street and drainage construction plan.
  - a. A 200-foot long street within the existing 40-foot Rockvorst Avenue right-of-way consisting of a 28 foot travel way. This work includes grading and paving of approximately 25 feet within the 28<sup>th</sup> Avenue right-of-way as necessary to transition 28<sup>th</sup> Avenue to the new

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<sup>2</sup> Applications includes AP-05-03, S-04-04, TPR-04-10, VR-04-12, WQR-04-04 replat is for reconfiguration of an existing subdivision. The property is within two existing plats, Ardenwald and Burley Acres.

Rockvorst Street within the subdivision. This cross section provides two travel lanes with parallel parking on one side of the street.

- b. A 100-foot long street with a 24-foot travel way within 40-foot right-of-way to be dedicated as part of the subdivision, extending northerly from the Rockvorst right-of-way as needed to provide lot frontage and street access to lots 2, 3, and 4 as measured from the northern end-of- street to the southern tangent of the curb returns at Rockvorst,
- c. Approximately 150 feet of a 5-foot, curb-tight sidewalk opposite the site along the east side of 28<sup>th</sup> Avenue between Sherrett Street and Rockvorst Street. Construction of this sidewalk requires either acquisition of right-of-way or an easement on the lot located at the southeast corner of 28<sup>th</sup> Avenue and Sherritt Street, which have not been secured by the applicant. Construction also requires relocation of an existing water meter and storm drain. (It is noted that the applicant has requested relief from the requirement to construct any sidewalks on 28<sup>th</sup> Avenue.)
- d. Approximately 235 feet of curb tight, 5-foot sidewalk along the northern side of Rockvorst originating at 28<sup>th</sup> Avenue and terminating at the northern limit of the new street extending north from the existing Rockvorst right-of-way.

**e. Approximately 130 feet of curb-tight, 5-foot sidewalk along the west side of the new street extending north from the curb-return on Rockvorst northerly to the end-of-street.** 4. The following specific code provisions regarding street and sidewalk improvements apply to this application.

- a. Subdivisions are subject to Zoning Ordinance Section 1400 – Transportation Planning Design Standards, and Procedures per Section 1403.
- b. Section 1405.5 specifies that development proposals must comply with street design standards of Section 1400.
- c. Section 1407.1 and 1407.2 require that streets and sidewalks be safe, convenient, and “adequate” at the time of development.
- d. Section 1407.4 defines “adequate” as being consistent with prescribed design details contained in Section 1409 and the Transportation Design Manual.
- e. Section 1409 specifies requirements to comply with adopted street cross sections.

- f. Section 1410 specifies pedestrian requirements, specifically that *“Public sidewalks are required on the public street frontage of all new development, [and] all land divisions....”*
    - g. Land Division Ordinance Section 17.28 requires streets to conform to Zoning Ordinance Section 1400.
5. On July 26, 2005 the Milwaukie Planning Commission conditionally approved applications S-04-04, TPR-04-01, VR-04-12, and WQR-04-04, but denied the variances to not install street improvements along the site frontage on 28<sup>th</sup> Avenue. In addition, the Commission adopted a finding recommending the City Council reject the proposed street vacations. Minutes of the Planning Commission proceedings are made part of this record by reference.
6. The applicant appealed the Planning Commission denial of the variance for relief from the requirement to construct 28<sup>th</sup> Avenue improvements and right-of-way width of 28<sup>th</sup> Avenue.
7. The applicant has not demonstrated compliance with standards of ORS 271.080(2). In addition, the Council finds that there is no compelling public interest to vacate the right-of-way given that it may be needed in the future. The requested street vacation is denied.
8. The applicant has not demonstrated compliance with approval criteria for the requested variance relieving the requirement to build a sidewalk along 28<sup>th</sup> Avenue as follows:
  - a. There are physical constraints that might limit the ability to construct sidewalks, thereby potentially satisfying the “unusual conditions” test of Zoning Ordinance 702.1(A).
  - b. However, the applicant has not demonstrated that there are feasible alternatives to the variance as required by Zoning Ordinance Section 702.1(B).
  - c. The applicant has not demonstrated that there will be no adverse impacts of granting the variance. With additional homes there will be additional demand for safe pedestrian facilities along 28<sup>th</sup> Avenue. The present substandard condition of 28<sup>th</sup> Avenue, including narrow pavement width, presents higher risk to pedestrian safety, which would be eliminated by construction of a sidewalk.
9. The applicant has demonstrated compliance with approval criteria for the variance to not install street improvements on Depot Street and a portion of Rockvorst Avenue as follows:

- a. The variance waiving improvements on Depot Street is warranted due to the unusual condition that the streets are platted over wetland areas that should not be developed.
  - b. Constructing improvements would require filling the wetlands, which is not a feasible alternative.
  - c. Not constructing the improvements preserves the wetlands, which mitigates adverse impacts.
10. The applicant has requested an adjustment to allow a 5-foot curb-tight sidewalk along the new Rockvorst Avenue within the subdivision. Under normal conditions, a 6-foot sidewalk with 5-foot planter strip is required. MMC 19.1404(C) allows adjustments to street improvement standards when an engineering limitation exists and/or when installing required improvements would result in a hazardous or unsafe condition. The applicant has demonstrated that the steep slope of the site creates an engineering limitation to installing the full-width roadway. The applicant's request for an adjustment is approved.
11. The proposal complies with the R-5 zoning standards (Section 19.303) as follows:
  - a. Three parcels, including the parcel that will contain the existing house, exceed the 10,000 square foot minimum lot size for single-family detached and one lot exceeds the minimum 5,000 square feet for single-family detached.
  - b. The front lot line for proposed Parcel 2 is the 40-foot line separating the lot from the street. The rear line is the north property line shown as 109.20 feet. The 3 other lot lines are side lot lines.
12. The proposal is consistent with Land Division Ordinance Section 17.12.040 approval criteria for preliminary plat as follows:
  - a. All parcels comply with standards of the R-5 Zone.
  - b. The land division allows reasonable development of the site and does not create any need for future variances.
  - c. The plat name will not duplicate another plat name.
  - d. The street network is already established in the area. The plat conforms to the surrounding street network.
  - e. The applicant has submitted a detailed narrative describing how the proposal meets applicable design standards.
13. As modified by variance and adjustments granted under this decision The proposal is consistent with Chapter 1400 Transportation Planning Design

Standards and Procedures which requires compliance with the approval criteria of Section 19.1405.5 as follows:

- a. Proposed street improvements comply with applicable standards.
  - b. A traffic impact study is not required.
  - c. The proposal will not result in a hazardous or unsafe traffic condition or unacceptable level of service.
14. The applicant has demonstrated compliance with MMC 19.322 and will not be impacting the required vegetative corridors (wetland buffers). The applicant submitted stormwater calculations that demonstrate that stormwater flows from the development will not exceed predevelopment flows as required by Zoning Ordinance Section 322.10 (L). The applicant has proposed a restrictive covenant for wetland protection.
  15. The Fire Marshal reviewed the plans and indicated that as conditioned the proposal complies with Fire District regulations.
  16. The Building Official reviewed the proposal and as conditioned does not have concerns with the proposal.
  17. At the City Council hearing, the applicant argued that the City cannot require the sidewalk along 28<sup>th</sup> Avenue because the subdivision will have no impact on that stretch of 28<sup>th</sup> Avenue and because the sidewalk requirement is not roughly proportional to the impact of the development.
    - a. The sidewalk along 28<sup>th</sup> Avenue provides pedestrian access to the Springwater Trail, providing a pedestrian connection to the Trail from the subdivision.
    - b. The subdivision plan does not provide for an internal connection from the subdivision to the Trail. Only Lots 2 and 3 abut the Springwater Corridor and therefore have the potential for direct access. However, severe topography substantially limits the ability to construct access to the corridor from either of these lots. In addition, the creation of a shared access for the benefit of the entire subdivision across lot 2 is likely infeasible due to the privacy impacts and maintenance issues related to the unusual shape of the lot, as well as topography,
    - c. Two area residents testified at the meeting that residents of the subdivision would use the Trail and would access the trail through 28<sup>th</sup> Avenue. The City finds the testimony of these witnesses credible.

- d. The applicant testified that residents of the subdivision could possibly access the Trail directly without using 28<sup>th</sup> Avenue. The Council concludes that although there is some possibility of direct access to the trail for at least some subdivision residents, residents of the subdivision would use 28<sup>th</sup> Avenue for pedestrian access to the trail. Because residents of the subdivision will use 28<sup>th</sup> Avenue for pedestrian access to the trail, there is a direct relationship between an impact of the subdivision (increased pedestrian use of 28<sup>th</sup> Avenue), and the requirement to build a pedestrian way along 28<sup>th</sup> Avenue.
18. The proposed subdivision divides an existing property into four lots and one tract. The tract will remain undeveloped. There is an existing house on the property that will remain on lot 1. The other three lots can be developed with additional single-family homes, or, for two of the lots, with duplexes. The applicant's representative testified that each dwelling unit is expected to generate 9 to 10 vehicle trips per day.
    - a. Local streets within the City have historically been developed in connection with subdivisions, with subdividers being responsible for construction of local streets. The burden of developing local streets has been borne and continues to be borne by residential properties. The City has followed the approach of requiring subdividers and developers to provide full street improvements within subdivisions and half street improvements on streets adjacent to subdivisions or development. The City's code currently requires that level of improvements.
    - b. The subdivision is not located adjacent to any collector or arterial street. It is adjacent to local streets, and is several blocks away from the nearest collector or arterial. Residents of the subdivision will have an impact of 9 or 10 vehicle trips per day per dwelling unit, not just on the street within the subdivision, but on local streets between the subdivision and the nearest collector or arterial.
    - c. The portion of Rockvorst Street to the west of 28<sup>th</sup> Avenue, is adjacent to the property to the south and will be used primarily by residents of and visitors to the subdivision. The subdivision may be accessed by 28<sup>th</sup> Avenue via Sherrett Street to the north and Van Water Street to the south of the subdivision. Vanwater Street is opposite the new Rockvorst Street to be constructed as part of the subdivision. Sherrett Street is located on 28<sup>th</sup> approximately 150 feet north of the subdivision as measured between the centerlines of the Rockvorst and Sherrett Street rights-of-way. This means that vehicles going to or leaving the subdivision may travel along 150 feet of the subdivision's frontage on 28<sup>th</sup> Avenue, thereby

establishing the connection between subdivision-generated vehicle travel, subdivision-generated pedestrian activity on 28<sup>th</sup>, and the need for 28<sup>th</sup> Avenue sidewalks.

- d. The physical condition of 28<sup>th</sup> Avenue along the site frontage is severely substandard. The total 2-way travel surface is 10 to 15 feet for approximately 110 feet along the frontage of the subdivision. No sidewalks are now present. The risk to pedestrian safety will be increased by increased vehicle activity related to the subdivision for those vehicles moving between Sherrett Street and the subdivision.
- e. Because the lots are being sized to allow duplexes, and the applicant has indicated an intent to develop duplexes on the lots, the impact of this subdivision on the local street system is greater than one of similar size that would be limited to single-family homes.
- f.. The total impact on the local street system in residential areas is the impact of all residential development in the area. Each subdivision or development has a share of that impact. One way of allocating the share of the impact is to make each subdivision or development project responsible for development of internal streets and for development of half street improvements on adjacent streets. This is roughly proportional to the impacts, because the need for street development is based not only on the number of trips generated, but on the length of streets and sidewalks that need to be developed. The total area of the subdivision creates a need for adequate streets to serve and provide access to the subdivision. It is roughly proportional to require full internal street improvements and adjacent half-street improvements.
- g. The applicant's proposal includes 515 linear feet of sidewalk as shown on the street and drainage plan, though the applicant has requested elimination of the 150-foot sidewalk on the east side of 28<sup>th</sup> Avenue. As modified by the City Council, 410 feet (approximate) of sidewalk and an additional approximately 80 feet of pedestrian way is required. The Council waived the requirement to construct a sidewalk along the west side of the new street within the subdivision extending north of the Rockvorst Avenue right-of-way, to help defer the overall cost of providing sidewalk and pedestrian way along 28<sup>th</sup> Avenue. The City is allowing some of the sidewalk to be built to alternate, less expensive standards. Other design features required by city code that have waived or adjusted include the following:

1. 24-foot travel way width on the new street extending north from Rockvorst instead of the minimum requirement of 28 feet for a street with parking on one side. .
2. The requirement to provide a hammer-head turnaround for service and emergency vehicle use has been waived.
3. The requirement to provide setback sidewalks has been waived. All sidewalks shown are curb tight.

The Council-approved sidewalk and pedestrian way requirements are less than what the applicant proposed on a linear-foot basis and are proportional to the impacts created by the development.

- h. The 28-foot Rockvorst Street travel way and the 24-foot travel way at the northerly extension are the minimum necessary to meet the needs of the development for vehicle access and parking and are therefore proportional to the impacts of the subdivision.
19. The property currently contains one single-family home. After the subdivision, there will be a total of four lots, three of which could be developed with duplexes, and potential conversion of the existing residence into a duplex. A total of six new dwelling units is made possible by the subdivision approval. Using the applicant's estimates, those six units generate up to 60 total vehicle trips per day. An average single family home generates 10 vehicle trips and the minimum lot frontage on a public street for a single family home is 50 feet. Many lots have substantially more than 50 feet of frontage. Requiring half street improvements for a normal length single frontage for a single family home is roughly proportional. The total improvements required are about the equivalent of a reasonable length of half street improvements per dwelling unit. The amount of transportation improvements is roughly proportional to the impacts of the development.
  20. The Council believes that the correct approach to analyzing the rough proportionality of transportation improvements is to look at the transportation improvements as a whole. The subdivision has an impact on the local street system in the area of the development and all transportation improvements required of the applicant are for local street improvements within and immediately adjacent to the subdivision. However, the Council also finds that the requirement to build the sidewalk is roughly proportionate to the impacts of the development on 28<sup>th</sup> Avenue.
    - a. As described in other findings, the Council concludes that residents of the subdivision will use 28<sup>th</sup> Avenue to access the Trail. The proximity of the Trail makes it likely that there will be substantial

use of the Trail by residents. The proximity of the Trail will attract potential residents of the subdivision.

- b. The Council finds that although 28<sup>th</sup> Avenue will not be a primary access route for vehicular traffic, there will be some vehicular traffic to and from the subdivision on 28<sup>th</sup> Avenue. This finding is based on testimony that there is currently vehicular traffic on 28<sup>th</sup> Avenue to and from the property and that vehicular traffic will likely continue during development of the subdivision and after the subdivision is created. The applicant has admitted that 28<sup>th</sup> Avenue is used and will be used by vehicles going to and from the property.
  - c. The subdivision therefore will have two impacts on pedestrian traffic on 28<sup>th</sup> Avenue. The subdivision will provide a portion of the pedestrian traffic on 28<sup>th</sup> Avenue. Also, the increase in vehicular traffic increases the potential conflicts with pedestrians, thereby increasing the need for a sidewalk.
  - d. The City is requiring only limited vehicle travel lane improvements to 28<sup>th</sup> Avenue. Those improvements are limited to extending the asphalt surface to the new sidewalk. Providing a sidewalk contributes to mitigation of the increased impacts on 28<sup>th</sup> Avenue by reducing pedestrian use of vehicle travel lanes.
  - e. Pedestrians from the subdivision will use City streets and sidewalks other than those internal to or adjacent to the subdivision when going to or from locations other than the trail. This includes portions of 28<sup>th</sup> Avenue not adjacent to the property.
  - f. The requirement to build a sidewalk along 28<sup>th</sup> Avenue adjacent to the subdivision, given the total pedestrian and vehicle impact from the subdivision on that section of 28<sup>th</sup> Avenue is roughly proportional to the impacts of the development on 28<sup>th</sup> Avenue. In reaching this conclusion, the Council considered the fact that the sidewalk will not be required to be built to full City standards (can be narrower and of different, less expensive materials) and also considered the fact that the portion of 28<sup>th</sup> Avenue is not the only portion of 28<sup>th</sup> Avenue that pedestrians from the subdivision are likely to use. The City Council also took into account that it may be necessary to build a retaining wall to allow development of the sidewalk. The 28<sup>th</sup> Avenue sidewalk may be constructed of asphalt. The City Engineer shall determine the construction specification, location, and dimension of the sidewalk.
21. At the City Council hearing, the applicant also disagreed with the condition of approval that a fence in the existing right of way be removed. No one has a right to build a fence in City right of way without a permit, and the

City has the authority to require removals of obstructions in rights of way. The condition requiring fence removal is valid. The City Council notes that the Applicant may apply for a right of way permit that would allow a fence or other screen to provide privacy for applicant's property.

### **Findings in Response To Applicant's Comments**

22. The applicant commented that a path could be built from the Rockwood northerly extension to the Springwater Trail, which would limit or eliminate pedestrian traffic between the subdivision and the trail. No such path is shown on applicant's materials, and applicant did not propose such a path before the tentative decision by the Council. Topographic constraints make such a path questionable. Without such a path shown on the plan, there is no obligation to create such a path, and such a path would cross private property. The Council finds that without a legal commitment for such a path, pedestrian traffic from the subdivision will access the trail through 28<sup>th</sup> Avenue.
23. The conditions should be more definitive as to the type of sidewalk allowed on 28<sup>th</sup> Avenue. The conditions have been revised to specify that an asphalt sidewalk and pathway is acceptable.
24. The applicant commented on language in a finding relating to rough proportionality. That finding has been substantially modified and applicant's comments do not apply to the current findings.
25. Applicant argued that there would not be vehicular traffic on 28<sup>th</sup> from the subdivision. The Council continues to accept the testimony that there will be some traffic, at least as far north as Sherrett. There will also be construction traffic on 28<sup>th</sup>. The map of the area demonstrates that it is likely that there will be at least some vehicular traffic on 28<sup>th</sup> between Rockvorst and Sherrett.
26. The applicant commented that Finding 19.d was inaccurate in stating that there were no vehicular travel lane improvements required on 28<sup>th</sup> Avenue whereas some Improvements were in fact required. Applicant was correct, and the finding has been modified to state that limited vehicular travel lane improvements are required.

### **Recommended Conditions of Approval**

- A. The following conditions shall be resolved prior to any earth-disturbing activity and construction of public improvements:
  1. Erosion control and construction barriers shall be installed and inspected in accordance with an approved erosion control and grading plan, the wetland and stream buffer flagged, and existing vegetation to remain

- protected and marked. Site preparation and construction practices shall be followed that prevent drainage of hazardous materials or erosion, pollution or sedimentation to the adjacent wetland and buffer. Existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the water quality resource area.
2. As part of the grading permit application the applicant shall submit plans for a sewage ejector pump system for each lot for review and approval by the Building Department. An engineer licensed in the State of Oregon shall design the system.
  3. A geotechnical report shall be submitted to the Building Department. The report shall include provision for on-site disposal of stormwater from the roof drains, footing drains and low-point drains for the proposed houses as shown on the approved subdivision plans. In addition, a soils engineering report shall be submitted prior to road and house construction demonstrating compliance with applicable standards given the recent placement of several hundred cubic yards of fill.
  4. A final plat application and fee including full-engineered plans for all the public improvements and a narrative stating how the proposal complies with the conditions of approval shall be submitted within 6 months from when the appeal period ends on this preliminary decision (Title 17.24.040). The final plat shall be in compliance with Title 17.24 of the Land Division Ordinance.
  5. The engineering plans and final plat shall be consistent with the plans prepared by Buckel Associates dated March 25, 2005 except as modified by this approval. Required improvements shall include the following:
    - a. Sanitary Sewer Improvements. The developer must install a new 3-inch sanitary sewer force main in the new street to serve the new lots. Separate private laterals and sewer pumps must be installed to serve each of the new lots. Private sewer pumps must be reviewed by the Building Department as stated above.
    - b. Water System Improvements. A new 4-inch water main must be constructed in the new street to serve the four new lots with a 2-inch blow-off at the end for maintenance. One-inch service lines must be constructed to each lot with meter setters and meter boxes. The City will install the meters at the time of home construction after all fees are paid.

- c. Street Lighting on Rockvorst Avenue. Streetlights must be installed to City of Milwaukie Public Works standards. Streetlights must have cutoff fixtures so light is shown down to the street and not at neighboring properties.
- d. 28<sup>th</sup> Avenue Improvements. Frontage improvements must be installed on the west side of the street as follows:
  1. Standard "C" curb and 5-foot wide sidewalk on the west side of the roadway from Rockvorst to the northern limit of the Sherrett Street right-of-way unless the City Engineer approves an alternate consistent with this approval. The alternate plan may allow for a sidewalk without curbing. Additional paving to fill the gap between the existing edge of pavement and the new curb to provide for a total of 18 feet of pavement width from Rockvorst to the north edge of the Sherrett Street right-of-way, subject to design flexibility in #2 below. A retaining wall may need to be built to support the sidewalk and a portion of the roadway. Engineering plans and calculations must be submitted for final approval of the retaining wall is proposed. The City Engineer shall review the proposal to determine the need for a to prevent vehicles from traveling over the steep portions of the roadway. The fence shall be removed from the right-of-way.
  2. A five-foot wide pedestrian path from the northern limit of the Sherrett Street right-of-way to the Spingwater Corridor. The location and design is subject to approval by the City Engineer.
  2. The curb and sidewalk design may be modified as needed to address drainage and dimensional constraints within the right-of-way. Access to the existing garage at the end of 28<sup>th</sup> Avenue shall be protected. Trees shall be preserved to the greatest extent practicable.
  3. The existing wood fence shall be removed from the right-of-way.

- e. Rockvorst Avenue. 28-foot paved roadway with a 2-foot gravel shoulder on the south side must be installed between 28<sup>th</sup> Avenue and portion of Rockvorst within the subdivision. The west end of the roadway must be graded and a removable gate installed to allow vehicle access into the wetland area for maintenance purposes.

Standard "C" curb and 5-foot wide sidewalks shall be provided on the north side of the proposed Rockvorst Avenue between 28<sup>th</sup> Avenue and the northerly extension of right-of-way that serves the interior lots: sidewalks are required only along the northerly portion of the right-of-way and easterly side of the proposed extension of the Rockvorst right-of-way. The applicant shall provide a driveway connection to the existing residence on the south side of the roadway.

- f. The applicant shall submit a report prepared by a licensed arborist demonstrating whether some or all of the trees proposed to be removed at the southwest corner of Rockvorst and 28<sup>th</sup> Avenue can be saved. If recommended by the report, the applicant shall have the arborist on-site during construction to ensure compliance with any recommendations made.
- g. Sidewalks are not required on west side of the proposed northerly extension of the existing Rockvorst right-of-way, between the southerly return of right-of-way along the north side of the Rockvorst.
- h. A guardrail shall be installed along Rockvorst Avenue and 28<sup>th</sup> Avenue to prevent vehicles from going over the steep slope.
- i. Signage. A stop sign is required at the intersection of Rockvorst and 28<sup>th</sup> Avenue for traffic heading east from the site. The applicant shall install all signage in the public right-of-way to accommodate the proposed public improvements and meet standards set forth in the Manual on Uniform Traffic Control Devices (MUTCD) and relevant Oregon supplements. The applicant shall reimburse the City of Milwaukie for any costs associated with the installation.
- j. A pre-construction meeting must be held with the contractor and an inspection fee of 5 ½ percent of the public construction cost paid.
- k. That a plan be submitted to the satisfaction of the Planning Director showing removal of fill recently placed within the water quality resource buffer, to be executed prior to approval of final plat.

B. The following conditions shall be resolved prior to approval of the Final Plat.

1. A final plat application shall be submitted within 6 months after the appeal period ends on this application and plat recorded with Clackamas County within one year or this preliminary approval shall expire and a new preliminary approval shall be required. An extension of 6 months may be granted (Title 17.04.050).
2. All public improvements shall be constructed in accordance with approved engineering plans or bonded with a 20% contingency per MMC Section 17.24.06.
3. The wood fence located in the 28<sup>th</sup> Avenue right-of-way shall be removed.

C. The following conditions shall be resolved Prior to issuance of a building permit for the new house:

1. All system development charges (SDC) shall be paid.
2. Applicant's for new house construction shall demonstrate compliance with applicable provisions of this decision.

D. On-going Conditions

Lights from the houses shall not shine directly into the wetland area as required by MMC Section 19.322.10 (I).

*~end~*



To: Mayor and City Council

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

From: Tom Larsen, Building Official

Subject: Municipal Code Amendments to Title 15

Date: January 13, 2006, for February 7, 2006, Meeting

Action Requested

Adopt an Ordinance updating Title 15 of the Milwaukie Municipal Code.

Background

1. Oregon Building Codes Division has adopted new Residential Code Standards. The city must update its ordinance to reflect this change.
2. Oregon Building Codes Division has adopted a new Grading Appendix for optional use by municipalities. The city must update its ordinance to reflect this change.
3. Section 15.28, as adopted, does not afford adequate measures to protect children from drowning. Specifically, Section 15.28 does not require the use of self-closing doors when the walls of a house comprise part of the required barrier around a swimming pool. This, in effect, renders the wall ineffective as a barrier. This change is being proposed to bring the code section more in line with current Residential Code Standards.

Concurrence

The Community Development and Public Works Director concurs with staff recommendation.

Fiscal Impact

No anticipated fiscal impact.

Workload Impacts

No changes are anticipated in staff workload.

Alternatives

1. Adopt the ordinance as requested.
2. Adopt the ordinance with changes.
3. Take no action.

Attachment

1. Ordinance

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING TITLE 15 OF THE MILWAUKIE MUNICIPAL CODE REGARDING STATE BUILDING CODE UPDATES AND SWIMMING POOL SAFETY.**

**WHEREAS**, Oregon Building Codes Division has adopted new Residential Code Standards; and

**WHEREAS**, Oregon Building Codes Division has adopted a new Grading Appendix for optional use by municipalities; and

**WHEREAS**, Section 15.28 does not currently afford adequate measures to protect children from drowning;

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

Section 1. Title 15 of the Milwaukie Municipal Code is hereby amended as shown in Exhibit A.

Section 2. Because this ordinance is needed to protect public health and safety, an emergency is declared and this ordinance is effective upon passage.

Read the first time on February 7, 2006, and moved to second reading by \_\_\_\_\_ vote of the City Council.

Read the second time and adopted by the City Council on February 7, 2006.

Signed by the Mayor on \_\_\_\_\_.

\_\_\_\_\_  
Jim Bernard, Mayor

ATTEST:

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

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

**Amendments to Milwaukie Municipal Code  
Title 15—Buildings and Construction**

**Underlined text is to be inserted**

**Strikeout ~~text~~ is to be deleted**

**SECTION 15.04 BUILDING CODES:**

**15.04.170 Various specialty codes and standards adopted:**

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E. ~~One and Two Family Dwelling~~ Residential Code. The Oregon ~~One and Two Family Dwelling~~ Residential Specialty Code, as adopted by OAR 918-480-000 through 918-480-0010, except as modified in this chapter is enforced as part of this chapter.

F. Manufactured Dwelling Parks Rules. The Manufactured Dwelling Park and Mobile Home Park Rules adopted by OAR 918-600-0005 through 918-600-0110, except as modified in this chapter, are enforced as part of this chapter.

G. Manufactured Home Installation Rules. The Manufactured Dwelling Rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020, except as modified in this chapter, are enforced as part of this chapter.

H. Recreational Park and Organizational Camp Rules. The Recreational Park and Organizational Camp Rules adopted by OAR 918-650-0000 through 918-650-0085, except as modified in this chapter, are enforced as part of this chapter.

I. Uniform Code for the Abatement of Dangerous Buildings. The latest edition of ICBO Uniform Code for the Abatement of Dangerous Buildings is adopted as part hereof, except as modified by this jurisdiction.

J. Appendix J of the Oregon Structural Specialty Code is adopted and incorporated herein and shall be enforced as part of this chapter.

## **SECTION 15.28 SWIMMING POOLS:**

### **15.28.020 Physical barrier required:**

---

A. Every person, firm or corporation in possession of land within the city, either as an owner, purchaser under contract, lessee, tenant or licensee, in which there is situated an excavated or portable swimming pool containing or capable of containing water ~~eighteen~~ twenty-four inches or more in depth at a point, shall erect and maintain on the lot or premises upon which such pool is located an adequate physical barrier sufficient to make such pool inaccessible to unsupervised small children.

B. Such physical barrier shall completely surround such pool and shall extend not less than four feet above the adjacent ground level; provided, however, that a dwelling house or accessory building may be used as part of such enclosure.

C. Such physical barrier shall be constructed in such a way as to prevent access under the lower edge by small children.

D. All access ways, gates or doors through such enclosure, ~~except the door of any dwelling occupied by human beings and forming any part of the enclosure required by this section,~~ shall be self-closing and equipped with a self-latching device designed to keep and capable of keeping such door or gate securely closed at all times when not in actual use. No such enclosing wall or fence shall be constructed nearer than five feet to the outer walls of the pool.

E. In lieu of self-closing and self-latching doors or gates, a powered pool safety cover in compliance with ASTM F1346 may be installed.

### **15.28.030 Applicability—Exceptions:**

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~~C. All new swimming pools erected after the adoption of this chapter shall meet the conditions set forth in this chapter.~~ All swimming pools that are accessory to one- and two-family dwellings and constructed prior to April 1, 1996, shall meet the conditions set forth in this chapter. All swimming pools that are accessory to one- and two-family dwellings and constructed on or after April 1, 1996, shall comply with the appropriate State Specialty Code in effect at the time of construction (permit required).

D. All other swimming pools shall, at a minimum, meet the conditions set forth in this chapter.

~~D~~ E. Any person, firm or corporation in possession of land within the city, either as an owner, purchaser under contract, lessee, tenant or licensee, in which there is situated an excavated or portable swimming pool, shall erect some sort of fencing within sixty days of adoption of this chapter and be in full compliance with the requirements contained in this chapter by ~~May 1, 1980~~ June 1, 2006.

**Amendments to Milwaukie Municipal Code  
Title 15—Buildings and Construction**

**Underlined text is to be inserted**

**Strikeout ~~text~~ is to be deleted**

**SECTION 15.04 BUILDING CODES:**

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B. Such physical barrier shall completely surround such pool and shall extend not less than four feet above the adjacent ground level; provided, however, that a dwelling house or accessory building may be used as part of such enclosure.

C. Such physical barrier shall be constructed in such a way as to prevent access under the lower edge by small children.

D. All access ways, gates or doors through such enclosure, ~~except the door of any dwelling occupied by human beings and forming any part of the enclosure required by this section,~~ shall be self-closing and equipped with a self-latching device designed to keep and capable of keeping such door or gate securely closed at all times when not in actual use. No such enclosing wall or fence shall be constructed nearer than five feet to the outer walls of the pool.

E. In lieu of self-closing and self-latching doors or gates, a powered pool safety cover in compliance with ASTM F1346 may be installed.

### **15.28.030 Applicability—Exceptions:**

---

~~C. All new swimming pools erected after the adoption of this chapter shall meet the conditions set forth in this chapter.~~ All swimming pools that are accessory to one- and two-family dwellings and constructed prior to April 1, 1996, shall meet the conditions set forth in this chapter. All swimming pools that are accessory to one- and two-family dwellings and constructed on or after April 1, 1996, shall comply with the appropriate State Specialty Code in effect at the time of construction (permit required).

D. All other swimming pools shall, at a minimum, meet the conditions set forth in this chapter.

~~D~~ E. Any person, firm or corporation in possession of land within the city, either as an owner, purchaser under contract, lessee, tenant or licensee, in which there is situated an excavated or portable swimming pool, shall erect some sort of fencing within sixty days of adoption of this chapter and be in full compliance with the requirements contained in this chapter by ~~May 1, 1980~~ June 1, 2006.

**Amendments to Milwaukie Municipal Code  
Title 15—Buildings and Construction**

**SECTION 15.04 BUILDING CODES:**

**15.04.170 Various specialty codes and standards adopted:**

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### **15.28.020 Physical barrier required:**

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B. Such physical barrier shall completely surround such pool and shall extend not less than four feet above the adjacent ground level; provided, however, that a dwelling house or accessory building may be used as part of such enclosure.

C. Such physical barrier shall be constructed in such a way as to prevent access under the lower edge by small children.

D. All access ways, gates or doors through such enclosure shall be self-closing and equipped with a self-latching device designed to keep and capable of keeping such door or gate securely closed at all times when not in actual use. No such enclosing wall or fence shall be constructed nearer than five feet to the outer walls of the pool.

E. In lieu of self-closing and self-latching doors or gates, a powered pool safety cover in compliance with ASTM F1346 may be installed.

### **15.28.030 Applicability—Exceptions:**

---

C. All swimming pools that are accessory to one- and two-family dwellings and constructed prior to April 1, 1996, shall meet the conditions set forth in this chapter. All swimming pools that are accessory to one- and two-family dwellings and constructed on or after April 1, 1996, shall comply with the appropriate State Specialty Code in effect at the time of construction (permit required).

D. All other swimming pools shall, at a minimum, meet the conditions set forth in this chapter.

E. Any person, firm or corporation in possession of land within the city, either as an owner, purchaser under contract, lessee, tenant or licensee, in which there is situated an excavated or portable swimming pool, shall erect some sort of fencing within sixty days of adoption of this chapter and be in full compliance with the requirements contained in this chapter by June 1, 2006.



To: Mayor and City Council

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

From: Tom Larsen, Building Official

Subject: Electrical Fee Update

Date: January 13, 2006, for February 7, 2006, Meeting

Action Requested

Adopt a Resolution updating electrical fees.

Background

Electrical permit fees need to be updated by reference. Clackamas County administers the Electrical Inspection Program for the City of Milwaukie because the nature of the program is such that small jurisdictions cannot adequately support it. Fees are required to be set only to recover the costs of administering the program. Clackamas County has adjusted its electrical fee schedule and the city must now follow suit. This Resolution will allow the City to update its fee schedule automatically whenever the County adjusts its fees.

Concurrence

The Community Development and Public Works Director concurs with staff recommendation.

Fiscal Impact

No anticipated fiscal impact.

Workload Impacts

No changes are anticipated in staff workload.

Alternatives

1. Adopt the resolution as requested.
2. Adopt the resolution with changes.
3. Take no action.

Attachment

1. Resolution

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SETTING FEES FOR SERVICES; CLASSIFYING THE FEES IMPOSED BY THIS RESOLUTION AS NOT SUBJECT TO ARTICLE XI, SECTION 11B, OF THE OREGON CONSTITUTION.**

**WHEREAS**, the City completed a formal Cost of Services Study and User Fee Analysis in Fiscal year 1994-1995 and updated the Study in Fiscal year 1995-1996; and

**WHEREAS**, the City Council reviewed all costs of services and user fee structures; and

**WHEREAS**, affected departments annually review labor costs as well as compare fees with other local jurisdictions and adjust accordingly; and

**WHEREAS**, the fees set forth in the attached "Exhibit A" are set at a level to cover the costs of providing the services for which the fees are charged but do not generate any excess income for the City; and

**WHEREAS**, fees are set by Council resolution;

**NOW, THEREFORE, BE IT RESOLVED:**

Section 1. The attached document entitled "Exhibit A" is adopted as part of the fee schedule of the City of Milwaukie.

Section 2. The fees imposed by this Resolution are not taxes subject to the property tax limitations of Article XI, Section 11B of the Oregon Constitution.

Section 3. Any previously adopted fee for which a fee or charge is stated in the attached "Exhibit A" is amended to conform to the amount stated in "Exhibit A." Any previously adopted fee for which a fee or charge is not stated in "Exhibit A" shall remain at its present amount.

Section 4. This resolution is effective immediately upon adoption.

Introduced and adopted by the City Council on February 7, 2006.

This resolution is effective on February 7, 2006.

\_\_\_\_\_  
James Bernard, Mayor

ATTEST:

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

\_\_\_\_\_  
Pat DuVal, City Recorder

\_\_\_\_\_  
City Attorney

**Section III. Permit Related Fees**

- A. A State surcharge shall be collected in an amount as required by State law.
- B. Electrical permit fees shall be ~~as adopted in Resolution 19-2003, adopted by the City Council on May 6, 2003 (effective July 1, 2003)~~ collected in an amount as adopted by Clackamas County with the following exceptions:
  - 1. The state surcharge shall be the amount required by State law ~~as noted in Section III.A of this resolution.~~
  - 2. The Minor Labels program will be deleted as required by SB 512 and SB 587.
- C. **House Moving/Demolition Permits**
  - 2,000 sq. ft. or less ..... \$78.00
  - Each additional 1,000 sq. ft. .... \$38.00
  - Plan Review Fee ..... 65% of the permit fee
- D. **Prefabricated Structures** .....(Per current permit fees)
- E. **Temporary Structures** .....(Per current permit fees)
- F. **Manufactured Dwelling Parks and Mobile Home Parks** ..... Per current State of Oregon permit fee (OAR.Division 650.Table 1) plus 30%
- G. **Recreational Parks and Organizational Camps** ..... Per current State of Oregon permit fee (OAR.Division 650.Table 1) plus 30%
- H. **Miscellaneous Building Valuations**
  - 1. **Retaining Walls**
    - To 8 ft. high, including footing.....\$254.00/lin. ft.
    - Over 8 ft. high.....\$276.00/lin. ft.
  - 2. **Fences**
    - Over 6 ft. to 8 ft. high.....\$15.00/lin. ft.
  - 3. **Concrete Slabs on Grade Foundations**—For house moves, modular buildings, pole buildings, etc.
    - Plain concrete:
      - 4-in. slab..... \$3.00/sq. ft.
      - 5-in. slab..... \$3.10/sq. ft.
      - 6-in. slab..... \$3.25/sq. ft.
    - Reinforced concrete ..... Add \$1.15/sq. ft.
  - 4. **Crawl Space Foundations**
    - For house moves, modular, etc. .... \$7.50/sq. ft.
  - 5. **Accessory Buildings**
    - With floor slab .....\$55.00/sq. ft.
    - Without floor slab .....\$28.00/sq. ft.
  - 6. **Pole Buildings**
    - Up to and including 14-ft. eave height .....\$32.00/sq. ft.
    - Over 14-ft. eave height .....\$45.00/sq. ft.
    - For insulation:
      - Roof—add..... \$ .35/sq. ft.
      - Slab—add ..... \$ .35/sq. ft.
      - Wall—add ..... \$ .35/sq. ft.
    - For slabs on grade..... see Section III.H.3 for fees
  - 7. **Swimming Pools** (pool only/deck extra)
    - Concrete or gunite .....\$70.00/sq. ft.
    - Plastic below ground .....\$45.00/sq. ft.



**TO: Mayor and City Council**  
**FROM: Mike Swanson, City Manager**  
**DATE: January 30, 2006**  
**RE: Purchase of Real Property for Future Library Expansion  
Located at 2215 SE Harrison**

### **ACTION REQUESTED**

This agenda item proposes adoption of two separate actions as follows: (1) Adoption of a Resolution pursuant to Milwaukie Municipal Code Section 3.15.030 approving the purchase of real property located at 2215 SE Harrison; and (2) Adoption of a Resolution Transferring Appropriation Authority in the amount of \$80,000 from Intergovernmental (Contingency) to Library.

### **BACKGROUND**

For the past few years the Library Board has been considering future Library expansion. A constraint on planning for any expansion of the Library facilities is a deed restriction in the grant of the property from the Ledding family to the effect that the real property must remain in Library use. Any change in use would cause a reversion of the property to the original grantee and/or heirs.

To date expansion planning has been limited to the site. Recently, however, adjacent property located at 2215 SE Harrison, which includes a 1,773 square foot residential property constructed in 1950 and zoned R-1-B. The structure is located on a 22,000 square foot lot. The structure and the Library are separated by a pond.

After discussions with the Library staff, it was determined that a purchase of the Harrison Street property would provide the City with a valuable future alternative to Library expansion. Although no design alternatives have been proposed, acquisition of this parcel would provide both more expansion possibilities as well as a unique design amenity with the existing pond.

An offer to purchase in the amount of \$400,000 has been extended to the seller, and it has been accepted. Other provisions of the sale include the following: (1)

the Seller will finance the purchase at 7% with a 15 year term; (2) there is a prepayment penalty during the first two years equal to 1% of the original purchase price; and (3) the seller will have such naming rights as may be available pursuant to the City's policies relating to the naming of City property, and seller will bear any costs associated with naming the facility.

Immediate plans for the use of the property include the successful acquisition of CDBG grant funds to prepare it for use by the North Clackamas School District for the attached project. In addition, use of a portion of the structure for a Ledding Library used book sales outlet and Library storage are also contemplated. The ultimate use of the property will be for expansion of the Ledding Library, and all other uses are interim.

A written appraisal of the property will be provided within a week of the date of this report.

Milwaukie Municipal Code Section 3.15.030 requires that all acquisitions of real estate valued at more than \$25,000 "shall be approved by the city council." Approval of the sale is granted by the proposed Resolution Approving the Purchase of Real Property Located at 2515 SE Harrison pursuant to Milwaukie Municipal Code Section 3.15.030.

This purchase was not anticipated when preparing the annual budget, and, therefore, that portion of the purchase price due at closing will have to be borne by a transfer from Contingency. The required funding of that portion of the purchase price due at closing is granted by approval of the proposed Resolution Transferring Appropriation Authority from Intergovernmental (Contingency) to Library.

### **FISCAL IMPACT**

The immediate financial impact will be a payment of a portion of the purchase price in the amount of \$80,000 due at closing. This is proposed to be funded from the transfer from Contingency to the Library. Additional normal closing costs (total amount undetermined as of this writing) and the cost of an appraisal (\$3,200) will be paid from the City Manager budget. The balance of the purchase price (\$320,000) is financed by the seller at 7% over fifteen years. The amount will be funded from an annual appropriation within the General Fund. An annual facilities maintenance fee for that portion used by the Library will be funded from an annual appropriation within the General Fund.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON APPROVING THE PURCHASE OF REAL PROPERTY LOCATED AT 2215 SE HARRISON PURSUANT TO MILWAUKIE MUNICIPAL CODE SECTION 3.15.030.**

**WHEREAS**, the City Manager is proposing that the City purchase real property located at 2215 SE Harrison (Harrison property) in the City of Milwaukie; and

**WHEREAS**, the Harrison property is located adjacent to and presents a viable alternative for future expansion of the Ledding Library; and

**WHEREAS**, Milwaukie Municipal Code Section 3.15.030 requires that a purchase of real property valued at more than \$25,000 requires the “approval of the city council;” and

**WHEREAS**, the purchase price of the Harrison property is \$400,000, with \$80,000 of the purchase price due at closing; and

**WHEREAS**, the seller has agreed to finance the balance at seven (7) percent interest for a fifteen (15) year term with a prepayment penalty during the first two (2) years at one (1) percent of the purchase price; and

**WHEREAS**, the seller will have such naming rights as may be available pursuant to the City’s policies relating to the naming of City property; and

**WHEREAS**, the appraisal of the property required by Milwaukie Municipal Code Section 3.15.030 has been considered by the City Council.

**NOW, THEREFORE, BE IT RESOLVED** that, pursuant to Milwaukie Municipal Code Section 3.15.030, the City Council approves the purchase of the real property located at 2215 SE Harrison and authorizes the City Manager to take all action necessary, including execution of all necessary documents, to complete the said purchase.

This Resolution is effective on February 7, 2006.

\_\_\_\_\_  
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 TRANSFERRING APPROPRIATION AUTHORITY IN THE AMOUNT  
OF \$80,000 FROM INTERGOVERNMENTAL TO LIBRARY**

**WHEREAS**, the City Manager is proposing that the City purchase real property located at 2215 SE Harrison (Harrison property) in the City of Milwaukie; and

**WHEREAS**, the Harrison property is located adjacent to and presents a viable alternative for future expansion of the Ledding Library; and

**WHEREAS**, the purchase of the Harrison property was approved by the City Council in the amount of \$400,000 on February 7, 2006 for future Library expansion; and

**WHEREAS**, the Harrison property was listed for sale after adoption of the FY 2005-2006 City Budget; and

**WHEREAS**, the purchase of the Harrison property was, therefore, neither contemplated nor budgeted at the time the FY 2005-2006 City Budget was adopted; and

**WHEREAS**, twenty percent of the purchase price is due at closing on February 8, 2006; and

**WHEREAS**, additional budget authorization is required in order to expend the funds.

**NOW, THEREFORE, BE IT RESOLVED** that the transfer of appropriation in the General Fund is hereby approved as follows:

From	TO
Intergovernmental (Contingency)	Library
\$80,000.00	\$80,000.00

This Resolution is effective on February 7, 2006.

\_\_\_\_\_  
James Bernard, Mayor

ATTEST:

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

\_\_\_\_\_  
Pat Duval, City Recorder

\_\_\_\_\_  
City Attorney

**CUAB MEETING MINUTES**  
**Wednesday, October 5, 2005**  
**Johnson Creek Facility Conference Room**  
**6101 SE Johnson Creek Blvd.**

**Members Present**

Bob Hatz, Chair  
Betty Chandler  
Ed Miller

**Members Absent**

Charles Bird, Vice Chair

**Staff Present**

Paul Shirey, Engineering Director  
Jay Ostlund, Civil Engineer

I. CALL TO ORDER

Chair Hatz called the meeting to order at 6:12 p.m.

II. INTRODUCTIONS

None.

III. CONSENT AGENDA

September 7, 2005, Minutes approved as presented.

IV. REPORTS

A. Wastewater rate recommendation

1. The Board unanimously agreed with the staff recommendation to increase wastewater rates an average of 6% per year for five years and 3.75% for one year. All Board members agreed that the portion of the rate increase needed to fund a contribution of \$4.5 million for decommissioning Kellogg WTP should be returned to the ratepayers as soon as possible. There was a discussion of other sources that could be tapped to pay the \$4.5 million. The sources discussed included any increase in land value that might accrue to the City under the terms of the IGA with Clackamas County to implement the Clearwater project. Another source would be increased general tax revenues from the redevelopment of the land.

2. One Board member felt that the investment of the \$4.5 million would not leverage as much return to the City as annexation of unincorporated County land into the city. Other members feel strongly that any return to the City from redevelopment of the Kellogg site should go first to ratepayers, then to the City for other uses. The Board expressed unanimous consent that its obligation is first and foremost to the ratepayers.

V. DISCUSSION

A. Benefits of Clearwater Plan

Paul Shirey explained that there had not been time to adequately address present value questions related to the Clearwater plan that had come up from the previous meeting.

VI. MATTERS FROM THE BOARD

None.

VII. OTHER

None.

VIII. INFORMATION SHARING

None.


IX. FUTURE MEETING DATE/AGENDA ITEMS

Wednesday, January 11, 2006

X. ADJOURN

The meeting adjourned at 7:02 p.m.

  
\_\_\_\_\_  
Bob Hatz, Chair

  
\_\_\_\_\_  
Paul Shirey, Scribe

**September 13, 2005**

**Riverfront Board  
Minutes**

Members present: Green, St. Clair, Klein, and Martin  
Absent: Stacey, Wall, Darling  
Visitors: Peter Wilcox, Rivers West and Ed Zumwalt

**Biodiesel Ferries**

Peter Wilcox of Rivers West spoke to the group about an effort his group is undertaking to refurbish ferries, previously used at Crater Lake, and put them into use on the Willamette as recreational ferries. Following is a summary of Peter's project

- Owns 3 boats – William Atkins design mahogany ships
- Hold 49 passengers
- Would use biodiesel and electricity as fuel (biodeisel hybrids)
- Idea is to put them in the middle of Portland - Portland Visitors Alliance is their best ally
- 2-3 years before they would get going
- Need funding for further rehab of boats and docks
- Goal is to have cleanest, greenest ferry system in the world
- Go 8 knots/hour and are 39 feet long
- Not necessarily fast enough for commuting
- Not feasible for use to Milwaukie due to distance from Portland and low speeds of boats (should use "cats" for that...)
- Longest distance would be from Swan Island to Sellwood (15 minutes)
- They are handsome, historic and from Oregon
- Boats would be stored in a central area of Portland or one might be to the north and one to the south
- 2 new docks will be installed at south Waterfront
- The Ferry system will be a private/public non-profit

**Minutes**

Green asked for a motion to approve the minutes but since St. Clair had not been presents at the last meeting – he needed to abstain. The minutes were tabled for lack of quorum.

**Concept Plan Survey**

Herrigel showed the group the draft Concept Plan survey. Green noted that the print on the concepts was fairly small and might not be readable by some folks. He also suggested that the text point out somehow that the concept plans were for the area between the two creeks. Finally, it was suggested that the Comprehensive Plan be removed from the survey in order to make it less confusing.

**Clearwater**

Green described the County Commissioners meeting at which the Clearwater project was approved. He noted that the project was approved by a 2-1 vote and that an accompanying rate had also been approved 3-0.

Gary Klein invited anyone who wanted to tour the river with him on his boat on Thursday or Friday to let him know. He asked Herrigel to extend the invitation to others at the City.

**DRAFT Riverfront Board Meeting  
December 13, 2005**

Members present: Martin, Wall, Stacey, Green, Darling, Klein  
Members absent St. Clair

**Minutes:** September minutes were tabled due to lack of appropriate quorum. Stacey motioned to approve the November minutes, Martin seconded and motion passed 6-0.

**Survey Data Discussion:**

Herrigel handed out the summary of the Riverfront concept survey data at the meeting. She apologized for the delay in getting the data to the Board and noted that there had been a glitch that was unavoidable. She said she had planned to take the data and a recommendation for moving forward to City Council on January 3 but was not sure that schedule would work, given the delay in the data compilation and the Board's lack of information for this evening's discussion.

Wall said he was in favor of delaying the discussion of the data until the January Riverfront Board meeting, giving the Board time to review the data.

Darling said she felt it was important to get the data results out to the public as soon as possible and suggested that the data be handed over to Council and that Council determine the next step.

Wall and Green agreed that the data should be shared with the public but felt that the Riverfront Board should have an opportunity to review and discuss the data before staff reported to Council. Darling motioned to place the survey data on the City web site and in the Pilot. Stacey seconded the motion and it passed 6-0.

Stacey said he felt that the issue (as represented by the survey data) was parking. He said that the results showed that people want more parking than is there (at the riverfront) now. Others disagreed, saying that although they hadn't had a chance to fully review the results, they suspected that the data showed that more parking "than was shown in Concept 2" was requested.

Martin suggested that the discussion of what the survey said and the next steps be tabled until the next meeting (in January). There was consensus regarding getting data posted on the web site and passing data to Council in the Friday memo.

The following agenda items were suggested for the next meeting:

- Discussion of parking
- Proposals for integrating the boat ramp and parking into a final plan (compromise plans)

- Proposed process for moving forward (recommendation to Council)
- Set time table for completing Concept 3 and moving forward with RFP

Motion to adjourn was made, seconded and passed 6-0.