

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
November 9, 2006**

**CALL TO ORDER**

**Mayor Bernard** called the 1993<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
Carlotta Collette	Susan Stone

Staff present:

Gary Firestone, City Attorney	Susan Shanks, Associate Planner
Katie Mangle, Planning Director	Brett Kolver, Assistant Planner
Kenny Asher, Community Development/Public Works Director	JoAnn Herrigel, Community Services Director

Media: Dennis McCarthy, *The Oregonian*

**PLEDGE OF ALLEGIANCE**

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

None.

**CONSENT AGENDA**

It was moved by Councilor Barnes and seconded by Councilor Collette to approve the Consent Agenda:

**A. Council Minutes**

1. September 19, 2006 Work Session;
2. September 19, 2006 Regular Session;
3. October 3, 2006 Work Session;
4. October 3, 2006 Regular Session; and
5. October 17, 2006 Work Session

**B. Resolution No. 49-2006: A Resolution of the City Council of the City of Milwaukie, Oregon Appointing Tom Traver to the Public Safety Advisory Committce as a Member-at-Large;**

**C. Resolution No. 50-2006: A Resolution of the City Council of the City of Milwaukie, Oregon Amending the Public Contracting Rules and City Contracts**

**D. Resolution No. 51-2006: A Resolution of the City Council of the City of Milwaukie, Oregon Authorizing the City Manager to Sign an Intergovernmental Agreement with ODOT to Participate in a TGM Grant-Funded Transportation System Plan Update**

Motion passed unanimously. [5:0]

**AUDIENCE PARTICIPATION**

- **Bart Hanson, 4707 SE Mason Lane**

**Mr. Hanson** proposed an ordinance allowing social gaming in the City of Milwaukie. He had been in contact with the Oregon State Justice Department and the City of Portland. As long as the house did not take a profit from any game in the establishment, it was allowed. He was not out to make money; he just wanted a legal place to play.

**Mr. Firestone** clarified under ORS social gaming was prohibited unless allowed by local ordinance. Milwaukie did not have a local ordinance, so it was prohibited. Social gaming primarily covered activities in a place that was open to the public.

Counsel and the City Manager would review the proposal and ask for Council direction in a future work session.

**PUBLIC HEARING**

**A. Appeal of Planning Commission Decision on Milwaukie High School Electronic Reader Board Sign on SE Washington Street – CSU-06-05**

**Mayor Bernard** called the public hearing on the appeal at 7:08 p.m.

The hearing was limited to the issues raised in the appellant's notice of appeal. The testimony was used by the Council in coming to a decision on the application.

The purpose of the hearing was to consider the appeal of the Planning Commission's denial of a request proposing a reader board change at Milwaukie High School, File #CSU-06-05. Milwaukie High School student Ali Townsend and Milwaukie High School Principal Kelly Carlisle made the appeal. The appellant requested that the Council consider its responses to the Planning Commission's findings and reverse the decision.

The applicable standards were found in the Zoning Ordinance Sections, 1002 and 19.306 and subsections 19.321, and 19.1011.3; and the Milwaukie sign ordinance, subsections 14.08.090, 14.12.020, and 14.16.010. Mayor Bernard reviewed the order of business.

The applicant had the burden of proof that it met all applicable criteria for approval of the proposed sign. The City was in receipt of the appeal that identified the issues and reasons for appeal.

The testimony and evidence were to be directed toward the applicable substantive. Failure to address a criterion precluded an appeal based on that criterion. Failure to raise a constitutional or other issues related to proposed conditions of approval with sufficient specificity to allow a response precluded an action for damages in circuit court. Any party with standing could appeal the Council's decision to the State Land Use Board of Appeal (LUBA) according to the rules adopted by that Board. Persons with standing were those who testified or signed the attendance sign-up sheet. He reviewed the conduct of the hearing.

Conflicts of Interest and Site Visits:

All members of Council had visited the site.

**Councilor Barnes** learned that her husband had taken a position on the high school sign land use application and has assisted the applicant in matters relating to that sign. It is my understanding that my husband has not received and will not receive any money or other benefit from his activities relating to the sign and therefore there is no actual or potential conflict of interest. Her husband's position on this matter would not affect her, either negatively or positively. She could and would make her decision based on the applicable standards and on the testimony and written materials in the record. She had not spoken with her husband about the merits of the case and has not been involved in his decisions in any way. She therefore did not believe she was biased, and she intended to participate in the decision.

**Councilor Loomis** was a member of the Milwaukie High School Advisory Board. His participation in that Board would not affect his ability to decide this matter. He would decide on the matter impartially based on the applicable standards and the evidence. He had no financial interest, directly or indirectly in the outcome of the decision. He has known Mr. Carlisle for some time and met Leslie Townsend at a Milwaukie High School soccer game. She told him she had just been to the Planning Commission and the application was denied. That was the first time Councilor Loomis had heard about the issue, and there was no prolonged discussion.

**Councilor Stone** received a phone call from a citizen. She listened and did not offer any opinion. That would not influence her decision. The comments related to the appeal, and the person expressed a concern about the public safety aspect.

**Mayor Bernard** learned that his wife had taken a position on the high school sign land use application and assisted in collecting signatures. His wife would not make money or benefit for any reason from this sign. His wife's position on this matter did not affect his decision either negatively or positively. He could and would make his decision based on the applicable standards and on the testimony and written materials in the record. He had not spoken with his wife about the merits of the case and learned that she was doing this when she was collecting signatures. He had known the Townsend's for many years as well as Mr. Carlisle. He drives by the school several times a day.

**Councilor Barnes** added that Bo Townsend was one of her students.

There were no challenges to the participation of any Council member, and there were no objections to the Council's jurisdiction to consider the matter.

Correspondence: A hand-delivered written note dated November 9, 2006 from Anne Favorite, 12293 SE 40<sup>th</sup> Avenue, Milwaukie 97222 in opposition to the appeal.

Staff Report:

**Mr. Kelter** presented the appeal of the Planning Commission's decision regarding a proposal from Milwaukie High School to install a new electronic reader board sign. The sign would be located at the north end of the athletic field and track area long Washington Street. It would replace an existing reader board sign on the site located next to the scoreboard. The existing sign was a manually changed reader board. It was an internally illuminated cabinet sign that was controlled by a light sensor. The High School proposed an electronically controlled reader board sign that would allow messages to be controlled by computer and allow for multiple messages to be placed on the board without having to approach it manually. The proposed sign was similar to a sign in place at the Oregon City High School that was also illuminated at night. The original proposal was for an overall sign height of 25 feet including the actual cabinet of the sign which was approximately 40 square feet or 4' x 10' at the top of a steel pole. It

CITY COUNCIL REGULAR SESSION – NOVEMBER 9, 2006

APPROVED MINUTES

Page 3 of 28

was proposed to be on and operational at all times and be limited to a message change rate of no more often than every 10 seconds. The applicant at the time also noted that the sign had the capacity to be dimmed and the brightness controlled. In preparing the staff report for the Planning Commission hearing staff recommended approval of the sign with several conditions related to these various aspects. Staff recommended approval of the sign with the height of the existing sign which was just over 17 feet and keeping the 40 square foot sign area, limiting the hours of operation from 6 a.m. to 10 p.m. daily, and holding with the maximum change rate of one message change no more often than every 10 seconds. Because there was not a lot of quantitative information at the time about the brightness or illumination level of the sign staff recommended a condition that would put the planning director in a position to evaluate more quantitative information and evaluate the appropriate level of illumination.

The Planning Commission held its first hearing in September and asked for more information, so the hearing was held over. A second was held in September. There was a lot of testimony in the form of both people appearing at the hearing and also petitions. At the end of the day the Planning Commission voted to deny the sign application with several main points of concern. Those included light-related impacts, public safety, and a general concern for the appropriateness for the sign in that location. The existing sign was illuminated and as proposed the sign would be illuminated as well. The quality would be a little different, but there was concern among the Commissioners about the impacts that it might have on the surrounding area. In terms of the location and public safety on Washington Street that effectively connects McLoughlin Boulevard with Hwy 224. It was designated a collector street and had several marked crosswalks. Because of the High School and St. John's School there was often a lot of student and neighborhood pedestrian traffic. Those were some of the Commission's concerns. He showed a view of the sign west toward downtown and view looking eastbound on Washington. Overall location was between two sensitive areas with regards to aesthetics, the Historic Milwaukie Neighborhood and downtown area that had established design guidelines. The Commission felt the sign as proposed was not appropriate in that area.

There were some questions about whether there might be a more appropriate location for the sign as proposed. It was noted at the time that the High School did have several other signs that however were not comparable to either the existing or the proposed reader boards. The applicant felt that the Washington Street frontage presented the best opportunity to communicate with the community and those other sites would not be as effective. At the hearings the applicants were agreeable to the conditions that were proposed and as part of their application in the appeal phase suggested some additional conditions. There was a suggestion that the sign message could be held stationary during certain times of the day such as when school was starting and ending and during major athletic events. The also suggested that the sign could be dimmed at night and be a less intrusive color. Some of the information presented at the last hearing suggested that amber might be the appropriate color.

**Mr. Kolver** outlined the Council's options that were to uphold the Planning Commission decision to deny the sign, reverse the Planning Commission decision and approve the sign with our without conditions, or continue the hearing to gather more information. According to the 120-day rule the City Council would have until December 22, 2006 unless the applicant granted an extension of the clock.

**Councilor Collette** understood one of the Planning Commissioners suggested a location closer to the scoreboard and asked if that had been considered.

**Mr. Kelter** was not certain about the specifics of that proposal. He recalled one proposal was to put the reader board on one of the buildings fronting Washington Street. He was not sure of the proposal of putting it closer to the scoreboard.

**Councilor Collette** thought there was one suggestion with landscaping to make less obtrusive.

Appellant Testimony:

**Ms. Townsend** chose this as her senior project because she saw a real need for the High School to better communicate with the neighborhood and students' families. For several years she had been involved with ASB and now the National Honor Society. It was her responsibility to change the current sign. She and others found it impossible to keep the information current and accurate because of the age of the sign and weather conditions letters were continually being blown off or just fell. This left inaccurate information and did not give the professional image the School wanted to give. The new sign would create an opportunity for the community to inform and be involved with sports, blood drives, musicals, plays, and other events. She hoped to bring more revenue back to the school with more attendance at these events and bring more community members in for the blood drives. Despite the ways the High School could use the sign to publicize its events considering the location they would like to use an electronic reader board to display community events.

**Ms. Townsend** was aware there was a concern expressed by the neighbors and their thoughts about the new sign. She spent time visiting with 17 neighbors on 27<sup>th</sup> Avenue. She presented them with a letter of approval concerning the proposed electronic reader board. Everyone she talked to was in support of the project. Many residents in the apartments adjacent to the football field said they enjoyed watching the football and soccer games. She also discussed the project with a group of parents attending a volleyball game at St. John's Catholic School. She had 8 parents and Father Todd who gave their support. Several businesses were also in support. She showed slides of the Milwaukie, Oregon City, and Clackamas High School sign both during the day and at night from various perspectives.

She thanked the Milwaukie Planning Commission for hearing the initial proposal for a new sign and respectfully responded the Planning Commission's findings with this appeal. A community service use required the hours and levels of operation of the proposed use were reasonably compatible with the surrounding uses. The Commission's finding was the proposed sign would present light-related impacts that were not compatible with the surrounding residential uses. Milwaukie High School response was: (1) the proposed sign would replace an existing illuminated sign in the same location, and it would not bring any additional separate light-related impacts; (2) the proposed sign could be dimmed at night and programmed to be turned off between 10 p.m. and 6 a.m.; the current sign was operated with a photocell and remained illuminated all night; (3) the school agreed to the City's recommendation that the sign not have any flashing or scrolling messages and that messages would stay for at least 10 seconds; and (4) the sign would have a simple one-color display. The community service use required that the public benefits of the proposed use were greater than the negative impacts if any on the neighborhood. The Commission identified these public benefits: increased communication, is electronically programmable, and more consistent delivery of information. The Commission identified three negative impacts: The first was that the proposed sign would provide an additional distraction to passing motorists that could negatively impact public safety. The Milwaukie High School response was that it proposed going beyond the City's recommendation by (a) on static message during school start and end times, (b) one static message during athletic

events that draw large crowds, and (c) multiple messages at other times. Motorists have seen a reader board in the same location for 15 years.

The second negative impact identified by the Planning Commission was that the proposed sign would not normally be permitted in any downtown or residential zone except as part of a community service use. The Milwaukie High School response was (1) the sign was for community service use which was allowable as stated; (2) the proposed new sign would replace an older, outdated sign that has been in the same location and was a significant improvement to what currently existed; (3) community use for additional public benefit could be to promote Riverfest, Farmers' Market, and other downtown activities.

The third negative impact identified by the Commission was that the sign could present what could be described as the nuisance of light-related impacts to surrounding properties. Milwaukie High School's response was (1) the proposed sign should have minimal light-related impacts because it could be dimmed at night and programmed to turn off between 10 p.m. and 6 a.m.; and because the current sign is operated with a photocell, it remains illuminated all night; (2) the proposed sign would replace an existing illuminated sign in the same location; and it would not bring additional, separate light-related impacts; and (3) the School agreed to the City's recommendation that the sign not have any flashing or scrolling messages, and messages would remain on the sign for at least 10 seconds before changing.

The community service use requires that the location be appropriate for the type of use proposed. The Commission found the proposed sign would present an undue distraction or nuisance to surrounding properties and passing motorists. The Milwaukie High School response was (1) the proposed location was on School property in the same location where motorists and residents have seen a sign for the past 15 years; and (2) the School proposed that one of the messages would be to caution motorists to drive safely.

The Planning Commission found that the proposed reader board did not meet the standards for signs in residential zone. The Milwaukie High School response was (1) the proposed sign served the exact same purpose in the exact same location as the existing sign which was for community service use and was an allowable use for this zoning; (2) the community service use would be similar to Clackamas High School, Oregon City High School, and Rex Putnam High School which were also in residential areas.

**Councilor Stone** said in looking at the photograph of the Oregon City sign it looked like a box. Was it deeper than the one being proposed?

**Ms. Townsend** replied it was a little taller, and the School proposed that it be the same height as the current sign.

**Councilor Stone** thought one looked like a box from this angle, and the other was slimmer. She wanted to visualize what it would look like.

**Ms. Townsend** did not know exact dimensions.

**Councilor Stone** commented Ms. Townsend provided a great report.

**Councilor Loomis** asked how much time she had spent on the project.

**Ms. Townsend** responded "too much."

**Councilor Loomis** complimented Ms. Townsend on her presentation.

**Councilor Collette** asked why Ms. Townsend got involved with changing the sign.

**Ms. Townsend** was involved with student government, and as a freshman she had to go out in the rain and weather to change the sign. It was not a good task. They would like the athletic director who did the morning announcement to be the only one to have access.

**Councilor Collette** felt changing every 10 seconds seemed really frequent and asked if it needed to be that often.

**Ms. Townsend** replied it could be longer than 10 seconds.

**Councilor Collette** thought drivers would try to catch the message as it changed.

**Councilor Barnes** hoped someone would tell the superintendent how hard Ms. Townsend had worked on this project and thanked her for her presentation.

**Councilor Loomis** commented in reading the material from Ms. Townsend it also addressed not only applying the letters in the rain they also blew off making the sign look tacky. Communicating information in a timely manner was difficult.

**Kelly Carlisle**, Milwaukie High School Principal, was proud of the work Ms. Townsend did in her initial proposal. This looked to be a daunting task in terms of how much a sign might cost. Clearly this path has taken her to places she had not anticipated nor had he, but he was grateful for the opportunity to learn together in this process. He agreed this would be a significant improvement to the property and the community. The intent was to have messages that reached the community about what was going on at the High School and in downtown Milwaukie. They hoped to bring a community benefit with this sign that went beyond just Milwaukie High School by sharing information about events that were going on in the downtown Milwaukie area. In response to Councilor Collette's question about the need for multiple message, a comprehensive high school found itself competing for who gets to have the message on the reader board because there were so many things going on at one time. There were athletic contests, art events, scholastic events, awards, and other things the School would like to share with the community. It would be nice to share those things in the form of a brief statement that could be illuminated on the sign. They found there would be a benefit by having the opportunity of having multiple messages that could change and counterbalance that with a sensitivity to the Planning Commission's concerns about safety especially around the start and end times for schools. He recognized that school start and end times can change from one year to the next. A school schedule can change almost every year when people were unhappy about a schedule or wanted to try something new. He would want to be respectful of those changes. If they were to land on any particular times of day that they would program the sign to only have one stationary message that might work for year one, but for year two that might not. His recommendation was to look at the start and end times for St. John's and Milwaukie High School and make sure on the front and end times of the most heavily congested traffic periods that there be one stationary message. The same would be done around the times of major athletic events that drew traffic and pedestrians. He also saw a tremendous benefit that the sign could be turned off for eight hours between 10 p.m. and 6 a.m. that could not be done with the current sign. He thought it would be a great benefit to the neighborhood to have the sign completely off during that time. Ms. Townsend gathered signatures from area residents along with signatures from area professionals and businesses including Milwaukie Lumber, Nelson's Nautilus, Pietro's, Providence Milwaukie Hospital, Blount International, Bob's Red Mill, Precision Castparts as well as businesses closer to the High School including the medical professionals on Washington Street and others. He submitted those signatures for the record.

**Mike Carulli, Ramsey Signs**, felt Ms. Townsend's and Mr. Carlisle's comments were complete, and he would respond to questions about the reader board itself. One of the

questions was if the boards were the same size, and they were both 4' x 10'. At one time the 25-feet came into play, but the height of the new board would be 17-feet which was the height of the existing board. One of the things about message centers that have been a real boon to people was that they were not on all the time. The current sign was on all the time. It was a bright white light of 800 milliamps and was on all the time unless someone decided to turn it off. The proposed board was electronic and could be closed and shut down. Someone also mentioned how easy it was to change the message without going out in the wind and rain. There have been studies done on whether or not these were dangerous, and at this point there has not been anything proven that the message center would cause any more traffic problems than a static board or a regular sign. Last time they talked about the ability for someone to get into the room and change the sign with the computer. There were lockouts that were programmed so that only one person or designated people with keys could operate them. Brightness was a big issue. The current board was 800 milliamps and was on all the time. The proposed board would be twice that bright if it were on at its full capacity. However, the board could be dimmed down twice as much as the current board if deemed necessary for safety or neighborhood concerns. The flexibility of the proposed board was greater. Visually the existing board gets dirty, letters fall off, and message do not get changed frequently. With the advent of the new electronics the board was clean and operable, and when it was not working it was off. When the existing sign was not working it had a dark spot in it or the letters fell off. Visually it was a much better product and colors can be changed.

**Councilor Stone** understood the signs were the same size. She asked about the depth.

**Mr. Carulli** said the existing board was probably about 10-inches thick. The proposed board would be between 10- and 18-inches. It appeared to be different because of the distance in the photograph. There would be one line of copy across the top that could be on or off, and it was static. That was the same as the Oregon City and Clackamas signs. Even when the sign was off the school could still be identified.

**Councilor Stone** knew there was concern by some about the nuisance in terms of light from the sign. Was there any data that would say this sign would be brighter in terms of extending a beam of light into the residential area?

**Mr. Carulli** replied the existing board was 800 milliamps and was on all time. It was a bright white light on 24 hours a day. The proposed board could be dimmed down almost 100%. If the lighting was an issue, then it could be dimmed while still readable. For school and residential areas there was a feature that would dim the sign 100% and be half the brightness of the current sign.

**Councilor Stone** knew there was some issue of the sign being up 25-feet, but now she understood it would be 17-feet. She asked how feasible it was to have that particular sign look like the one at Clackamas High School which was lower to the ground.

**Mr. Carulli** replied if it was a spot in open with perfectly clear visibility they do work. The problem was that there would be cars parked in various places, trucks coming and going, and trees changing through the seasons. Keeping the sign at that height would give 100% value, but if it was on ground it was aesthetically nice but anything could block it and visibility would be lost. In this case the sign needed to be up because there were fences and parked cars. In his estimate after 35 years in the sign business was that this should be up high in that location to do its job.

**Councilor Stone** understood he knew of no cases where this sign was involved in safety issue in terms of motorist/pedestrian conflict.

**Mr. Carulli** thought the City Attorney could vouch that the City of Portland went through a battle with the big boards that went on the bridges. The neighborhood was up in arms about it because it was like a big TV. There was a big lawsuit, and all the studies showed there was no substantial difference in accidents on those sites with or without the boards. He could probably supply Councilor Stone with that information, but he did not have it with him at this meeting. From what he has learned all of the manufacturers have come back with studies on a static board versus an electronic board and there have not been any incidents of increased accidents. There was little difference between the red and amber. Both were rated at the same output, and both could be dimmed to half or less. It was just a color preference.

#### Testimony in Opposition to the Appeal

- **Ed Zumwalt**

He was so involved with this emotionally he would wing it. He did not like to be sitting on this side of the ball. At the Planning Commission he testified neutral because he was conflicted then and still was. This was very important because it was a community thing -- the High School, the neighborhood, and the Planning Commission. The Commission worked like the devil on this one six weeks ago. He had great respect for Mr. Carlisle and his feelings about what Ms. Townsend had done knew no bounds. She must have put in hundreds of hours. She did a great job on the presentation both times, and he was sure she could sell a refrigerator to an Eskimo. She was talented and did a great job. However, since the light went in on Washington and McLoughlin Boulevard the traffic had increased tenfold. People were cutting through to get to McLoughlin Boulevard or Hwy 224 at Oak Street. It had really grown. When you go there at a crowded time day or night when something was going on like Living History Day. That was a mess. There were old decrepit guys walking across that street. They were veterans, and they were not looking at anything. Cars were parked solid on both sides of the street. It was very narrow there. When all that traffic was going down there safety was a factor that bothered him. He did not see any real solution with this sign, with the neighbors and the High School. He wished he could say otherwise. He was hoping against hope that Mr. Carlisle would come forward with a monument-type sign he mentioned one day on the west end of the parking lot. That was after the Planning Commission meeting, and he thought that might be the solution. Instead the High School opted to come to Council. He was very conflicted and wished someone could snap their fingers and say this was it. Maybe the City Council was wiser than the Planning Commission, but he felt it was a very bad thing to overturn the Planning Commission because they put in a lot of work. They really sweat blood on it. One could see how conflicted the Planning Commission was. He was torn, but he thought the safety factor over-rode everything.

**Mayor Bernard** asked Mr. Zumwalt, not to be rude, what expertise he had on safety. Mr. Carulli said no studies showed this type of sign would increase the possibility of accidents.

**Mr. Zumwalt** was sure Mr. Carulli had more statistics and maybe more knowledge. All he knew about was safety was survival. If you were walking across the street and driving up and down one was thinking about surviving. Just common sense.

**Mayor Bernard** noted one of the comments made by one of the citizens had to do with apartment dwellers. He understood Mr. Zumwalt lived in an apartment. There were comments that apartment dwellers did not care as much about the community and that they did not have investment in the neighborhood as residents that had property. Renters pay their property taxes through their rent, so they have just as much a right to be part of this community as anyone else. Mr. Zumwalt was very involved with the

community, and everyone appreciated that. He was concerned the comment in the Planning Commission minutes was directed at people who lived in apartments.

**Mr. Zumwalt** recalled that very well in 1996 with light rail coming up Monroe Street. The neighborhood association at that time was new. The property owners did not want the apartment dwellers to have any say in the voting within the neighborhood association. It got to be a knuckle-buster, but then cooler heads prevailed. You hear that all the time about certain vital decisions.

**Mayor Bernard** said apartment dwellers were welcome at any neighborhood meeting they wanted to attend.

**Mr. Zumwalt** said they were welcome and needed.

**Councilor Barnes** appreciated Mr. Zumwalt's supporting the Planning Commission for a change.

**Councilor Stone** noted in the September 12 Planning Commission information it said on page 7 that Mr. Zumwalt, Chair of the Land Use Committee for Historic Milwaukie NDA, said the NDA had no objections to the proposal.

**Mr. Zumwalt** said he wrote that. That was when he got conflicted and changed his vote. He wanted to talk about it from a neutral basis. He would like this turn out wonderfully for everyone because it was a community thing. The High School was an important part of the community.

- **Brendan Eiswerth**

**Mr. Eiswerth** had a letter from Ann Hupp and wanted him to speak on her behalf. He represented 40 people who had their signatures on it who were opposed to this who were residents of the Historic Milwaukie Neighborhood Association who felt very strongly about this.

**Mayor Bernard** noted many of the people who turned in testimony cards were also on the petition list, so he asked the City Attorney if he would represent all of those people.

**Mr. Firestone** said if the question was if Mr. Eiswerth could speak just for himself or for a group. If he had anyone else on the petition who had not signed up to speak, then he would be entitled to the ten minutes. The people who wished to speak and had signed the petition could have five minutes.

**Mr. Eiswerth** was not sure who all the people here were in opposition. He lived at 11009 SE 28<sup>th</sup> Avenue and owned property at 2725 SE Washington which was in direct site of the sign. The back yard of his 28<sup>th</sup> Avenue residence was in direct view of the sign when the leaves were down in the wintertime. He read his statement into the record:

As a 12 year resident of the Historic Milwaukie Neighborhood and a resident that can see the current high school sign from his house, and I am staunchly opposed to a new more distracting sign because of the impact it will have on the neighborhood's look and safety. I am also joined in my opposition to this sign by every single neighbor I have talked to about the proposed sign. I turned in 36 signatures, at the initial hearing, from neighbors who all live in the Historic Milwaukie Neighborhood who are strongly opposed to the proposed sign. He got four more today when he went around and talked to a few more folks. Not a single neighbor he talked to thought the sign's benefits outweigh its impact as a visual nuisance and more importantly its distraction to motorists along the second most heavily traveled street in the Historic Milwaukie Neighborhood. I have seen Washington Avenue traffic increase over the past 12 years. Traffic has increased dramatically with the recent addition of a light on Washington Avenue and McLoughlin.

CITY COUNCIL REGULAR SESSION – NOVEMBER 9, 2006

APPROVED MINUTES

Page 10 of 28

As one said to me, "Washington Ave. is an off ramp for Hwy 224 & 99E." No longer do we have 25 hour 20 mph sign that was in effect last year and maybe a year or two there within school zones. There is a sign stating 20 mph when lights flash which was at 28<sup>th</sup> Avenue – to this date I have never seen the lights flash other than that there is no speed limits signs on Washington Ave. anywhere near the schools. It was now as fast as you need to go from 224 to 99E or vice versa. Unfortunately this speed way directly between three schools; Milwaukie Elementary, St. John's, and Milwaukie High School. That means that hundreds of children ages 7 – 18 have to cross Washington Ave. at least twice a day relying on not a single mandatory stop for vehicular traffic. Children must take their chances that speeding motorists will stop for them at one of three cross walks between SE 23<sup>rd</sup> and 27<sup>th</sup> Avenue and at Washington and SE Oak.

Situated between crosswalks at 26 and 23 Ave is the site of the proposed LED sign. This is also within 75' of the driveway for the gym parking lot. St. John's parking lot used by Milwaukie High School students everyday for school and at night for sporting events is located directly across the street from the gym parking lot driveway. Countless students cross from the Milwaukie High side of Washington to the St. John's side everyday neglecting to walk the 1.5 blocks in either direction to a crosswalk. All of this student jaywalking is within 50' of the proposed LED changing sign. Even if students did walk 3 blocks round trip to an existing crosswalk there was no guarantee cars would stop for them. Speeding commuters are supposed to stop for pedestrians in a crosswalk. That did not mean they will stop. I know as a neighbor I am taking my life in my hands when I step into a crosswalk on Washington Ave. On rainy dark afternoons I pray that the cars racing up and down Washington stop for me. When I cross the street I really hope that drivers are looking out for me and other pedestrians and not reading a new message that just popped up on the LED sign 17 feet in the air.

The fact is you would be hard pressed to find a single student that actually does walk 1.5 blocks up and 1.5 blocks back to get to their cars at St. John's parking lot. What I've seen is that every student making this trip across Washington Ave. jaywalks to get from the school to their car. As I've already stated this dangerous jaywalking site is within 75' of a proposed sign with changing messages that' sole purpose is to attract attention to itself. How can a person trying to read a variety of messages on a reader board 17 feet in the air while driving 30 mph be paying attention to people jaywalking across Washington Ave? The High School says they will only have 1 message on their board during drop off, pick up, and sporting events. I wonder would it have had only 1 message up there on Oct. 25 at 8:00 p.m. It was at that time when I was out for a after dinner walk with my wife and watched in horror as a motorist slammed on their breaks and came to a screeching stop in order to avoid a woman in a red sweatshirt who was crossing at this location on her way from an event at Milwaukie High gymnasium to her car in the St. John's parking lot. She was then followed by other students as they attempted to cross at this location without becoming another traffic fatality. Had the driver I witnessed doing 30 – 35 mph not slammed on their brakes because they had been reading a changing message board instead of seeing the student jaywalking in the dark I have a sinking feeling that the student would have never made it across Washington alive that night. This sort of incident is what the neighbors of the Historic Milwaukie Neighborhood are concerned with. Whether it was the safety of hundreds of 7 – 18 year olds crossing Washington or the neighbors that live there and walk these streets every day. We are all concerned about the safety of all people in our community that have to put up with a ever increasing flow of traffic through our neighborhood and past our doorway the doorways of our schools.

After having their proposed sign rejected 4 – 1 by the Planning Commission Ali Townsend and Milwaukie High had 3 courses of action they could take. 1. Drop the sign issue altogether and keep their existing sign, saving tax payers the cost of an

appeal and the cost of a new "improved" sign. 2. Work with the neighbors, the Historic Milwaukie Neighborhood Association and the Planning Commission to come up with a suitable sign that works for everyone. OR 3. Appeal the 4 – 1 Planning Commission decision and try to push through their sign as originally proposed with no real concern about the issues that were raised by their neighbors in the Neighborhood Association or the Planning Commission. He did see tonight there were a couple of little minor changes they did make, but nothing substantial about where it was and placement and safety concerns.

In this appeal the High School says that one of a long list of message on their changing reader board will be a message for drivers to "drive cautiously." They also say that the reader board will only have one message during high use times. Would this one message be a warning to motorists to slow down? As of now with the current sign and for the past 15 years there could have been a message on one of the sign's three lines telling drivers to be careful, one of the four lines could warn drivers to "slow down, watch for children, or students jaywalking ahead." So far in my 12 years of living along Washington I have not seen these or any other message that could "serve the community." If they were worried about these letters blowing off they could have affixed this one line of warning permanently to the sign with glue to inform drivers about the need for safety along this street.

Drivers of all ages from students just behind the wheel to middle-aged folks running late for work are already preoccupied by too many things while driving, from talking on the cell phone to changing the radio to eating and drinking. The last thing these drivers need while driving is to be distracted by a changing message board. Milwaukie High thinks it is important for these drivers to see not one but at least two messages as they zip down Washington on their way to and from work. I along with many of my neighbors and the Planning Commission think it is more important for the drivers to see the children from three different schools crossing the street than an extra message or two. The appeal also states that the new sign would not be as much of a distraction to the neighborhood because it would be off from 10 p.m. to 6 a.m. and that the current sign which has a photocell cannot be turned off. This was not actually the case. For less than \$100 the High School could have a timer installed on the current sign that would override the photocell. He knows that because he works at a school that had a similar thing for the walkway lights. That would mean that if they wanted to and cared about being good neighbors the current sign could be turned off from 10 p.m. to 6 a.m. in a locked box that would not have to be changed and would be a permanent thing. If the High Schools needs the Historic Neighborhood could maybe pay 50% of the cost of installing a timer on their existing sign. As of tonight at 6 p.m. there was not a single message on the High School's lighted sign. Maybe it could say "watch for students" or for the cost of a light switch the High School could add a photocell override switch and actually have the lighted sign turned off when there was no message up. This would save energy and in turn save money for the school district.

Another concern I have and is a concern of the Planning Commission is what sort of precedent does okaying the sign set. Principal Carlisle has already stated during their first proposal that St. John's has already approached them about either buying or receiving as a donation of the existing sign. If this new larger, taller, changing sign – it was supposed to be taller, now it was just larger and changing sign -- was to be okayed for Milwaukie High, St. John's could make the case to have the existing sign moved directly across the street and put up along Washington Ave. Then motorists would have quite a bit to attract their attention. Maybe Milwaukie Grade School would opt for a 25' high 40 square feet changing message board along 27<sup>th</sup>. The Waldorf School could do the same thing along Harrison or Monroe. St. John's Episcopal Church – the list goes on and on. On major highways 99E, 82<sup>nd</sup> Avenue, or 224 this is ok, motorists are not

having to watch out for children from 3 schools darting across the street from behind parked cars. It was mentioned tonight that Milwaukie Lumber supported this. They also mentioned to him they were very excited since if this passed they could hopefully get a similar sign to the one they have to manually change. Think about the impact of that.

In this appeal it is stated the proposed sign is in a similar location as LED signs at 3 other high schools: Rex Putnam, Oregon City, and Clackamas. Yes these schools all have LED signs but this is where the similarities end. Oregon City High's sign was at a 3-way corner with a street light within 20 feet of the sign. There are no parked cars along Beaver Creek Road and a fenced pasture on the other side of the street. So students crossing the street is not an issue. Clackamas High's sign is at a 4-way stop light. A safe place to read the sign when the light is red and a safe place for students to cross the street. Their sign is a monument sign only 2 feet off the ground so you can be looking out for children while you glance at the sign. Drivers are not forced to look 17 ft. in the air. The LED part of their sign is less than half the square footage of the one Milwaukie had proposed.

**Mayor Bernard** asked Mr. Eiswerth to wrap up as his time had elapsed.

**Mr. Eiswerth** said the Rex Putnam sign was about 9 ft. off the ground is was also about half the size of Milwaukie's proposed sign. Their sign is not even on Roethe Rd. but was actually down the driveway and in the middle of the parking lot in front of the school over 200 ft. from the nearest road. Maybe Milwaukie High can take some cues about sign size and placement from comparable signs which they are proposing. He skipped to the last paragraph.

I proposed at the last meeting that the high school put a changing reader board somewhere else on campus. Maybe along the wall of the gym. They would benefit in numerous ways over the current proposal. 1. The sign would more likely to fit within the current sign ordinance. 2. People who they were trying to reach (students, parents, and even neighbors) could walk by and actually read the various messages while walking or even standing still, not while trying to drive. 3. They may save money by buying a one-sided board. Maybe some of that savings could go into working to get a pedestrian signal stop along Washington somewhere between 23<sup>rd</sup> and 26<sup>th</sup> and/or a crosswalk at the gym parking lot where hundreds of students are not discouraged from jaywalking every day and night. This to him would create a safer Washington Ave. for hundreds of students and neighbors and would be a win/win situation for everyone. I have not seen anything in the High School's appeal that is different than their original proposal – a few things. Therefore there should be no legal reason for you the City Council to overturn the Planning Commission's decision.

The neighbors and Planning Commission have already thought long and hard about this. The Planning Commission took 2 meetings to make their unanimous 4 – 1 decision opposing the sign. If you have faith in your Planning Commission and their ability to do their job, please respect their decision. Please ask Ali Townsend and the high school to put in a little more work and come up with a new sign proposal that works with, not against the school's neighbors, the Historic Milwaukie Neighborhood Association, and the Planning Commission.

**Mayor Bernard** told Mr. Eiswerth his time was up.

**Mr. Eiswerth** continued, think about the precedent your decision will make and how it will affect our City. The City of Milwaukie will be impacted by this sign for many years to come.

**Councilor Loomis** said all the things Mr. Eiswerth brought up sounded like traffic issues to him. It sounded like we needed better signage, better crosswalk

improvements, and people going 30 to 35 mph was illegal. So was it his issue that people driving by would be distracted.

**Mr. Eiswerth** thought this would be more of a distraction to people who were going 30 to 35 mph. He thought if they were going to look at investing money in a new sign they should look at the examples from the other places. This was not exactly – they say this is similar. All the other locations were either at stop lights or Rex Putnam where it was actually in their parking lot. He was suggesting they work with the neighbors. As Mr. Zumwalt said Mr. Carlisle brought up the proposal to put a monument sign up somewhere else. He thought everyone should work together before starting something that could set precedent that would impact the look of Milwaukie for many years to come.

**Councilor Loomis** asked if there had been any issues with the banner across McLoughlin Boulevard with increases in accidents.

**Mr. Eiswerth** replied that was a stagnant sign. It had been there for 15 years.

**Councilor Collette** understood the School has agreed not to change the sign during peak time while students were there. Was his major concern that people were watching for it to change? What about a sign that changed much less frequently?

**Mr. Eiswerth** thought that was correct. His hesitation about coming up with something and okaying it. If the athletic director controlled the dimness and controlled the speed then who had any say over that? We need to get specifics about that prior to a decision being made. Anything that was more of an eye distraction than what was already there he felt for the three schools that were a 1-1/2 blocks from there and that the kids were pretty much encouraged to run across and jaywalk there. There was not a lighted stop sign except for 99E and 224. That was 10 to 15 blocks of speedway.

- **Dion Shepard**

She felt everything had been covered. She was opposed to the location of the sign. She was opposed to the proposal to have it changing messages every 10 seconds. When driving down Washington she thought it was very distracting first of all have the placement of the sign because it was up high. To have the message changing while she thought it could be an improvement over what was there she did not think the location was right. There was actually a little knoll by the parking lot that was elevated. What the gentleman from Ramsey signs was that it had to be that high because of the chain link fence. She thought they could possibly look for other locations. Not have it be quite as distracting. Safety was a big issue to her. She did think it was a big improvement over what was there. To say it has been there for 15 years and that it was okay was not okay. She appreciated the Planning Commission's desire, and Design and Landmarks Committee to set higher standards for the community and make it a nicer place to live. She thought there was a better way to communicate messages. There were some real differences in the reader boards at the other high schools. The other high schools had really wide streets, and there were not a lot of cars parked there. She thought people probably drove too fast. The other question was who would manage the board during the summer. Would it have a stagnant message or a changing message since there were not school events. She had suggested moving it away from the scoreboard and landscape around it so it would not be seen from the street. There were other opportunities for some kind of monument sign that would do the same and not be as invasive to the neighborhood and be a safety issue.

**Councilor Collette** asked Ms. Shepherd if she had spoken with Ms. Townsend or Mr. Carlisle about the monument sign as the neighborhood chair.

**Ms. Shepherd** replied they spoke briefly about other alternatives they might consider.

**Councilor Stone** asked Ms. Shepherd what she meant by a monument sign.

**Ms. Shepherd** replied it was one of those chunky things that were closer to the ground. What was there right now was hideous.

**Councilor Stone** asked if she meant something like the Clackamas High School sign.

**Ms. Shepherd** replied something like that that was lower to the ground. She understood there could be an issue of graffiti, but there might be a way to maintain that. She had lived on the Lake Road side and had not seen a lot of graffiti in the seven years she had lived there.

- **Barbara Eiswerth**

She was in direct line with the sign. In the wintertime when the leaves on the tree were down the light shined into her bedroom. She was opposed aesthetically to the sign right now, and she was opposed aesthetically as it proceeded to look. She thought they had to think about the neighborhood as an historic neighborhood, and she would like to keep it historic. She would like to have a vision that would be aesthetically pleasing to the neighborhood instead of people wanting to have flashing signs. She liked the monument idea with landscaping. Right now looking at those signs they were both ugly signs, and they looked the same to her. She thought people should think about the long run. She has been a resident for 13 years, and she would hopefully be a resident for another 20 or more. She would like to think about how a sign could be made that would be pleasing to the eye. That did not do it. Safety. She ran on the tracks in the morning, and when she was at the crosswalks no one stopped ever in the mornings at 7 a.m. She had talked to the police about watching the speed because it was not great. The Milwaukie lumber trucks barrel down the streets and shake her house. Safety was also an issue.

- **Ora Baker**

At this point in time everything he has seen or heard about this sign was much larger than what was allowed in the Milwaukie sign ordinance. At this point in time he had not heard anything about a variance being requested. The Planning Commission studied this intensely and they voted 4 - 1 against it. They decided this was not an appropriate sign to have up there. He applauded the young lady for her work on this project. He felt the only thing the City Council could come up with reasonably and lawfully can come up with was to deny the appeal.

- **Mark Luvaas**

This was very interesting. Mr. Eiswerth did a great job of summarizing everything, so he would not go over it again. With the examples of the other schools he lived right around the corner. It was not in direct view of him, but he had seen the traffic changes on that road. Just looking at the pictures of the other sites, this was dramatically different. Just having a light there – he was not a safety expert – and could not say if they were or were not safe. He was curious if on those safety things they studied how many of them were located right next to a pre-school, an elementary school, and a high school. No lights. People do zoom through there and do not slow down. He was dog sitting a couple of weeks ago and lost a dog. He had to cross that road multiple times at the actual crosswalk, and he had to look left and right multiple times and wait for cars to physically stop. It was more so than normal in a 25 mph zone. He was not saying the sign would make things different. He was saying it was not that safe right now. You start putting one sign. His second concern was that Milwaukie Lumber would say go ahead, and so would the other businesses. Why would they say that? Because this opened the door to a variance for sign sizes, illumination, or location. From listening to everything here, those were not really talked about. What happens when the sign goes

CITY COUNCIL REGULAR SESSION – NOVEMBER 9, 2006

APPROVED MINUTES

Page 15 of 28

in? There would only be one on the street, but is the trade store at the bottom going to want to get one. If you want to put those signs in put them down on the main road were there were no children. That was an obvious concern. There would be just one on his road, but that opened the door for the downtown to put new ones in. He was not a big fan of those. He would not say they were truly obnoxious to him. He sees one, he sees them all. It not make him want to read any more of them, and he did not find it appealing in a downtown area as quaint as Milwaukie. Both sides have presented great information. All things aside he did not see anything truly unique about the presentation Ms. Townsend made and to be honest he was disappointed as a Milwaukie citizen. The Planning Commission went through it. Knowing the concerns of the neighborhood it made him wonder whose interest they were truly looking out for that they did not try to accommodate the neighborhood at all by talking about putting it on the school or moving it more off the road. If they truly wanted to have it a little cooperation would be nice and appreciated from a neighbor's perspective. That being said the Planning Commission in his opinion got it right. He did not see enough here new to overturn that.

Neutral Testimony:

None.

Staff Recommendation:

**Mr. Kelter** pointed out that a lot of the concerns pro and con expressed at this meeting were similar to those presented to the Planning Commission in their earlier hearings. In that respect the City Council was getting a good sense and the flavor of the environment in which they dealt with this question when it came to the decision to deny the sign. The School was a community service use (SU) and as that kind of use it was evaluated specifically as a particular case. Every CSU use that came before the Planning Commission for approval was evaluated on its own merits and according to the standards provided in the code. In terms of questions about precedence for this sign each CSU presented a new opportunity for the Planning Commission to consider it. There was no precedence setting per se in a legal sense. Another school that wanted a similar sign would have to make an application and meet the same criteria. The Planning Commission would be in a position to establish conditions.

**Mr. Firestone** added that was correct. No quasi-judicial action sets precedent because decisions were made based on the specific facts of each situation. This issue arose because it was a CSU. For community service use signs there was no numeric standards, so there was no maximum size or height. This was different. The discussions of this being a precedent for businesses was particularly not true because those were judged by totally different standards.

**Mr. Kelter** added the question about the sign exceeding standards for a sign in a residential zone was true. That was part of the consideration of this as a community service use. The Planning Commission had the discretion to set its own conditions. He discussed the rate of change of message and said he had slides that would demonstrate the rate of change. Mr. Eiswerth asked who would determine the rate of change, and Mr. Kelter said that would be up to the City Council. The City could establish conditions that could be very specific about how often a message would change. The Planning Commission chair was present if the City Council had any questions and to discuss the group's deliberations.

**Councilor Stone** did not know if staff had the data. It was brought up about the increase of traffic on Washington Street since the signal was put in at McLoughlin Boulevard. Was there data that spoke to traffic volumes and the 85<sup>th</sup> percentile before the signal went in and now?

**Mr. Kelter** replied he did not have that information.

CITY COUNCIL REGULAR SESSION – NOVEMBER 9, 2006

APPROVED MINUTES

Page 16 of 28

**Councilor Stone** asked if indeed that had been a substantial increase in volume and speeds then that would be significant data for her in making her decision.

**Mayor Bernard** understood St. John's or Waldorf could come in next week, but they would have to go through the same process.

**Mr. Firestone** replied if it were a church or school it would be the same process. Businesses would have to go through a different process because it was subject to different standards. The downtown design standards would not allow that kind of sign on a business.

**Mayor Bernard** understood that Milwaukie Lumber could not have a new sign under the code.

**Ms. Mangle** said the current downtown sign zones would not allow for pole signs and had tight restrictions on illumination of signs.

Appellant Rebuttal:

**Mr. Carlisle** responded to the opposition's comments. As Mr. Kelter mentioned the staff's initial recommendation to the Planning Commission was to approve the sign with specific recommendations. The High School would agree with those recommendations and more that were included in the proposal. Those proposals were part of the response to the findings. In response to Ms. Shepherd's comment about a monument sign and perhaps a graffiti problem. From his perspective one of most common problems at Milwaukie High School gravitated around the monument-style granite sign on the Willard Street side parking lot. Taggers like to make their marks on things that were identifiable. They often found the sign that identified the school by name as a tempting place to do some tagging. Aesthetics were subjective, and not all people found those signs to be ugly. He would find a sign like that to be an improvement. In response to Mr. Eiswerth's questions about why the School had not yet made an effort to publicize community events with the reader board sign and why occasionally the sign was blank. The School currently did not have the capacity for changing messages that it would like. With the new sign the School would have the capacity and would welcome the opportunity to make some connections with the City and its events such as Riverfest and Farmers' Market to be mutually beneficial.

**Councilor Loomis** asked how the sign would be handled during the summer.

**Mr. Carlisle** would make sure during the summertime hours that the sign was being carefully monitored by someone trained to run the sign. He imagined the sign would be kept illuminated during most of the summer and especially regarding information about registration. There would be the opportunity to publicize other things. The School was staffed almost every day during the summer except for two weeks in July. Last summer there was not a day in the summer that the building was not staffed.

**Councilor Stone** asked about the cost of the sign and if it was a donation or would it be a cash expenditure for the School.

**Mr. Carlisle** replied this would not come out the school budget. It would definitely be something that was a result of fundraising and donations. The bids were significantly different depending on whether or not the existing pole could be used. He believed they were finding that the existing pole would not work. The amount he was hearing was about \$30,000.

**Councilor Collette** asked Mr. Carlisle if he tried to reach out to the neighbors or work with the neighbors on a design or some modifications. She asked if he would be willing to work with the neighbors on changing the design.

**Mr. Carlisle** replied Mr. Zumwalt arranged a meeting Ms. Townsend, Ms. Shepherd, Mr. Eiswerth, and him. They met and had some basic conversations. He thought everyone tried to be as open minded as possible given the fact they represented different perspectives on the issue. People tried to be solution-focused. In reality the School had a window of time to exercise it right to an appeal and felt strongly it should pursue that. That was why the School was doing this. He was not sure that they would find a solution elsewhere on campus that was mutually agreeable.

**Councilor Stone** said that was her question too – looking at another possible site and/or another possible sign design. She asked if much thought had been given to another sign design.

**Mr. Carlisle** replied in terms of a sign that was electronically programmable the choices were one that was raised on a pole or one that was on a monument. A monument-style sign might work in the location that was referenced a couple of times at the west end of parking lot on Washington adjacent to the gymnasium. His concern was whether a tree would have to be removed because of its proximity to the area. He was pretty sure the School would not be allowed to remove that tree. Running cable to that location would be an extreme additional expense. Cabling was already at the existing site.

**Mayor Bernard** asked if there had to be cabling to the sign or was it wireless.

**Mr. Carulli** replied it could be wireless, by cable, or from a phone modem. These were not inexpensive. There was a study done for freeways, and many millions of dollars have been spent in putting those boards up on freeways because of their ability to direct traffic and to warn people of weather and road conditions. Those were a larger scale than this sign. When thinking of cars at 70 – 75 mph zipping up and down they cannot be too dangerous if they were spending a lot of money to put them there. He thought the safety issues had more to do with traffic flow than it did the sign.

Close Public Hearing:

**Mayor Bernard** closed the public hearing at 8:48 p.m.

**Mayor Bernard** said he would like to reopen the hearing to get comments from Planning Commission Chair Jeff Klein.

**Councilor Barnes** and **Councilor Loomis** said they had read the Planning Commission minutes.

Council Discussion:

**Councilor Loomis** said to him it was more about aesthetics than it was safety. Obviously there was a safety issue on Washington Street that the City needed to address. He thought the sign was an improvement. He read through the charges of denial and the School's response. When you get an issue like this he puts it to the 20,000-question test. If he could speak to 20,000 residents of Milwaukie he thought they would approve. He did not find the sign ugly. He thought the present sign was ugly. He thought the new sign was less intrusive and gave the ability to relay information. He would support overturning the Planning Commission.

**Councilor Stone** was concerned about the aesthetics of the sign. She would prefer that particular sign to be more of a monument-style sign than on a pole. Maybe if it was on a totem pole it might look a little better. She did like the monument style. She was very sensitive to what the residents in that neighborhood felt and thought about the sign and what it looked like. There were guidelines in place to increase and enhance the aesthetic value of the downtown and neighborhoods. She did not think the sign did that. A monument sign for her might be closer to what she saw as a good aesthetic piece of information in terms of a sign for the City. Also concerned there was no data on traffic

and 85<sup>th</sup> percentile. Safety was a concern even though they had been told there were no substantial changes in terms of traffic crashes or pedestrian/car conflicts. She was not saying that data was not true. She was still concerned there were children crossing. There were three schools there. She thought as Councilor Loomis put it the safety concerns needed to be addressed. That was a separate issue as well for the City. She personally would like to see the staff work with the School to come back to the Council with another alternative in terms of the sign and possibly investigate the monument sign. She had hoped to feel more like coming to a conclusion with it tonight, but after hearing the different testimony she was feeling like maybe they had not arrived at the correct solution yet.

**Councilor Collette** shared Mr. Zumwalt's and Councilor Stone's anxiety about a decision like this. She was saddened that the community and School seemed to be at odds. She would really like to see an opportunity for the School and community to work on these issues. Clearly the City needed to work on some of the issues. It needed to make sure that the flashing light was flashing. It needed to make sure there were traffic signs and that the laws in that area were observed because it had created a situation where there was increased traffic in an area where there were a lot of children. She also agreed with Councilor Loomis. This was a school. There were separate rules that applied to schools than applied to businesses. She wanted to maintain a high standard of signage throughout the City, and this looked like an improvement to her. Mr. Carlisle was right that it was subjective and was an aesthetic call. She would like to see the School and neighborhood work on it more and to see the sign used for neighborhood and Citywide functions when possible. She would like to see it kept as dim as possible. She would like to see the sign changes far more infrequently than every ten seconds. She would be thinking something like one per hour if it were appropriate and useful at that scale. Every ten seconds would be a distraction. With those kinds of changes she would be willing to support the School's having the sign changed.

**Councilor Barnes** did not think this was an issue between the City and Milwaukie High School. There was a group of about 32 people who signed a petition as opposed to the 60 that supported the sign. She thought there was a small group that had come forward that could not come to an agreement with Milwaukie High School. She thought Milwaukie High School had responded to the concerns of the Planning Commission. This was not an issue about jaywalking, and she recommended finding out why the 20 mph sign was not on at the appropriate time. This was clearly about addressing community service use. Milwaukie High School was a community service use for Milwaukie. They educate the young people, bring in and honor veterans, assist the Annie Ross House. She was appalled an employee of the Annie Ross House signed Mr. Eiswerth's petition considering how much work Milwaukie High School did. Students collected thousands of cans of food for local neighbors in need on a regular basis. She was appalled that anyone did not believe Milwaukie High School was a community service use because it did help the community. Milwaukie High School addressed the concerns of the Planning Commission by saying the lights would be dimmed or out at night. They changed the message. The old board has been up for 15 years, and a monument sign would only lead to vandalism. She has seen that happen at other schools. Lights would actually be less bright under this than the current sign. As for safety concerns, this neighborhood has asked for traffic calming devices and received them. She was sorry the City invested thousands of dollars and it has not worked. Maybe traffic calming devices did not work. Flashing signs on freeways summed it up. If we did not have major pile ups with the flashing signs on the freeways, then maybe this would work in the neighborhoods. As for kids jaywalking it was not just kids. We need our signs clear for everyone walking across the street. It was not just a kid issue. She would vote to overturn the Planning Commission's decision.

**Mayor Bernard** would do the same although the Planning Commission was always right. He felt the school had addressed the issues. He has driven Washington Street for 37 years. The flashing school zone lights did work, and the City just fixed them and added new signage. He felt the school addressed the problem. The current sign was ugly and was always wrong. The new sign was an improvement. The garage down the street with the giant wrench was a lot brighter than that. This sign was aesthetically pleasing, and there were a lot of opportunities for community messages such as "slow down" and community events. They are used on the freeways all the time for such things as child abductions. It would be a good way to inform the community about emergencies and events. People were always concerned that they did not know about something. He would vote in support of overturning the Planning Commission decision.

**Councilor Stone** wanted to clarify Councilor Barnes's comments that traffic calming devices may not work. Traffic calming devices do work, but on Washington Street they were not down the length of the street. Typically when a street was calmed it was down the length and not just portions of it. Cars tended to pick up speed when they left those devices. A project was usually done from one end of the street to the other. This was a decision she did not take lightly. She would really like to see the possibility of a monument sign explored before making a decision. It did not sound like it would go that way. For that reason she would abstain from voting because she felt more time should go into this because she would like to see another alternative.

**Councilor Loomis** did not think a monument sign would work and be effective in communicating to the public what the School was attempting to do. The one place Mr. Carlisle mentioned a tree would have to be cut. There would be increased vandalism. People would do the same thing whether it was down low or up high. Then again it was a matter of aesthetics. To him it was fine. It was based on the safety issue. The only testimony about that was from the man from Ramsey Signs. He did not have data, but he spoke intelligently. The other comments were based on opinion and facts of seeing the traffic coming down. It did bring Council's attention that there was a traffic problem. It was not just kids that jaywalked; it was City Councilors when they went to football games. It was a dangerous stretch, and the City should look at traffic calming all the way down. He did not remember the whole issue of how they were placed, but it seemed like it would have made more sense where the pedestrians were, but that was another issue.

**Mayor Bernard** said one issue that was brought up was the length of time of the message which he felt should be discussed. He thought perhaps 20 seconds would be better than 10 seconds. One was far up the street in 20 seconds, so it would not be flashing.

**Councilor Collette** would rather see a minimum of one minute. That would still be a lot of sign changes. She asked if the message change would be programmed. She would like to see it changed infrequently but often enough so the message went out. Especially if it was three lines you would want to give people time to read it if that was the intent. She said one, five, or ten minutes.

**Councilor Barnes** and **Mayor Bernard** agreed the one-minute message change would work.

**Mr. Firestone** asked if that meant any change applied to two-part messages. They were looking at a sign with two lines with 10 characters each.

**Councilor Loomis** asked if the message would scroll.

**Mr. Firestone** understood from Planning Commission testimony that there would be no scrolling. It would say one thing and then something else. There would be no flash effect.

**Councilor Collette** assumed the entire message would get up.

**Councilor Barnes** asked if there was a way to approve the overturning of the Planning Commission decision and as an amendment to finalize the details of how often that should run.

**Mr. Firestone** replied most of what the Council was doing was making a decision on the appeal with part of that being the approval of the application. When the application is approved then the conditions can be imposed which the Council felt was appropriate to uphold the City standards which would include regulating the frequency of change and providing details regarding the change of message related to form but not content of the message.

**Councilor Stone** asked about the pole. She heard Mr. Carlisle say the pole had to be replaced. She asked if there was any way to put the sign on a different type of base if it were not a monument sign and needed to be a little higher. Was the only option a pole? She was also concerned about the citizen comment that the current light shined into her home or bedroom. Obviously if a sign was going to be changed and that was an issue the City should try very hard not to have that happen again. Was there some flexibility in terms of moving the pole and should try hard to make that not happen for this citizen.

**Councilor Loomis** thought there was probably some flexibility, but the wiring was there.

Council Decision:

It was moved by Councilor Barnes to reverse the Planning Commission's decision and approve the sign with findings and conditions as stated in attachment 7 of the staff report to the City Council with the specifics of the timing of the changing of the sign to be decided ...

**Mr. Firestone** advised the Council should pick a time now. Anything else would be a discretionary decision that would have to come back for a public hearing.

**Councilor Barnes** continued her motion to say with the specifics of the changing of the timing of the sign to be decided after a meeting with the High School and City department with a report back to the City Council by the second meeting of December.

**Mr. Firestone** said essentially there was a tentative decision with a final decision...

**Councilor Barnes** said her intent was to go ahead with the appeal as approved, the application is approved; however, the only one specific that seemed to be the stopping point right now that needed to be discussed further was how long the message could stay up. She wanted to see the High School and City staff come up with an agreement that staff could bring back just on that point with everything else approved that they could finally say there was a resolution.

**Mr. Firestone** hesitated because by saying they come back before December 22 for a final decision was okay because he did not think the decision would be final until that issue was resolved. The motion could be made as stated, but in effect it was a tentative decision until the time was chosen.

**Councilor Barnes** withdrew the motion.

**Mr. Firestone** suggested a recess for staff to meet with the School.

**Mayor Bernard** recessed the meeting at 9:09 p.m. and reconvened the meeting at 9:25 p.m.

It was moved by Mayor Bernard and seconded Councilor Barnes to approve the appeal, approve the application, and adopt the conditions of approval with amendments to condition of approval #5 by stating that the maximum frequency of change on either display surface of the proposed sign shall be every one minute and that no change of display shall occur during the period from one hour before the start of classes at either Milwaukie High School or St. John's School and one hour after the start of classes at either Milwaukie High School or St. John's School, and no change of display shall occur during the period from one hour before the end of classes at either school to one hour after the end of classes at either school; and condition #6 that at night the sign shall be dimmed to 2,000 NIT or less. Motion passed 4:0:1 with Mayor Bernard and Councilors Barnes, Collette, and Loomis voting 'aye' and Councilor Stone abstaining. Motion to overturn the decision of the Planning Commission, approve the application and adopt the findings and conditions of the staff report with amendments. Moved by Councilor Barnes seconded by Mayor Bernard motion passed 4:0:1 with Councilor Stone abstaining.

#### **B. Adoption of the Spring Park Master Plan, File #CPA**

Mayor Bernard called the public hearing on the legislative Comprehensive Plan amendment initiated by the City of Milwaukie to order at 9:28 p.m.

The purpose of the hearing was to consider an ordinance to adopt proposed amendments to the Comprehensive Plan which included the adoption of the Spring Park Master Plan as an ancillary document. This was a legislative decision based on the statewide planning goals, applicable federal or state laws or rules, any applicable plans and rules adopted by Metro, applicable Comprehensive Plan polices, and applicable provisions of implementing ordinances.

Mayor Bernard reviewed the order of business. The City Council decision was the final decision of the City. All testimony and evidence was directed toward the applicable substantive criteria. Failure to address a criterion or raise any issue with sufficient detail precluded an appeal based on that criterion or issue. Any party with standing may appeal the decision of the City Council to the State Land Use Board of Appeals according to the rules adopted by that Board.

#### Conflicts of Interest:

No conflicts of interest were declared, and no member of the audience challenged any Council member's ability to participate in this decision.

#### Staff Presentation:

Ms. Shanks reported JoAnn Herrigel, Community Services Director, submitted this application in collaboration with the Island Station Neighborhood District Association (NDA). A Spring Park Master Plan was developed, and the action requested was for the Council to adopt this Master Plan as an ancillary document to the Comprehensive Plan. This Plan would guide future development and management of Spring Park and to also formally designate this property as a Park. Despite the name, it had never been formally designated as a park through this process.

Staff, the Planning Commission, and the NDA believed this is the correct Plan to adopt for a number of reasons. It met the community needs, mitigated for existing impacts, was not expected to create any new impacts, and that adoption would help the community move forward with much-needed development of this area. During her presentation she would describe the Spring Park property and describe the master planning process and particularly describe how and why the Plan was developed, why it

should be adopted, and then what would happen after the Plan was adopted. She would then provide an overview of the Master Plan itself.

She pointed out the Spring Park property in the south west corner of the City in the Island Station Neighborhood and Elk Rock Island that was under the City of Portland's jurisdiction and was located in Clackamas County making an interesting jurisdictional overlap. It was an undeveloped natural area on the Willamette River with wonderful scenic vistas. In the 1996 Natural Resource Inventory Spring Park was identified as a significant natural resource. Spring Park was also habitat to many plant communities and many animal species.

She provided an overview of the master planning process that had three stages. First was master plan development that has essentially been accomplished for Spring Park. The current stage was master plan adoption, and it was up to the City Council to decide if this was the right plan to adopt. Master plan implementation completes the process that was an important stage but not necessarily why they were here this evening. Implementation was a distinct stage that occurred later and would require more review and detailed analysis and development plans. The Master Plan began many years ago, and people testified at the Planning Commission that they had been working on developing and improving Spring Park for decades. It began with the neighborhood identifying needed improvements and changes. The community felt that Spring Park was not so much a benefit as it was a liability. They felt it was underutilized because it was underdeveloped. They were really concerned about the damage that was happening to the natural resources in the Park. They were also tired of all the illegal, destructive, and nuisance activities that occurred in and around the Park. She provided a photo of the entrance to Spring Park that reflected the lack of investment this Park had experienced. It was a hodgepodge of different signs most of which were regulatory in nature. The entrance was not clearly marked, and there was little parking in the area. It was not a very visible or welcoming entrance. The community also identified the need for a developed park area in the neighborhood. She provided a map that showed that the Island Station Neighborhood was the only residential neighborhood in the City without a developed play area. Residents of that neighborhood had to cross McLoughlin Boulevard to get their children to a play area. The community has been very involved with making improvements in the Spring Park property and also developing the Master Plan, but only so much can be done without an adopted Master Plan. The Plan has been discussed in numerous NDA meetings to identify issues and needs. Staff has also facilitated many public meetings to discuss the Plan and conducted site visits with community members to identify needs and issues. Those involved with the Master Plan did their best to balance both the needs of the community and the Park impacts given site constraints and existing conditions. Even the most desirable uses had their impacts. The impacts generally brought up by the neighbors up with regard to this application pertained to parking. There was no designated parking for Spring Park. The roads were very narrow in that area, and there were a lot of no parking signs because of the train trestle and emergency vehicle access requirements. When people parked in the area, they often blocked driveways or created a general nuisance. That was the main impact neighbors have complained about. There was a need for a developed play area in the neighborhood. Another need was to restore and protect this very significant and beautiful natural area. The Master Plan did not resolve all of the issues but certainly in balancing the needs and impacts the best one could do was to mitigate for the identified impacts enough to reduce them to an acceptable level. The Plan acknowledged that those living closest to the Park experienced the greatest impact. The Plan also stated there was no expected increase in parking demand based on the development that was proposed. One of the development proposals was for a neighborhood park that would include play equipment for children. It was intended to be a walk-to park for the neighborhood, so there would

**CITY COUNCIL REGULAR SESSION – NOVEMBER 9, 2006**

**APPROVED MINUTES**

**Page 23 of 28**

be no additional parking demand. It was not intensifying the use of the site in any way and would actually improve the existing conditions of the site. It was not expected to increase parking demand. The Plan although it was not expected to increase parking demand tried to mitigate for the existing parking impacts mostly caused by Elk Rock Island. Elk Rock Island was not under the City's jurisdiction. Milwaukie residents had to deal with a parking problem that was generated outside the City's jurisdiction. The Island was owned by the City of Portland. It had no street frontage of its own and no parking facilities. The Master Plan did its best to mitigate for these off site impacts by providing for parking and the review of parking at each development phase. The City has been and will continue to work with the City of Portland to deal with this issue.

The current phase of the process was Master Plan adoption. This was the process by which the City formally identified property as a park. The City did not have a parks or open space zone, so this was a process by which the City said this was publicly owned property, and it would be called a park. It also implemented and furthered adopted policy in the Comprehensive Plan. A master plan also enabled the NDA to move forward with its development plans and would support its fundraising efforts. A master plan was a very effective fundraising tool, and many grant agencies wanted to see and adopted policy and agreed-upon direction before approving funding.

Implementation was an important stage but was not the issue at this hearing. The focus of this meeting was on adoption. She included master plan implementation to give a sense of the entire process to understand why a plan was adopted and what would occur after that. Implementation cannot occur without adoption, and it will require more detailed analysis and the creation of more detail development plans that would have to undergo additional land use review and approval by the Planning Commission. It did not end here, but the Master Plan became the adopted policy and direction for the Park.

She provided an overview of the Spring Park Master Plan. It was in two phases so the community could move forward with developing the mini-park area for the children and families first. The first phase was the entrance at 19<sup>th</sup> Avenue and Sparrow. Improvements at this phase would include making the entrance much more inviting and visible. It would include the installation of play equipment, a path, some parking spaces, and things of that nature. Phase 2 which was the rest of the site was about protecting and restoring the area as a natural preserve. That would include things like wetland delineation in the center of the site, relocating the path that currently went through the wetland and was causing damage, and installing additional interpretive and new regulatory signage. She showed a close up of a concept plan for the one area. It was a concept plan developed by an Island Station neighbor Gary Michael. The Plan was approved by the NDA. It included a small play area, tricycle path, some parking, and more visibility and better entrance along the frontage. She indicated areas identified by staff and community members where parking could be potentially developed. When moving into the implementation phase these areas would be further reviewed and analyzed.

The Planning Commission, Neighborhood Associations, and staff recommended adoption of the Spring Park Mater Plan. This would enable the Neighborhood to develop a much-needed park for children and their families and restore and protect this unique public asset for current and future residents. She reviewed the decision-making options.

**Councilor Stone** asked how Spring Park got its name.

**Ms. Shanks** said there was no mention in any documentation she had reviewed.

**Councilor Barnes** had some concerns about jurisdictional matters. Formally that was all in place.

**Mayor Bernard** checked on that a number of years ago. The problem with taking over the Park was law enforcement.

**Councilor Barnes** suggested some kind of compensation or resources from Portland because of the Island.

**Ms. Shanks** said Ms. Herrigel would address that issue in her comments. The City of Portland had more resources than Milwaukie and had a number of planners that worked on Elk Rock Island specifically.

**Mr. Firestone** understood Elk Rock Island was owned by the City of Portland and asked if it was within the Portland City limits.

Correspondence:

**Ms. Shanks** said one letter was received from Gary Shepherd, Attorney, on behalf of Charles Arnell that was copied for Council.

**Ms. Herrigel** reported there were concerns about this particular area of Milwaukie, but they pre-existed any discussion of a Master Plan. This Master Plan was necessary to have a concept for what needed to happen in that area. There were matters to which people would take exception, and there have been people on both sides of every issue. Some wanted a lot of parking, and some did not think any parking was necessary. On the positive side this was a beautiful site and walk. One can walk from City Hall all the way down the riverfront to Spring Park. Emergency response was one of the big issues for the NDA. She talked with Chief Kanzler and the current and former Fire Chiefs and has been in contact with Portland Parks and Recreation about putting a group together to talk about emergency response and issues of signage. People were using Spring Park to get to Elk Rock Island, which is owned by the City of Portland. They will discuss adequate signage and pulling together a park patrol to monitor activities. From what she understood fire was covered with water access from the boat ramp, and Clackamas Fire District #1 (CFD1) would respond. The Milwaukie police department responds to Spring Park and Elk Rock Island as they can. She understood there needed to be three officers to go out to the Island, so it sometimes took a while to move personnel to that location. Sometimes people living on the west side of the river will call Portland to report a problem on the Island, so there were delays. She and Chief Kanzler talked about getting together with police enforcement in Portland to have an agent in charge agreement. She felt there needed to be better signage and enforcement. Another point of confusion had to do with Portland Parks rules on the Island. Apparently they were in process, but Milwaukie needed to understand what the rules were right now. The Master plan lays the groundwork for what Milwaukie wants to do in the future. Mr. Arnell will likely address the areas identified for potential parking. She would have no problem if the one area were removed from the map, and Lisa Batey and Ms. Shanks were in agreement.

Testimony in Support:

- **Lisa Batey**

**Ms. Batey** spoke as the Chair of the Island Station NDA. She did not know the source of the Park name, so she might check with Madalaine Bohl at some point. She hoped the Planning Commission minutes reflected that the Neighborhood had been working on that site for at least 20 years. Carolyn Tomei when she testified had found files of documents from 1988 from work that was being done. This has been a long time in coming. A former Council adopted the Elk Rock Island Management Plan that called for this document. The support in the NDA has been near unanimous, and there had only ever been one dissenting vote. Otherwise, the Neighborhood has been squarely behind the proposal. The good news this week was that the Metro Bond Measure passed, and

this project was part of the list. She believed there were a lot of potential solutions to parking. The rights-of-way in Island station were 60-feet, so the parking situation could be addressed once the Master Plan was in place. She preferred to leave the parking potentials as they were, and some were more feasible than others. Mr. Shepherd had correctly pointed out some obstacles. She would encourage keeping all the areas as potential. She would certainly object to eliminating the one at Lark Street because it was level and one of the less problematic ones.

**Councilor Barnes** understood this was intended to be a walk-to park.

**Ms. Batey** replied it was a walk-to park for the neighborhood. For work parties the neighbors walked unless they were bringing equipment. The people who were driving were those going to Elk Rock Island to fish or walk their dogs or for less legitimate reasons such as riding off trail and playing paint ball. She would like a bike rack at the front of trail to discourage off trail riding. The neighborhood has spent a lot of time for years in removing invasive species and planting native plants. This has been a SOLV site for a number of years.

**Councilor Collette** asked if there was an entrance to the Park at the Lark Street side.

**Ms. Batey** replied there was a pedestrian entrance. There was no real path, but there was an old driveway that could be a potential entrance. Depending on what happened in phase 2 with the wetland delineation the path may move where this became a more reasonable second entrance. She did not believe it would ever be the primary entrance.

Testimony in Opposition:

- **Anthony Gallegos**

He lived across the street from some of the potential parking areas. He agreed with the Spring Park Master Plan in terms of redevelopment. It was a beautiful area, and he walked there frequently. He did oppose the parking and traffic impact to the neighbors living at 20<sup>th</sup> Avenue and Lark. The big one furthest to the right was directly across the street from his house. The right-of-way was 60-feet, but they were now very narrow. The laurel hedge made visibility difficult at the intersection of 20<sup>th</sup> and Lark, and he had seen some near collisions. He was fearful with the increased traffic in those particular areas would be made even more dangerous with people who did not know the neighborhood. He could back out of his garage and crash into someone. He also feared vandalism and potential for people to snoop on his property. The railroad trestle was next to his property, and he set far off the railroad property on a flat area. He was afraid that once the one parking area was filled then the other undesignated areas would fill up also. Mr. Arnell's property was very tight and a private street with one way in and out. If there was a lot of traffic on a nice summer day it might be tight for emergency crews and tough for residents. It was more about resident protection.

- **Charles Arnell**

**Mr. Arnell's** property was from the middle of 18<sup>th</sup> Street which was private all the way down to the high water mark on the river. It was a combination of where his property ended and where the Park began. It was kind of a mess down there. He was speaking on behalf of some of the neighbors on 18<sup>th</sup> Street. Two of the four people on 19<sup>th</sup> Street were not even in the City of Milwaukie, but they had to go through the City to get to their property which was in unincorporated Clackamas County. He brought a picture related to a recent parking problem. For the most part he was in favor of the Master Plan for the park. He did object to the parking choices and perhaps the trail delineation. For the most part his bedroom was pretty much in the Park, and he can hear and see people walking to the Park from his room. His biggest issue with the Plan was the two parking areas. Both were to the west of the train trestle. Although the right-of-way was 60-feet,

the street was probably technically less than 20-feet wide with 20-foot tall vegetation on both sides. When one got to the trestle by virtue of the piling that hold up the train trestle it was no more than 15-feet wide. That could not be changed without substantial undermining of a train trestle. He considered it to be a funnel. The farther south one went there was less and less City property. There was more private property, and there was a lot of confusion there. Part of the Plan that had any parking south of 20<sup>th</sup> started going to Lark to 18<sup>th</sup> there was pretty much a bottleneck where there was only one way in and one way out. On weekends there were 20, 30, 40 cars in there. They had to go somewhere, but anything that got in there could potentially create a huge problem. Even when they parked on 20<sup>th</sup> there might only be a 10-foot passage to get by them. Unfortunately the people who supported Spring Park could not control that because it was part of Elk Rock Island, but it was a reality down there. He was in favor of removing the two spots and the third on Lark Street as part of the Master Plan because it did not fit. If there were a medical emergency or fire one cannot get in or out if there were blockage in that area. He did not think that could change because of the River and the railroad track that created a triangle. He knew from dealing with the building process on his property, the fire department had no legal turnaround. He had to dig the road out just to get trucks in, and he spent a substantial amount of money to do that. The fire trucks can come in, but they do not have any legal turnaround. Essentially he has had to install a very expensive fire suppression system in his house just to build what he wanted to build. It was a problem that the fire department acknowledged. He could not see allowing the master plan to even consider parking there because of all the pre-existing situations.

**Councilor Collette** Mr. Arnell had met with the NDA to discuss his concerns.

**Mr. Arnell** replied he was mostly represented by his attorney Gary Shepherd who dealt with the land use issues.

Neutral Testimony:

None.

Staff Recommendation and Questions of Clarification:

**Councilor Barnes** asked what the cut out was between 20<sup>th</sup> Avenue and the Park.

**Ms. Shanks** replied that was the City boundary. She believed there was some major topography going on along Lark Street.

**Councilor Barnes** would like to come up with other parking options outside of that section. This was a stumbling block for these two gentlemen, and she wondered if there were some solution like buying property that could be made into a tiny parking spot.

**Ms. Shanks** responded the Master Plan was the foundation for further analysis and review especially around parking. In the Master Plan it was clearly identified as potential parking areas. If further analysis and review showed it would not work, it would not be built. All of the areas had issues and constraints, but there was 60-feet of right-of-way. It would all be reviewed at implementation because of the various slopes and neighborhood impacts. That would require more detailed analysis, development plans, and Planning Commission review. This was more about adoption of the policy statement and if this was the general direction in which the project should go. She would not have a problem in eliminating those two areas, but this was about potential. The street would be widened to City standards, so it could safely accommodate turnaround movements, travel lanes, and parking.

**Mayor Bernard** added this all depended on funding for park improvements and widening the street to 60-feet.

CITY COUNCIL REGULAR SESSION – NOVEMBER 9, 2006

APPROVED MINUTES

Page 27 of 28

**Ms. Shanks** replied half the street could be widened. The NDA was committed and involved, and hopefully the Master Plan will help raise those kinds of funds. This was a very special area and was not the typical neighborhood park. She felt there was a lot of interest in making it work.

**Councilor Loomis** asked if there were any issues in removing the parking area that Mr. Gallegos talked about. They were all potential, so why should any of them be removed?

**Ms. Shanks** was not opposed to removing them if that was what the Council wished to do. She just wanted to stress that they were all potential. Ms. Batey's had stated there was a need for parking and that area was flat. At time of implementation the engineers would be out there looking at those areas. She would not want to see that one disappear based on Ms. Batey's comments.

**Mayor Bernard** commented on the nature of living in an urban area.

**Councilor Stone** understood the parking issues would be addressed at another time. This decision was just on the policy.

**It was moved by Councilor Barnes and seconded by Councilor Collette to close the public testimony portion of the hearing. Motion passed unanimously. [5:0]**

**Mayor Bernard** closed the public testimony portion of the hearing at 10:22 p.m.

Council Decision:

**It was moved by Councilor Collette and seconded by Councilor Barnes for the first and second readings by title only and adoption of the ordinance amending the Milwaukie Comprehensive Plan by adopting the Spring Park Master Plan as an ancillary document, File # CPA-05-02. Motion passed unanimously 5:0.**

**Mr. Firestone** read the ordinance for the first and second times by title only.

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

ORDINANCE 1964:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE CITY OF MILWAUKIE COMPREHENSIVE PLAN BY ADOPTING THE SPRING PARK MASTER PLAN AS AN ANCILLARY DOCUMENT (CPA-05-02)

**OTHER BUSINESS**

There were no Council reports at this time.

**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 10:26 p.m.



Pat DuVal, Recorder

# AGENDA

## MILWAUKIE CITY COUNCIL November 9, 2006

MILWAUKIE CITY HALL  
10722 SE Main Street

1993<sup>rd</sup> MEETING

### REGULAR SESSION – 7:00 p.m.

- I. **CALL TO ORDER**  
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
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. **Council Minutes**
    1. **September 19, 2006 Work Session**
    2. **September 19, 2006 Regular Session**
    3. **October 3, 2006 Work Session**
    4. **October 3, 2006 Regular Session**
    5. **October 17, 2006 Work Session**
  - B. **Resolution Appointing Tom Traver to the Public Safety Advisory Committee as an at-large member**
  - C. **Resolution Amending Public Contracting Rules**
  - D. **Resolution Approving and Intergovernmental Agreement with the Oregon Department of Transportation (ODOT) for the Transportation System Plan (TSP) Update**
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.)*
  - A. **Appeal of Planning Commission Decision on Milwaukie High School Electronic Reader-Board Sign on SE Washington Street  
File CSU-06-05 (Brett Kelter)**
  - B. **Spring Park Master Plan  
File CPA-05-02 – Ordinance (Susan Shanks)**
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.)*

### **Council Reports**

7. **INFORMATION**
  - A. **Center/Community Advisory Board Minutes, August 11 & September 8, 2006**
  - B. **Park & Recreation Advisory Board Minutes, August 22 & September 26, 2006**
  - C. **Riverfront Board Minutes, June 13, 2006**
8. **ADJOURNMENT**

### **Public Information**

- Executive Session: The Milwaukie City Council may meet in executive session immediately following adjournment pursuant to ORS 192.660(2). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

## MINUTES

### MILWAUKIE CITY COUNCIL WORK SESSION September 19, 2006

**Mayor Bernard** called the work session to order at 6:50 p.m. in the City Hall Conference Room.

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

Staff Present: City Manager Mike Swanson, Planning Director Katie Mangle, Community Services Director JoAnn Herrigel, and Community Development/Public Works Director Kenny Asher.

#### **General Annexation Discussion**

**Ms. Mangle** updated the Council on recent activities and upcoming matters. The current policy was that the City would provide services to properties within the City, and the City requires annexation prior to providing service. In the past the City was not consistent in applying the policy so there were properties that received services but were not within the City. There was a proposed 8-unit development at Harmony Park Apartments just outside the City, and the City successfully argued that annexation would be required prior to providing service to that property. The County hearings officer agreed with the City that the property would need to meet the City's requirements for receiving sewer service before receiving a certificate of occupancy. Over the past few years staff has been more consistent in applying the policy and insisting on annexation prior to approving development requiring City service. When properties on the edge of the City wanted to subdivide or build then annexation would be required for increased sewer service. Several property owners had contacted the City during the past few months about annexation for increased service, and she anticipated several would happen over the next few months.

There were also islands surrounded by the City that received City services but did not pay City taxes and were not subject to City policy and codes because they were in Clackamas County. Staff would work with the individual property owners who approached the City and agreed to sign a consent to annex. There was a separate process for island. The City was empowered by the State and Metro to initiate annexation of those properties, so consent by the property owners and consent by the City was not required. Staff felt this would be a good time to initiate that type of annexation over the next few months as regular annexations came before Council. Staff would meet with the property owners to discuss the benefits of being in the City and address their concerns, but it would not require the process that typically came with annexing. There were two islands generally in the Johnson Creek Boulevard area which was relatively small single properties. The other island was in the Harmony Road area. Cities were generally allowed to "clean up" their maps.

**Councilor Stone** asked how long the City had that authority to not require the property owner's consent to annex.

**Ms. Mangle** said the only time consent was not required was with island annexations. This was not a new authority.

Councilor Stone asked if the City exercised that ever in the City to where it was required and the property owner did not agree?

**Mr. Swanson** replied it was a rare occasion. The property was required to be surrounded on all sides by incorporated areas. It has been in the state statutes for quite some time.

**Councilor Stone** did not want to see government becoming heavy handed with people and forcing them to do something they may not want to do. She did not want the City to be in that situation.

**Ms. Mangle** replied staff felt this was about applying policy fairly for all citizens of Milwaukie. These were properties that were not paying for some of the services they were receiving. If the City wanted to hold the line more consistently, then it would be more equitable for the citizens who were paying for sewer, police, and other services.

**Councilor Stone** encouraged the City to speak with those property owners regarding the benefits and annexation.

**Ms. Mangle** added that all land use decisions are appealable and subject to referendum. It would be important to talk with the property owners to lay the groundwork.

**Mayor Bernard** agreed all people using City services should pay their fair share. He would definitely support talking with the property owners.

### **City Manager Matters**

**Mr. Swanson** discussed changing the date of the first Council meeting in November. The group agreed to meeting on November 9.

He reported the Citizen Advisory Council (CAC) was winding up its process on recommending a strategic plan for wastewater treatment. He could prepare a recommendation for the October 3 Council meeting.

Mr. Swanson distributed copies of his response to questions regarding the intergovernmental agreement (IGA) between Metro and the City for joint marketing of the City Hall/Texaco station block.

Mayor Bernard adjourned the work session at 7:02 p.m.

---

Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
SEPTEMBER 19, 2006**

**CALL TO ORDER**

**Mayor Bernard** called the 1990<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
Carlotta Collette	Susan Stone

Staff present:

Mike Swanson, City Manager	Stewart Taylor, Finance Director
Gary Firestone, City Attorney	JoAnn Herrigel, Community Services Director
Kenny Asher, Community Development/Public Works Director	

**PLEDGE OF ALLEGIANCE**

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

**Announcements**

**Councilor Barnes** noted that passing of Monroe Sweetland and commented on his many accomplishments during his 96 years.

**CONSENT AGENDA**

**It was moved by Councilor Barnes and seconded by Councilor Collette to approve the Consent Agenda that consisted of the minutes of the August 15, 2006 Council Work Session. Motion passed unanimously. [5:0]**

**AUDIENCE PARTICIPATION**

**Mayor Bernard** said the Council would give each speaker 3 minutes.

- **Brendan Eiswerth**

**Mr. Eiswerth** spoke as a Milwaukie resident, property owner, and taxpayer on two properties in the City. He had concerns about the intergovernmental agreement (IGA) with Metro and how it would affect livability in Milwaukie. It did not seem to fall into line with the downtown design and guidelines. He was concerned how it might affect himself and his family as a citizen in Milwaukie. The Council made an agreement that said it would do everything in its power to change the zoning laws to make the building five or more stories high. To him that did not fit in with the City and what was here. What was recommended over and over in the guidelines was buildings that fit in with the existing historic buildings such as City Hall and the Masonic Lodge. He thought those were 30 to 35 feet and maybe 40 feet maximum. Not five-plus stories. He was at the meetings in 2000 when it was agreed to develop the downtown in accordance with

**CITY COUNCIL REGULAR SESSION – SEPTEMBER 19, 2006**

**DRAFT MINUTES**

**Page 1 of 11**

the zoning laws in effect and still continue to stay in effect. He was not sure why the Council would agree to something with Metro to exceed the limits already in place. He was confused because he heard from two City Council members at the Farmers' Market that the Council would like to stay at three to four stories. Why would the Council go ahead and sign an agreement that said the City would like to overturn the current zoning laws and increase that to five plus stories. It said recommended buildings that repeated and strengthened the established district colors, forms, and massing and height. He was concerned about the height and why the Council would make that agreement. City Hall was probably no more than 35-feet. Speaking as a citizen getting rid of the Farmers' Market would greatly affect the livability of downtown Milwaukie. It was something that drew people to the City. He hoped the Council would put some thought into that.

**Mayor Bernard** clarified that the Council did not wish to get rid of the Farmers' Market.

**Mr. Eiswerth** understood the Council did not wish to get rid of the Farmers' Market. Speaking as the Market manager and founder – co-founder along with Jack Elder and Ed Zumwalt. No one came to him as the Market manager saying they were looking at getting rid of the space. He had to go to Mr. Asher to determine what could be done to keep the Market alive. It was not going to be an easy process. He was more concerned about the IGA and sticking to what Milwaukie citizens want and give them the choice.

- **Les Poole, SE Lee**

**Mr. Poole** thanked Councilor Barnes for her comments about Mr. Sweetland. He lived on the shores of Kellogg Lake and was a property owner next to him. His father knew him. Like a young fool he did not have a chance to interact with him or appreciate what he was about. He believed Mr. Sweetland was 94 years old when he was involved in the battle to stop the transit center at Kellogg Lake. He was quite a guy. He discussed the Metro bond measure in the amount of \$227 million for greenspace which he supported. He asked if the City had selected its final land if the measure passed and what lands it hoped to purchase. It was a great thing although money was tight. If the City could continue to protect the habitat in any way, shape, or form it was money well spent. He had one question regarding protocol with regards to some of the issues being covered right now at the Texaco center. There has been some information and articles back and forth in the *Clackamas Review*. Mr. Zumwalt has weighed in as has Councilor Collette. If a Councilor makes a submission he thought the City needed to be very careful about the wording and how that representation was made. Mr. Poole alluded to – it was a tough job to be a Councilor and split the line between opinion – when you were speaking for the City and when you were not. Should legal action ever occur, would the City become a defendant or does the Council become a defendant in a sticky situation like that? He was asking the question on behalf of the recall committee, and he thanked the Council for its time.

**Mr. Swanson** announced that pursuant to Resolution 9-2003 the City Attorney was excused from this meeting.

- **Annie French, SE Park**

**Ms. French** was present representing a growing number of Milwaukie citizens both incorporated and unincorporated who are requesting that the Council stop the development of the Texaco and Farmers' Market space. The IGA and the plans were developed without any public input, and that was improper in their minds. Many of the citizens feel that the development that was being proposed was not the type of development that they wished to see in the center of Milwaukie. The Farmers' Market

space as it stood now fed and met the goals from the process that was initiated in 2000. There was a growing number of people who would continue to come to the City Council.

- **Sharon Sugarman, SE 35<sup>th</sup>**

Ms. Sugarman was one of the growing number of people who were concerned about what was being proposed and had actually started already with the Texaco and Farmers' Market site. She did not find out about it until this summer. There was a picture of the site development, and she wondered what would happen to the Farmers' Market. She was new to the area; she moved here a year ago. She was surprised to find out that even vendors and managers of the Farmers' Market did not know what was happening. There has been a real lack of communication and citizen involvement. She was shocked when she saw the IGA. There was language saying that the City would do everything it could to rezone an area. That was to citizen participation. The citizens already said in a previous meeting that a lot of people remembered that they wanted the buildings to remain in character. They had guidelines for trying to bridge the City to the river and not block it off with huge buildings. Trying to open up the downtown to people to have them come down on the weekends to build community. The Farmers' Market did all of those things. To move it and put in a high rise building seemed to be totally against what citizens had already said they wanted. This agreement was made a year ago without citizen involvement. Like Ms. French she felt the whole process needed to be stopped. A Council of a few people did not represent all of Milwaukie. There were a lot of people against what was being proposed. She thought the process needed to be stopped until there was really some citizen participation in what would go there. Personally she thought the Farmers' Market was already serving what the citizens said they wanted to bring people downtown – to bring community. That was already there so why get rid of something. Potentially moving it will get rid of it; it will hurt the Farmers' Market. Mr. Eiswerth said that; he was the manager. He has run other ones. Vendors say it will cause real problems. It was a threat to something that was working. She agreed with Ms. French and other citizens that the process needed to be stopped.

**Mayor Bernard** had a history with the Farmers' Market since 1996. In 1996 Karen O'Dowd Executive Director of the Milwaukie Downtown Development Association (MDDA) suggested the Farmers' Market. Jack Elder came after Ms. O'Dowd and at the time he was the MDDA President. They came to him, and he suggested to the MDDA membership that the Association support it. When Dodie Linder was director, the MDDA decided it was no longer going to fund activities such as Festival Daze. When he came on board, he said 'let's do it' and it has been there for 8 years since that first day. He was almost always there before the vendors got there and after the vendors left. He was the Market business manager. He paid the bills, arranged contracts, paid for garbage and porta-potties. This was very important to him. He had dedicated 8 years to it. He has never missed more than 3 markets each year. Twenty-two days a year from 6 a.m. to 2:30 p.m. he was there, and then he went home and did the books. He paid Mr. Eiswerth on a commission; Mayor Bernard did not make a dime. The money raised through Celebrate Milwaukie, Inc. has bought trees for parks and benches. This was important to him. He would never risk that. There were 25 Farmers' Markets a year which was 8% of the time. Did that provide what the community wanted downtown? The Farmers' Market was started to bring people downtown and be a way for vendors to make money. What really happened was that it created community, and thanks to David Aschenbrenner there was a community booth. For a year people have been told what was going on in public meetings on this agreement. A former City Councilor voted on this agreement. They worked hard to keep the public informed. He believed the zoning was four stories, and the design of the building was supposed to complement existing buildings. There was huge community involvement. The Farmers' Market was important to him, and he considered

Mr. Eiswerth a partner. He stood there on Sunday and heard people say they heard the Farmers' Market was going to close. It will not be closed. He told Mr. Swanson how important it was to him, and he said the City would do whatever it needed to do to get power and water to make sure the Market survived whether it was on Main Street or in Riverfront Park. He and Mr. Eiswerth walked to the riverfront because he could not make a meeting. His concern was vendor access. He believed Mr. Eiswerth knew about it because they had talked. Thanks to Brad Olson's vision and Metro, the City had an opportunity it never had before.

**Mr. Swanson** responded to a number of things in the citizen communications. He heard that the IGA permitted or required the City do everything in its power to change the zoning laws. The actual language in the IGA was that the City would exert its best efforts. Any changes to the zoning regulations would have to go through a quasi-judicial process that started with the Planning Commission. There would be public hearings at which time people would be allowed ample opportunity to testify. In terms of public input into any kind of existing municipal code language it could not be done without a public process. In this case because it relates to land use the Planning Commission would schedule a hearing or hearings with adequate notice and opportunity to be heard and to understand what was going on. He heard people say this was not the kind of development people wanted. There was no proposal. All that was being done was to conduct a process that would give some kind of indication as to what types of things would be considered so the development community could come in and make proposals. That process would also include a lot of opportunity to be heard. He did not wish someone at home to think that somehow a Councilor by submitting an article for the newspaper has opened up the City to some kind of liability. A long line of cases beginning with *New York Times v. Sullivan* many years ago – once you have submitted yourself in a forum as a public figure the defamation laws were much more strictly interpreted. It took a high burden that was not even begun of actual malice. If you are a public official or a citizen and submit yourself to the public forum then the burden for finding defamation was very high. Both the public process in terms of *Texaco* and that issue in terms of any correspondence to the newspapers – he did not wish either of those to go unanswered.

**Councilor Collette** was concerned that several people had said the process should stop. The process did not really begin until the Committee met. If the process stopped now that would not allow anyone else to have a say on the issue. This was just the beginning of the process. Nothing is concrete. There was an agreement to go forward as a team with Metro. The intent is to have a very broad process. It cannot be stopped before the process has begun. The citizens need time for their input. That was the whole point.

**Councilor Stone** has also heard from many people about the IGA and the concerns. She agreed with Councilor Collette that the process had not begun in terms of citizen input. Obviously things were beginning because there was an IGA. She asked the city manager to provide copies for everyone so it can be re-reviewed. She thought the Council needed to do that and go from there.

**Mayor Bernard** commented there was \$1.2 to \$1.5 million in that property. He felt the Council should be fiscally responsible to the citizens of Milwaukie and that involved a public process. There were no plans. There was an agreement to look at proposals and an agreement to make it a public process. It was very important to him, and he was offended that after 8 years of hard work and dedication that someone would imagine that the Farmers' Market was not important to him.

**Mr. Eiswerth** had spoken as a citizen of Milwaukie and not as the Market manager. He did not question the amount of time he and Mayor Bernard had put into the Market –

unpaid hours. Ms. French and Ms. Sugarman and others who spoke on Tuesday – Councilor Collette and Mr. Aschenbrenner were at the meeting at Spring Creek Coffee House. They were not a bunch of radicals who wanted to stop things from happening. They loved the town and wanted to see something productive and progressive down here. If that meant moving the Farmers’ Market then so be it. Maybe it would have to be moved, but some options should be figured out ahead of time. When it came to the riverfront design nothing had started. Everyone was given three options to vote on. He was not given three options prior to anything starting. They just wanted to be informed, aware, helpful citizens to decide what was going to happen.

**Councilor Barnes** did not receive any e-mail or phone call about the meeting. She asked who was organizing the meeting and how could people get notification when there were public meetings.

**Mr. Eiswerth** did not organize the meeting, so he could not respond. It was just a meeting that Ms. French and Ms. Sugarman had organized. He just came as a participant – citizen of Milwaukie who was concerned about what happens with the site. It may conform with what people talked about at the high school in 2000. Things changed, and we cannot stick with everything. He urged keeping Milwaukie a livable place for everyone.

**Ms. French** said from the audience that she gave notice to the Mayor and City Council.

**Mayor Bernard** said there were flyers at the Market.

**Councilor Collette** found out about the meeting by accident.

**Councilor Barnes** had not heard anything about it.

**Mayor Bernard** added the City Council had 1-1/2 years to work on this. Thanks to Mr. Asher’s leadership there would be a Farmers’ Market transition team to ensure the Market remained strong and healthy for many years to come.

## **PUBLIC HEARING**

### **Supplemental Budget and Appropriation to Fund Court Bailiff Position**

**Mayor Bernard** called the public hearing to order at 7:35 p.m. The purpose of the hearing was to consider a resolution that appropriated funds from General Fund Traffic Fines to General Fund Police Administration.

**Mr. Taylor** reported the purpose of the hearing was to consider appropriating additional revenues that have become available in the current year’s budget. These were from additional traffic fines paid in the past few months. There has been a sharp increase in the number of citations issued by the traffic enforcement team and the number of citizens appearing in court. The request would appropriate \$10,000 for a temporary position to provide a police presence in the courtroom. The intent is to recruit a former police officer that would provide that presence for the duration of the court. Current fines are approximately \$35,000 ahead of revenue projections for this time of year. Because these revenues were for general purposes, it was appropriate to hold a public hearing when considering use of those funds. Correspondence in the form of e-mail had been received from three appointed Budget Committee members indicating they were not opposed to the action.

**Councilor Stone** asked where the \$10,000 would go if not appropriated for this purpose.

**Mr. Taylor** replied it would be available for appropriation in next year’s budget as part of the year-end balance.

**Councilor Stone** understood there was \$35,000 in excess of what the City anticipated, and the \$10,000 was part of that.

**Mr. Taylor** said this would imply based on similar trends that by year-end there would be significantly more revenue than projected.

**Councilor Stone** asked if this was a trend or a one-time occurrence.

**Mr. Swanson** replied the department currently had two very active traffic enforcement officers, and both were very dedicated. Milwaukie is not a good place to violate traffic laws. On court day the lines extended around the corner, and they did need some help. The courtroom was very full. He did not anticipate either officer losing interest in enforcing the law.

**Councilor Stone** noted that the Public Safety Advisory Committee minutes from last month said the traffic officers were bringing in \$12,000 per day in revenue.

**Mr. Swanson** explained they may be writing a lot of ticket value, but the judge may reduce the fine. The number of citations rather than revenue is more significant to him because it was an indication of how busy they were. Combined they are writing about 70 citations per day. This was general fund money, and the reason for enforcing traffic laws and writing citations was for public safety. It was important to remember although the citations translated into revenue the program rarely paid for itself. These two officers were professionals and focused on public safety.

**Councilor Stone** understood the bailiff would likely be a retired police officer and would do this one day per week during court to keep people from becoming unruly. She had not heard about any problems.

**Chief Kanzler** said there have not been any problems because reserve officers were present. He wanted to avoid paying overtime to a regular sworn officer to manage courtroom activity. A large number of people were appearing, and everyone has heard horror stories about what can happen in the courtroom when there is acrimony between those found guilty of traffic infractions and the judge. Right now the acrimony was at a minimum, and he was interested in providing a safe environment in city hall. By having either a reserve officer or a retired officer to manage the conduct of the court for the judge would serve the purpose. It was not cost effective to bring an officer in off the street or pay overtime to work in the court.

**Councilor Stone** understood the logic of paying straight time rather than overtime. She understood it was customary to always have an officer no matter how many people were in court.

**Chief Kanzler** said there was always a presence. The duration of court has been extended and reserves typically have full time jobs. Cadets help manage the activity level in the court, and he was running out of volunteers. He felt this was the most cost-effective way to provide the service.

**Mayor Bernard** closed the public hearing at 7:47 p.m.

**Councilor Barnes** would support this because this was increased revenue and paid for itself. When she observed court this summer, it was amazing how quickly a person's attitude can change when they are found guilty. The money is available, and she would support the appropriation without reservation.

**It was moved by Councilor Barnes and seconded by Councilor Stone to approve the resolution adopting a supplemental budget and making appropriations. Motion passed unanimously. [5:0]**

**RESOLUTION NO. 44-2006:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING A SUPPLEMENTAL BUDGET AND MAKING APPROPRIATIONS.**

**OTHER BUSINESS**

**A. Award of Contract for Riverfront Design**

**Ms. Herrigel** requested that the Council approve a resolution awarding the contract to David Evans & Associates, Inc. (DEA) for landscape design and engineering services for the Milwaukie Riverfront Park, authorizing the city manager to enter into a personal services agreement, and appropriating a \$100,000 payment from the North Clackamas Parks and Recreation District (NCPRD) for this purpose.

Staff issued a request for proposals (RFP) for design services for the Park on August 11, 2006. The City received proposals for Riverfront Park design services, and all were high caliber. The four-member committee included an NCPRD representative and a Riverfront Board member. The group selected DEA as the leading candidate. The contract would be funded with \$100,000 from the 2006/2007 budget and \$100,000 from NCPRD which came directly from systems development charges (SDC) generated in the City of Milwaukie. The NCPRD funds must be appropriated in order for them to be expended.

**Councilor Stone** understood the City was putting up \$100,000 plus \$100,000 from NCPRD. The staff report said \$200,000 had been allocated. She asked who the other two proposers were, and why the committee chose DEA.

**Ms. Herrigel** replied the bidders were Walker Macy and GreenWorks. DEA could cover the landscape architecture, engineering, and permitting. They had a strong team and did their homework with the proposal, so the panel ranked DEA highly.

**Councilor Loomis** served on Oregon Solutions and recalled this money was pledged to moving dirt. His concern was that this would not just be another picture on the wall. He wanted a commitment that the capital portion would move forward as soon as possible. He was happy with the design and the choice. NCPRD pledged the money for capital.

**Mr. Swanson** explained this was the next step in securing funding from grant sources. There is a tremendous amount of interest because this is one of the finest riverfront properties left in the region. One of his first meetings in Milwaukie was with Ms. Herrigel and Gill Williams, and he knew there was a high level of commitment. The challenge would be met.

**Ms. Herrigel** added it was important to bring the Oregon Solutions group back together to discuss grant availability and begin the permitting process. She would want a Council member to be a member of the stakeholder group.

**Mayor Bernard** commented on Lewelling Park, and the state was ready to fund the project once there was a design and an obvious willingness to carry out the plan. Mr. Williams has always been ready and has put in a lot of effort over the past six or seven years. He and Mr. Williams had even discussed how the Farmers' Market and public plaza would be part of the design.

**Councilor Loomis** clarified that the Farmers' Market area would accommodate other activities.

It was moved by Councilor Collette and seconded by Councilor Loomis to approve the resolution awarding a contract to David Evans & Associates for landscape design and engineering services for the Milwaukie Riverfront Park; authorizing the city manager to sign a personal services contract; and appropriating a \$100,000 payment from the North Clackamas Parks and Recreation District.

**Gary Klein** encouraged the Council to approve the contract with David Evans & Associates. As a Milwaukie citizen, Riverfront Board vice-chair, adjacent property owner, and donator of property for the park he encouraged the Council to approve the contract. He looked forward to working with the Council and Oregon Solutions in moving this forward.

**Mayor Bernard** said the project would not be as far along if it had not been for the Klein family donation at the mouth of Johnson Creek.

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

**RESOLUTION NO. 45-2006:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AWARDED A CONTRACT TO DAVID EVANS AND ASSOCIATES, INC. FOR LANDSCAPE DESIGN AND ENGINEERING SERVICES FOR MILWAUKIE RIVERFRONT PARK, AUTHORIZING THE CITY MANAGER TO SIGN A PERSONAL SERVICES CONTRACT FOR THESE SERVICES, AND APPROPRIATING A \$100,000 PAYMENT FROM THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT.**

**B. Request for Name Change for the Milwaukie Center**

**Ms. Herrigel** requested that the Council approve a name change for the Milwaukie Center located at 5440 SE Kellogg Creek Drive in North Clackamas Park. The preferred name was North Clackamas Community Center, and the alternative was the North Clackamas/Milwaukie Center. The City owned the Milwaukie Center, but it has been operated and maintained by NCPRD since 1982. The Center/Community Advisory Board (CCAB) has 18 positions with 9 of those appointed by the Milwaukie City Council. The other 9 positions were appointed by the District Advisory Board (DAB). Currently 11 of those positions are filled, and the majority are Milwaukie appointees and residents. The CCAB forwarded the proposed names to the Milwaukie Park and Recreation Board (PARB). She reviewed the public input process. Both the CCAB and Friends of the Milwaukie Center held brainstorming session, and there was an article in the January/February 2006 Center newsletter asking people what they thought about a name change. An ad hoc committee of the CCAB considered the input and sent a recommendation to the CCAB. After further deliberation the CCAB sent two names to the Milwaukie PARB. Ms. Herrigel was directed to send the two names to the seven neighborhood associations for consideration and comment. Five reported that their memberships voted 'no' on both proposed names. One neighborhood association recommended the alternate name, and one did not vote but comments indicated the current name was acceptable. PARB voted 3:2 at its February meeting to recommend that the Council approve the name North Clackamas/Milwaukie Center. According to the City's naming policy Council had great discretion in this matter. The Council could accept the PARB recommendation or decide on alternative names including the existing name. The CCAB said it was motivated to accurately reflect the geographic area the Center currently served. As Clackamas County grew, the Center served a larger and

larger number of non-Milwaukie residents. This recommendation went to PARB and to the Council from the CCAB, and not the DAB.

**Councilor Loomis** understood the Milwaukie PARB voted 3:2, and he asked what the CCAB vote was.

**Councilor Collette** understood only the Lewelling Neighborhood Association supported the name change.

**Joan Young**, Center Director, one of the points in the CCAB's annual plan was to consider the Milwaukie Center name and the perception of it from the outside in. The ad hoc worked with 54 suggested names. They did take this effort seriously by developing guidelines, and it had been a 9-month process. The name change was not an effort to negate the 12 years of support from the City of Milwaukie or to take away the historical significance. This was a need to help those living outside Milwaukie but in the service area to recognize the Center was available for them. The City's population was approximately 21,000, and the District serviced about 90,000. The City was approximately 5 square miles, and NCPRD served about 39 square miles. The Center was located on the outer edge of Milwaukie, and from the day it opened its doors in the 1980's it served a much larger area than just the City of Milwaukie. People think they cannot take part in the programs because they were not Milwaukie residents, and it has been a battle for years. The CCAB request was related to funding. Federal funding has shrunk yet the influx of clients and needs were growing dramatically. They needed to be able to impress on a larger community of potential supporters that this was a district-wide agency serving the entire North Clackamas County and not just the City of Milwaukie.

**Councilor Loomis** asked Ms. Young to discuss the services available because he did not think people knew about all that went on at the Center to make life pleasurable. This was about getting the message out to a larger group, and the least that could be done was to dedicate to a cooperative informational campaign.

**Ms. Young** replied the intent of the Milwaukie Center was to provide a link for older adults and their families and friends and to be a resource to help them find programs and services so they can remain independent for as long as possible. The Center serves about a 50-year age span. The Center provides physical and mental fitness opportunities. The facility depends on volunteerism and provides social and transportation services. Meals on Wheels provides over 200 meals in the community on a daily basis, and those who are able can have a more social lunch time at the Center.

**Councilor Loomis** noted the Milwaukie Center Meals on Wheels had not missed a day in 32 years.

- **Keith Neubauer, SE Grove Loop**

**Mr. Neubauer** was born and raised in Milwaukie, and he could remember the Milwaukie School District. Now it was North Clackamas School District. He could remember when the City had its own parks; now it was North Clackamas Parks. Everything literally that used to be Milwaukie has gone away. He did some research into senior centers. His parents and in-laws had worked many hours in the Milwaukie Center. Literally every community has a center like this. Every one of them was named after the community in which it was located, and they all serve a much wider area than the community they were in. Gresham, Beaverton, Astoria; literally each had something like this. The issue about serving North Clackamas residents versus Milwaukie residents was hollow. It was nonsensical to change the name. One rarely sees Milwaukie in the news – it is always Clackamas or Happy Valley. If one looked on the Internet, one would not see the name Milwaukie on any map system. Milwaukie was virtually going away, and he suggested this was one more step to make the City of Milwaukie disappear. It will

disappear if the City continued to give these names away and call it something other than Milwaukie.

- **Dolly Macken-Hambright, SE Grove Loop**

**Ms. Macken-Hambright** had been a member of the CCAB for about four years. There was no concern at the time about changing the name at that time. A lot of Milwaukie people served on not only boards and commissions having to do with the parks and the Center itself but also countless hours to the Milwaukie Center as did other people in the area. She did not think there had been a movement afoot to change the name of the Portland Art Museum when it served an entire region. She did not think changing the name of the Milwaukie Center mattered one bit to the services it provided and to whom it was provided.

**It was moved by Mayor Bernard and seconded by Councilor Barnes to not approve the Milwaukie Center name change.**

**Councilor Collette** appreciated the work that Ms. Young and all the Center volunteers did and recognized it as a tremendous resource. There was a line in the naming policy that said tradition and continuity of name and community identification were important community values. When the Ardenwald Neighborhood voted it was clear people loved the Milwaukie Center and wanted to keep it Milwaukie Center. The Council heard that from most of the Milwaukie neighborhoods, so she would support the motion.

**Councilor Barnes** agreed Ms. Young and her staff did a tremendous job, but to her it was the Milwaukie Center and was where she had her wedding reception. It was a piece of Milwaukie she did not want to see changed.

**Councilor Stone** recalled the time when it was called the Senior Center. She too would vote against approving either name change because she believed the name was widely recognized. It would be very beneficial to have more information going out to the public and helping people to know they can benefit and utilize the services. she would vote to deny the name change.

**Councilor Barnes** thought the City could work more with the Clackamas County public relations department to get the word out more frequently, and she was willing to work on it.

**Mayor Bernard** said the Milwaukie Center was at the edge of Milwaukie but within its urban growth boundary (UGB). He understood the Center offered fantastic services to the area, and he volunteered for Meals on Wheels. He felt Milwaukie Center serving North Clackamas was a good marketing tool.

**Councilor Loomis** would abstain because he was an employee of the District. If he thought the name change would enhance visibility, then he would vote for it. He would follow through on an informational campaign

**Motion passed 4:0:1 with the following vote: Mayor Bernard and Councilors Barnes, Collette, and Stone voting 'aye' and Councilor Loomis abstaining.**

### **C. Council Report**

**Councilor Collette** discussed the restoration of the City-owned house at 37<sup>th</sup> Avenue and Railroad Avenue for use by New Century Players and the Arts Commission.

**Councilor Loomis** said it was important to get the house back into use so it did not deteriorate. He and other Council members attended the Save-A-Lot opening and the dedication of the new play structure at North Clackamas Park. The next event was the opening of the artificial turf field at Aldercreek School.

**Councilor Stone** was attending the Citizen Advisory Council meetings.

**CITY COUNCIL REGULAR SESSION – SEPTEMBER 19, 2006**

**DRAFT MINUTES**

**Page 10 of 11**

**Councilor Barnes** attended *Fall into Art* award ceremony and the State of the City Address at the Rotary luncheon.

**Mayor Bernard** attended the Oregon Economic Development Association summit in Eugene and Get Centered! in Vancouver B.C.

**Councilor Collette** noted the 2 million Vancouver, B.C. residents live on half the footprint of Portland, and so it was very dense.

**Councilor Loomis** would be interested in being the Council representative on the stakeholders' group.

#### **ADJOURNMENT**

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

**Mayor Bernard** adjourned the regular session at 8:30 p.m.

---

Pat DuVal, Recorder

## MINUTES

### MILWAUKIE CITY COUNCIL WORK SESSION

October 3, 2006

**Mayor Bernard** called the work session to order at 5:35 p.m. in the City Hall Conference Room.

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

Staff Present: City Manager Mike Swanson, City Attorney Gary Firestone, Finance Director Stewart Taylor, Community Services Director JoAnn Herrigel, Program Coordinator Beth Ragel, and Engineering Director Paul Shirey.

Media: Dennis McCarthy, *The Oregonian*

#### **Discussion of the intergovernmental agreement between the City and Metro regarding the Texaco/City Hall Parking Lot site**

**Mr. Swanson** prepared a Q&A form that addressed the issues being raised and which he presented to the Neighborhood District Association (NDA) leadership. They will be posted to the City's website and be the subject of a *Pilot* article. The most important had to do with the issue of the City's closing the Farmers' Market, and the response was 'not a chance.' The City is not nor will be making plans to close the Market. During some of the discussions leading up to this, he thought the City could have been more clear about how much the Market did mean and recognized it as an important part of the City's past, present, and future. There were a number of specific questions regarding the actual intergovernmental agreement (IGA) between the City and Metro. He did not wish to go through and read all of the questions and answers but did go over some of the highlights. One of the issues was that the IGA did require that the City provide indemnification with regard to contamination. The site being a former gas station would have issues. Implicit in the question was that the City was being exposed to a great deal of risk. The piece that was not clear because it was not included in the agreement was that this was an issue that was worked on very hard during negotiations. The City did not accept the indemnification lightly. Metro will not buy property and assume the indemnification. It was a policy, and Metro comes to the table with \$750,000. In order to make the deal happen, someone has to accept the liability for contamination of the site. However, this was after Metro spent \$39,000 studying and tracking the contamination. They also spent about \$20,000 to decommission and remove the tanks. He talked with Phil Whitmore of the Centers program who informed him that Metro would remove any contaminated soil it finds prior to any final sale of the site. Milwaukie was left with the decision of accepting the indemnification which the staff felt at most was a \$40,000 risk in return for Metro's investment of \$750,000. The answer was that the City felt the risk had been analyzed and that Metro had minimized it to the extent possible through its significant investment.

Another issue was that the agreement was arrived at in a non-public process. If one looked at the record there was an initial hearing before the Council at which the agreement was considered. At that time his recommendation was that it was not in a form that was acceptable and that more work needed to be done. The complicating factor at the time was that the closing on the sale of the property

from the Olson family to Metro was scheduled several days prior to the next Council meeting. The agreement would have been required in order to close. At the initial meeting the Council delegated to the city manager the authority to negotiate, and specifically mentioned the contamination issue, and to execute the agreement so it would be available at the time of closing. The City and Metro worked on the issues and arrived at an agreement acceptable to both parties, but the closing date was changed. Instead of executing the agreement according to his authority, he and Mr. Firestone talked and decided that the reason he had been given that authority no longer existed. There was adequate time to bring the matter before Council prior to closing. It appeared that someone looked at the first half of the record and saw that the city manager was given the authority to negotiate and sign the agreement but did not see the follow up which was it was brought back to Council because the reason for the delegation was no longer appropriate. The Council considered the agreement in an open public meeting.

**Mayor Bernard** asked which level of testing Metro had undertaken on the site.

**Mr. Shirey** replied that Metro did Level 1 which researched pervious uses on the site and moved to Level 2 because there was an indication of contamination and soil staining from the gas station. Both steps were done.

**Mayor Bernard** understood Metro removed that tanks at which time more testing was done, and then DEQ certified the site. In the history of the station, there was a pile of dirt on the property for years after the tanks were replaced about 9 years ago. All of that soil was removed from the site once it was certified clean. He felt comfortable with the test results, and any further work would be at a low cost.

**Mr. Firestone** added there has been a series of investigations and actions on the site over the past 20 years. Tanks and soil were removed, and the owners had DEQ involved so there was oversight. Metro's was probably the third or fourth set of investigations, and to some extent the investigation by Metro relied on previous action with DEQ's continued involvement. There was a good set of knowledge regarding contamination on site.

**Mr. Swanson** added far from merely executing the agreement and the indemnification clause there was a great deal of research into the matter to determine if there was an acceptable level of risk for the City. It was determined the risk was minor in comparison to Metro's investment in the property. The agreement did provide for the joint offering to be made through an open competitive process. There was some concern about an unsolicited proposal. The City has committed to a joint open competitive process. In the past year there was a sole source proposal that the City did not accept because its commitment was for an open competitive process. Those were the instructions staff got from Council, and that was the direction staff continued to take.

There was some concern about the City's losing interest in the City Hall parking lot when Texaco was acquired by Metro. The City owns approximately half of the block. The City was given a 5% interest in the Texaco property, and there was no change to the City's 100% interest in the City Hall parking lot. Rather than the City's ending up with only 5% of the entire block, it ended up with approximately 52.5% of the entire site. Metro granted the City an undivided 5% interest because it was managing the property and needed the ownership interest to exercise authority.

**Councilor Collette** asked Mr. Swanson to respond to the comment that the Market was not consulted before anything happened. She understood there have been surveys in the past that were part of the public record.

**Mr. Swanson** understood there were contacts with Market representatives. Some felt they were not consulted, and the City was now putting together a meeting with the Market Transition Team that would seek input from the market stakeholders before any move was made. He believed the Market was consulted prior to anything happening, but they did not feel that way. The City would go back to ensure the Market was part of the process through the transition.

**Councilor Loomis** added his personal feeling about the situation was that with Mayor Bernard also being the Market business manager he assumed all that discussion had taken place. He thought the ball had been dropped. He just assumed it had been done since Mayor Bernard was also the Market business manager. He may have dropped the ball when he assumed that. That line got blurred a lot during Council because Mayor Bernard talks about the Market, and a lot of people think it is a City Market. Councilor Loomis supported the Market and wanted to keep it. He did not know what kind of deal there was with the parking lot and how to help. It was separate from the City. The City supports it through Riverfest, but the lines get blurred sometimes during discussions. He apologized for assuming that everyone had been notified.

**Mayor Bernard** thought it was a good assumption. There was information available at the community booth as soon as plans were formed. There was also information before the market started that the City was going to repave the lot to make it more usable for the Market which was a City investment. He and the market master, his partner in the Farmers' Market, had gone to the riverfront and discussed the matter. A transition team was formed, but he had not gone to each vendor because he did not feel there was enough information. There was nothing to predict at this point beyond what was at the community booth. There was information at the booth, but he agreed a better job could be done. He looked forward to working with the transition team.

**Mr. Swanson** also apologized and wanted to communicate how important the Market was to the City of Milwaukie. It was a very important contributor, and it has grown over the years where people could come together. It was a signature event 25 times each year. He took responsibility for not having communicated that effectively. He provided the question and answer sheet to correct any mis-impressions. The committee dealing with the Texaco/Metro site will work hard and not be rubberstamping anything. He was sure many of the committee members had their own ideas and signatures they would want to add to the project. The transition group would follow through on the Market.

**Councilor Collette** had heard the downtown parking issue as an impending perfect storm. She understood only 50% of the downtown spaces were used on a regular basis and asked where the unused spaces were located.

**Mr. Swanson** replied parking was a critical issue that occupied a great deal of time and thought. It was a question that would have to be answered. He did not feel it had been answered well to date. There were a lot of vacant spaces, but there were complaints about the 15-minute spaces in front of Curves for example. He understood that people liked to park close. It was a challenge. He had talked with Mike McMenamin about the Masonic Lodge, and the issue was parking. The City would find a resolution.

**Mr. Asher** would provide a map because a survey had been done. Staff was counting cars and spaces to determine where there was over- and under-capacity. The downtown was a lot larger than most people thought, so there were mental maps that there were cars everywhere. When one counted there were spaces. They may not be totally convenient, but there were spaces. On the other hand perception was a reality, and there was a parking problem. He did not intend to diminish that by saying there were spaces available. Ms. Mangle was in the process of updating and implementing the downtown traffic management plan. It was impossible to answer any question about downtown parking embedded in any one project. It was a much larger issue. It was an issue for the neighborhoods, Library, and all the projects. It was a project in and of itself, so he did not wish to oversimplify it.

**Councilor Collette** added when the buses were moved, that would free up some spaces.

**Councilor Stone** asked Mr. Swanson speak to the part of the IGA that talked about amending zoning and development ordinance regulations to permit a five-story – the IGA under recital C says the letter of intent was a landmarks signature mixed-use project of four to five stories with retail uses on the ground floor and residential uses on the higher floors. It went on to say on page three that the City would exert its best efforts to amend its zoning and development ordinance regulations to put a project on block 14 consisting of residential over ground floor retail a minimum of five stories. The concern was the height of the building, and the way it was written gave the City no flexibility. It did not say the City ‘may’ amend; it says ‘will.’

**Mr. Swanson** replied that question kept coming up. The concern has always been that this set it at five stories. In fact it said the City would exert its best efforts which was to do the best that it could. What really controlled it was the land use process and the code amendment process. This agreement cannot provide an exception to the code either in terms of building heights or zoning. If there were a change in height requirements, then it would have to go through the land use process which would include notice, opportunity to be heard, the Planning Commission process that could be appealed to the City Council and ultimately the Land Use Board of Appeals (LUBA). The agreement cannot change the height requirements or the code requirements. It did say if five stories was found to be the most potentially successful option, then the City would try to do everything it could to amend its codes, but it could not do that without going through the Planning Commission. There was a final appeal to LUBA with safeguards through the process.

**Councilor Stone** assumed it would go through the Planning Commission process, but this implied that it would be done.

**Mr. Swanson** explained that an agreement could not amend code provisions.

**Councilor Stone** knew it would have to go through a process. That said the City would go through the process and exert its best efforts to get this done. That was what it was saying. She saw no reason why the City would not do that because it was involved in this IGA with Metro. She heard a lot of people talk about that.

**Mr. Firestone** clarified the legal effect of the language. Essentially that did commit staff to use best efforts to whatever was agreed through the land use process. Since it would involve a zone change the Planning Commission would hear it initially, and the Council would make the final decision. That language did

impose some obligation on staff, but it did not impose any on the Council. When the Planning Commission and City Council hear it the decisions would be made on land use standards. The IGA would not be relevant and would not affect the discretion to decide the matter. Best efforts was not a commitment to action; if it did then it would say "shall approve" which it could not do. Best efforts was the language used in these agreements to commit the City staff ...

**Councilor Stone** had a technical question in terms of language use. Why would "the City may" not be used instead? That implied discretion on the City's part to do that. "Will" implied obligation to do it.

**Mr. Firestone** understood Metro was looking for an obligation that City staff would work on this and let the City Council make the decision.

**Councilor Stone** did not see a lot of upheaval in terms of the community when the decision was made. She almost felt the Council put the cart before the horse and should have involved the community a little further before settling into this agreement with Metro.

**Mr. Swanson** explained that was about to happen. A lot of what was heard was that this or that was going to happen. There have been no proposals. The committee has met once, and he felt there would be some strong public opinion coming out of that committee. If there was a proposal to go to five stories there would be a lot of public opinion heard. A lot of people thought they knew what was going to happen, but there was nothing yet. This was still a blank slate. There would be a number of processes in which people would have an opportunity to provide their input.

**Councilor Stone** had a question about the 5% interest in title to the property. That was the Texaco piece. The City owned the other half of the block, but the interest was really 52.5%.

**Mr. Swanson** said the City owned half of the block – the City Hall parking lot. Additionally it had a 5% interest in the Texaco lot. He had that 2.5% because it was half the block. The ownership of the entire block was 52.5%. There were two tax lots. The City owned 100% of the City Hall parking lot, which was a separate tax lot. Metro owned 95% of the other half of which the City owns 5%.

**Councilor Stone** did not understand why it would not be 55%.

**Mr. Swanson** replied was looking at it as the whole block. The City had 5% of half of the block which was 2.5%.

**Councilor Stone** said theoretically in terms of block 14 the City owned the most interest. What kind of positions did that put the City in in terms of having a little more control over the agreement and what happened there.

**Mr. Swanson** responded that Metro did listen to the City and took into consideration what it had to say. Metro was spending \$750,000 out of its Urban Centers money, and there were certain things they would have to see in order to justify that expenditure. Metro would have to see a level of their program element met, or otherwise the City and Metro would have to sit down and talk about what was going to happen.

**Councilor Stone** would like to see a copy of their program elements. Did the City not have more clout?

**Mr. Swanson** replied that he has found that Metro wanted to work with the local communities. That was not formal clout. There was a point beyond which the City could not push because that would mean that Metro was spending the

money in contradiction to what they have budgeted for. He would provide a description of the program to everyone.

**Mr. Firestone** added effectively in this situation neither party could do anything regarding the entire block without the participation of the other. In effect that gave each side the right to say 'no.' If Metro proposed something that was not acceptable to Milwaukie, then it would not happen without the City's approval and concurrence and vice versa. Milwaukie did have clout because it could say 'no', but Metro also had its own requirements.

**Councilor Collette** commented that 8 of the 9 people on the committee were Milwaukie residents. Metro appointed 4 people that included Dave Aschenbrenner and Gary Klein. The third was Brad Olson and the fourth was a real estate broker who had put together some of the more innovative small-scale mixed-use development around town that include projects she thought Milwaukie would be happy with. She felt the team was heavily weighted toward a project that would fit Milwaukie.

**Mayor Bernard** noted the committee was expanded to include a fifth member that was Mary King.

### **Additional Matters**

**Ms. Herrigel** introduced Robert Russell who just joined the community services department as the code enforcement assistant.

The Council agreed to schedule a joint work session with the Metro Council on November 21, 2006.

### **Citizen Advisory Council Recommendation**

**Mr. Swanson** said the memo before Council requested that it give direction on a recommendation regarding the Citizen Advisory Council (CAC) Wastewater Strategic Plan. This was before the City Council two weeks ago and it was deferred to this meeting because of time constraints. Since that time, he changed his mind but did not have the time to re-do the memo. He suggested setting a date outside the normal meeting schedule. He would provide a brief review followed by a brief CAC presentation on its process and recommendation. The meeting would then be opened up for testimony from interested citizens. With that he felt the Council would have more information in terms of it making its own recommendation. The CAC presented its recommendation to the Board of County Commissioners (BCC) on Thursday, and he understood the BCC had scheduled a hearing on October 26 and November 2. County Administrator Mantay said an evening meeting might be scheduled at which the BCC would take testimony. He suggested the Council meet to prepare a recommendation that could be forwarded to the BCC for its process that would begin October 26.

The group agreed to hold a special meeting on October 19, 2006 at 6:00 p.m.

**Mr. Swanson** felt there were a lot of people who would like to provide testimony. The Council may deliberate toward a decision, and notice would be provided in the newspaper and on the website.

**Councilor Stone** had been frustrated that the group did not convene as a Council before it talked publicly in terms of a work session to talk about the pros and cons before hearing public testimony. With the issues the Council had in the past that would have been helpful to have an understanding of the issue as a Council. She felt more prepared when she listened to public testimony. The Council still needed to deliberate because it might hear something that would

**CITY COUNCIL WORK SESSION – OCTOBER 3, 2006**

**DRAFT MINUTES**

**Page 6 of 7**

make the group change its mind. That was the point of public testimony. She liked feeling prepared and had an understanding of both sides of the issue when it went forward.

**Mayor Bernard** thought the Council had an opportunity to have those questions answered.

**Councilor Collette** suggested another combined work session. This issue more than most had been considered in depth as a group. She had no problem taking 30 minutes or so prior to the special session.

**Mayor Bernard** agreed that would be a good plan.

**Councilor Stone** had read everything the other Councilors had read and had attended the meeting. The Council has not talked about this as a group.

**Councilor Loomis** commented the issue was not new. The decision may be new. He agreed with Councilor Stone that Councilors should be able to express how they feel in an informal discussion. A perfect example was the IGA. He assumed everyone had read it at length, but he did not remember it.

**Councilor Barnes** noted that she and Councilor Loomis had been excused from that meeting and did not vote on the matter.

**Councilor Stone** had a question about the IGA that was considered in September when there were three Council members at the meeting. She asked if that was actually in the packet or if it was handed out at the meeting on that day. She did not believe it was in the packet and that the Council got the IGA at the meeting.

**Councilor Collette** recalled it was discussed at a couple of meetings.

**Mr. Swanson** said it was not in the packet delivered one week prior to the Council meeting. It was delivered later or sent via e-mail.

**Councilor Collette** said it was discussed at an earlier meeting.

**Councilor Loomis** recalled telling Mr. Swanson at the first meeting to go forward with the IGA.

**Councilor Stone** asked if that was the September 20, 2005 meeting.

The Council agreed to discuss the CAC recommendation at the October 17, 2006 work session and to hold a special meeting on October 19, 2006.

**Mr. Swanson** provided copies of a letter from the Oregon Department of Transportation (ODOT) regarding a left-turn signal at Oak Street and Hwy 224.

**Councilor Loomis** distributed copies of the art that would be installed at the entrance to North Clackamas Park.

**Mr. Firestone** announced an executive session pursuant to ORS 192.660(2)(h) to consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

**Mayor Bernard** adjourned the work session at 6:31 p.m.

---

Pat DuVal, Recorder

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

**CALL TO ORDER**

**Mayor Bernard** called the 1991<sup>st</sup> meeting of the Milwaukie City Council to order at 7:03 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Deborah Barnes	Joe Loomis
Carlotta Collette	Susan Stone

Staff present:

Mike Swanson, City Manager	JoAnn Herrigel, Community Services Director
Gary Firestone, City Attorney	Beth Ragel, Program Coordinator
Kenny Asher, Community Development/Public Works Director	

**PLEDGE OF ALLEGIANCE**

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

**Announcements**

**Mayor Bernard** announced the awards given to the City of Milwaukie at the 2006 League of Oregon Cities Annual Conference that included Good Governance for the Community Booth, Safety Award, and Wellness Award. Mr. Swanson was awarded the Herman Kehrl Award that was granted to a city employee who provided lasting benefits to his or her community through exceptional contributions to city government.

**David Aschenbrenner** and **Ms. Ragel** presented the Good Governance plaque to the City Council and thanked those who had volunteered their time during the Farmers' Market season.

**Mayor Bernard** thanked Mary Rowe and Andrea Villagrana for making the Wellness Award possible and Barb Kwapich, Risk Manager, for developing a strong safety program.

**Councilor Barnes** read a proclamation naming October 2 – 6, 2006 as *Drive Safely Work Week*.

**Councilor Collette** read a proclamation naming the week of October 8 – 14, 2006 as *Fire Prevention Week, Prevent Cooking Fires*.

**Councilor Stone** read a proclamation naming October 4 as *Walk a Child to School Day*. **Sherri Campbell** invited all Council, staff, and citizens to join the Ardenwald Walk to School event beginning at Lisac's at 7:30 a.m. on October 4, 2006.

## CONSENT AGENDA

It was moved by Councilor Barnes and seconded by Councilor Collette to approve the Consent Agenda:

- A. **Resolution No. 46-2006:** A Resolution of the City Council of the City of Milwaukie, Oregon Appointing Andrew Tull to the Milwaukie Design and Landmarks Committee; and
- B. **Resolution No. 47-2006:** A Resolution of the City Council of Milwaukie, Oregon Appointing Mary Weaver to the Public Safety Advisory Committee as the Hector Campbell Neighborhood Representative.

Motion passed unanimously. [5:0]

## AUDIENCE PARTICIPATION

Mayor Bernard announced people would be given 3 minutes to comment.

Councilor Stone thought people usually had 5 minutes and asked if it was 5 minutes according to the Charter.

Mr. Firestone said the length of time was at the discretion of the Mayor. Since it was a procedural ruling the Council could over rule the Mayor by motion if it wished.

Councilor Stone asked if there was some reason people could not be given 5 minutes.

It was moved by Councilor Stone and seconded by Councilor Loomis to give 5 minutes for comments. Motion passed unanimously. [5:0]

- Kiran Das Bala, SE 29<sup>th</sup> Avenue

Ms. Bala was new in the City, and she was having some problems. She came to the Council meeting on August 1 and complained that she was being billed for some else. The police chief thought someone had stolen her ID, and the other police officer seconded that. She made a police report, and when she asked for a copy of the report they gave her only half of it. They would not give her the whole report, and she wanted to know how to get a copy. She talked to the chief of police again, and he said that he would talk to her later. She went to the police station many times, but she could not find him. There was no one willing to let her know. It said her ex-husband was the suspect, and she had known that for a long time because one of her friends in Kentucky where her divorce became final they said he was pretending to be her. She went to her Fidelity Investment, and there was \$83,000 missing from her account. He ex-husband took part of her IRA money and moved it to different places. She went there to find out why he did that, but they were not willing to give her that information. Things like that were happening to her. She has come to a new city. Her water bill was so high. She has lived in America for 35 years, and she has never paid that high a bill in her whole life. It seemed outrageously high. She moved here from Georgia. She owned a condo in Georgia after the divorce and she had sole custody of her son who was 14 years old at that time. Her ex-husband did a lot of bad things to her. Her son visited him in Kentucky, and the ex-husband kept him. For six months she went to Kentucky to fight for custody. She could not get him back because he was a man, and he would never let Ms. Bala win his son back. She turned around and went back to Atlanta. In her sleep in her condo she owned she had an alarm system. Someone came and medically examined her in her sleep on June 25, 1989.

Mayor Bernard did not believe this was anything the Council had the power to do anything about. This was not appropriate in this format. The police chief did not handle cases, so she should refer to her case number and ask for the officer. The Council was

not lawyers, police officers, or judges and could not advise Ms. Bala on that issue. He was sorry things happened to her in the past, but it did not belong in the chambers.

**Ms. Bala** needed to know. They already knew who stole her ID. Her friends in Kentucky told her. Why did they not give her the whole report?

**Mayor Bernard** recommended Ms. Bala go to the police department with her case number.

**Ms. Bala** would not sit there and pay anyone else's bill – gas, electric, telephone, and water.

**Mr. Firestone** thought a lot of this might be outside the realm of the Milwaukie police department because it occurred outside the City. The person providing testimony might consider consulting with an attorney for assistance.

**Councilor Collette** understood Ms. Bala had been referred to adult legal services.

**Ms. Bala** needed to have her entire report, but they did not give it to her.

- **Catherine Brinkman, SE Lake Road**

**Ms. Brinkman** had a bad day. She had the kind of day that etched itself in one's memory, so there would be no comparison to October 3, 2006. To help herself get through the day she had decided to splurge on a handbag she had been coveting for many months. Instead of purchasing the handbag, she decided she needed to talk to the City Council, so her story underscored the importance of being at this meeting. Her day was so bad, she forgot most of what she wanted to say. She was there to say thank you for all of the hard work and commitment and dedication to the City. Thank you for all of the beautiful changes that were being seen in the landscape and the buildings and services offered to the community. Thank you for taking the time to do this and making the personal and professional sacrifices that have been required and sometimes above and beyond what the Council members had signed up for. The Council was elected to lead, and to lead required making decisions. Public input was important and should be weighed in every circumstance to the extent able. Ultimately the Council has to make the decision. The Council will make mistakes as does everyone. Everyone stumbles, and the question was how to pick oneself back up and move forward. With that and based on her day and her approach, she encouraged the Council to stay focused, keep your heads high, be proud of what you are doing, and in all cases go forth and do good things.

- **Larry Lancaster, SE 55<sup>th</sup> Avenue**

**Mr. Lancaster** raised some issues and concerns about the intergovernmental agreement (IGA) with Metro. He was sure everyone knew him well enough to know that he was very pro-downtown development. He hoped none of his concerns would be construed as anti-development. Having said that the quality and way we develop is critical. He was also very sensitive that on a strategic basis we need to keep projects in the queue in order to maintain momentum to keep downtown development successful. It was absolutely critical to Milwaukie's survival. He has said this before. He wanted to be clear on that before he raised his issues. He did not have a chance to see the work session and hoped he would not be repetitive, but he just wanted to go over things that jumped out at him.

One was the development started out at 4 – 5 stories. He had not been following it closely, so he did not know how it got to 4 or 5 stories. Height would be a sensitive issue so there needed to be some clarification of how we start out and at what height. It speaks to it in the recitals, and it speaks to 4 or 5 stories in the general objectives. One of the most troubling things he saw was on page 3, item 3.6 where it said the city would

exert its best efforts – he had a problem with the words “best efforts.” It was kind of like “I’ll try.” Either you are going to do it or not. What did best efforts really mean? What if it did not happen – then what? There were two key things in that phrase alone that were really bad for us. One was it said specifically a minimum of 5 stories. There were limited ways to read that other than City staff would do the best it could to convince you that we need 5 stories or more. He had to question why is this even in the agreement. He did not understand. It was made worse – he had to say that because what about the downtown standards, our development standards. We spent 2 years and go national recognition. Unless he remembered wrong that did not include a minimum of 5 stories in order to have quality development. We do not have the infrastructure to support that. It also went on to say, “a building type that is economically feasible.” We need to revisit what that really means. It means however cheap I need to spend in order to do the deal to make it pencil. From a developer’s standpoint that is what that means. That is totally contrary to the design guidelines.

On page 2, 2.2 it says that Metro would give the City 5% of its site. He assumed that was in Metro’s property – the Texaco property. He knew on the face it sounded like a great deal – 5% of the \$750,000 purchase priced. He was not good at math but unless he did the math wrong that was only \$37,500. When one considered the language that was very specific about this agreement puts all the responsibility, all of the risk, all the liability on the City. Metro had liability for almost nothing. The City would eat up \$37,500 easily just securing the site until it can be developed. He did not see any real advantage to that. If for whatever reason the agreement was cancelled, then the City would have to give it back. Would Metro punish us because it went wrong? He didn’t get that. Provision 3.2 speaks to either an unsolicited process or a competitive process. He thought that was a good thing. The only thing that troubled him about that was that the City had a local businessman, Stan Link, who came before and proposed to the City not a single block but a 2 full City block with no public money and off street parking, and he didn’t even get his proposal looked at. He thought that was seriously wrong. We had to be careful about how we were going to look at projects.

The environmental assessment or responsibility. It was one thing to dig up dirt, but what about the groundwater. He has heard nothing that speaks to how the groundwater would be remediated. When the contamination goes across McLoughlin Boulevard we were talking serious money to dig up under McLoughlin Boulevard and the City would be responsible for that. Or it gets shifted to the potential seller, and then Metro writes down the amount it can be sold for to make it work. He did not think that was a good deal for Milwaukie. There was a whole page of responsibilities that got shifted to the City that he did not think the City should take on. He has looked at a number of intergovernmental agreements in the 6 years. This was probably the most one-sided agreement he had ever seen. He encouraged Council to take another very close look at this. This needed another serious look before going forward.

**Councilor Stone** asked what the possibilities were of taking another look at this agreement.

**Mr. Firestone** replied legally the City was free to try to negotiate an agreement with Metro to renegotiate the terms of the agreement at any time. The practicality was that Metro would say the agreement was negotiated and saw no reason to change it. Legally if Metro agreed it was a possibility.

**Councilor Loomis** suggested that Mr. Swanson briefly reiterate his work session report.

**Mr. Swanson** responded to the reference to 2.2 and the local businessman who made the proposal that involved no public money. It involved no public money, but it involved his being given the property free and clear which was \$750,000 on the Metro side. He

did not know the value of the City's portion. It may not have been a cash deal, but it was probably \$1.25 to \$1.5 million in real property that was requested in order to do that deal. He addressed the comment regarding this being a one-sided agreement. In terms of the contamination the issue of what Metro had done thus far and what it plans to do in the future. They did all of the testing and removed all of the tanks. He understood from talking with Phil Whitmore that it was Metro's intention to remove the contaminated soil at such time as the development was going to take place. Metro did all of the testing and removed the tanks. It was Metro's intention to remove the contaminated soil when the development took place in the amount of approximately \$100,000. In terms of whether or not it should be revisited – it could be but the agreement was mutually agreed upon. Metro has been good partners and is likely to spend about \$1 million total.

**Councilor Stone** would like to sit down with Mr. Swanson to go over it more.

- **David Loomis, SE Aldercrest Road**

**Mr. Loomis** moved to the area this spring. From what he heard this was something that would go through in some form or another. He was worried when he read the flyer he got two days ago that the building height was so high it would probably cast a shadow over the park in the morning. He did not think that was symbolically pleasant. He went to the Market each Sunday after church to buy food which saved him several hundred dollars each month. He really enjoyed experiencing the Milwaukie community that he had access to as a new resident. The Market was so interactive and so many people attended that he has met a lot of people. That was really warm. He liked seeing how many people participated at the Council meeting. He was not sure what was being done, but he hoped the City Council was careful in preserving some sense of community for people to interact and meet each other and particularly near the park which is so nice. That was why he moved here, and he understood why people would like to build some frontage for a view. In driving through old Milwaukie he only saw two buildings over two stories high, so it seemed odd that something would be built that was so much taller than anything else around. It did not seem to have much of an architectural flow. He thought it might be too much and too big. He thought it would be nice to have a kid's water park like in northwest Portland that was always packed with people. It would be a good avenue for bringing people to spend time and money in Milwaukie.

**Mayor Bernard** suggested that Mr. Loomis check the City website for upcoming Market transition team meetings as well as meetings that would be held on the development of the site.

**Councilor Collette** said there had been some brainstorming sessions about Kronberg Park, and one of the elements that had been discussed was one of those kid's fountains. They were wonderful and were used more than lakes and rivers.

- **Les Poole, SE Lee**

**Mr. Poole** commented on regional issues. His address was in the Oak Grove neighborhood. He was outside of the City limits. Issues like the riverfront, transit, Kronberg Park, and the Farmer's Market were regional issues. Those were the things he dealt with. A couple of times during some of the turmoil that takes place in any growing community, people asked to him or made mention of where he lived as though it was pertinent to the issues he was dealing with. He wanted to put everyone at ease that it was not. He would not ask for a correction of the minutes that said "Oak Grove" because he was not hung up on that. When he came down and talked, when he brought input to the City whether it was for or against an issue, he really appreciated the opportunity to speak. Milwaukie was growing. He just heard it was the 17<sup>th</sup> largest city

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

**DRAFT MINUTES**

**Page 5 of 7**

in the state. Someday Milwaukie may annex his neighborhood. He would not run for Council because the job was too tough. The reality was the preoccupation with personal issues was one of the reasons things got so ugly last year. He read something pertinent from *The Pilot*, "The time has come to say what an honor it has been to serve you as a City Councilor and representative." That was from Councilor Stone. "It is time for leaders at all levels of government, certainly not just here in Milwaukie, but all levels of government to be ethically motivated to do the right thing and weave values-based decision making into the political arena. The movement to utilize ethical leadership principles as a barometer for our actions is a sign of the times that a political makeover is well underway and long overdue. It is time to move forward together toward a future bright with possibilities and potential." Well said, Councilor Stone. With regard to the Texaco site, he was not personally involved in it, but anyone that was involved with the Farmers' Market knew that was a valuable piece of property, and someday there would be development there, and the Farmers' Market will move. That was a given. The real issue was where we put the Farmers' Market and what happens to that property. The Council heard some questions and concerns this evening, and Mr. Poole would not reiterate them. One might recall the letter he wrote in November in *The Clackamas Review* during the controversy over the transit center. At the bottom of the letter he wrote, "Les Poole, Oak Grove." The reason he wrote Oak Grove was because he felt the letter was so factual that the only thing someone could attack in the letter was the "Oak Grove." He would appreciate it in the future if people were not preoccupied with where he was from. He had customers in the City. His family had owned property here. He could assure the Council he knew the City better than probably anyone in this room. He could also assure the Council that there was hardly anyone in the room who knew where Milwaukie met Oak Grove, so he did not wish to belabor that any further. He was certainly not going to request the minutes be corrected. He did have one question. From time to time he reviewed the minutes and noted the minutes from the June 6 regular session had still did not been released. Would he have to make a request or would he see them soon? That was the day Dena Swanson visited the Council not the Park.

**Councilor Loomis** commented that he did not know what the issue was with the Oak Grove thing, but this City had a history of welcoming people who lived outside their City limits. At this meeting the Council appointed a Sellwood resident to the Design and Landmarks Committee. The Council realizes there was an effect on those living outside the boundaries and welcomed people to participate. He did not know where Mr. Poole got that information, but it was not factual from the standpoint of the City's letting people participate and speak to the Council

## **PUBLIC HEARING**

None scheduled.

## **OTHER BUSINESS**

### **A. Meeting Date Change -- Resolution**

It was moved by Councilor Barnes and seconded by Councilor Collette to adopt the resolution changing the first Council meeting date in November. Motion passed unanimously. [5:0]

### **RESOLUTION NO. 48-2006:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, PROVIDING NOTICE OF CHANGES TO THE FIRST NOVEMBER 2006 MEETING DATE.**

**B. Council Reports**

**Councilor Stone** attended the League of Oregon Cities (LOC) Conference and would participate in the Walk Your Child to School Day event.

**Councilor Loomis** attended the LOC Conference, the opening of the artificial turf field at Aldercreek School, and the Blind Golfers' National Championship.

**Councilor Collette** attended the LOC conference and assisted with the Milwaukie walking tour by coordinating an art show at North Main Village. She met with board members of the Clackamas Arts Alliance that was interested in sharing space at the City house on 37<sup>th</sup> Avenue. At the LOC conference she had an opportunity to talk with Brady Adams of Grants Pass who donated to the arts in the community.

**Councilor Barnes** attended the LOC meeting. She met with the panel on cities and schools and making the connection. She will testify before the Senate Education Commission and will co-sponsor a meth forum with Sen. Kurt Schrader, Gladstone Mayor Byers, and Lake Oswego Councilor Lynn Peterson. The economic develop team meets on Thursday at Key Bank. Her students would video tape the October 16 Candidates' Forum.

**Mayor Bernard** will attend the Walk Your Child to School Event. He would attend the Pacific Program the following week and the Metro Mayors' Forum. The Library Board will hold a special meeting on October 24 to brainstorm on uses for the Pond House.

**Councilor Stone** added that the City of Milwaukie was showcased on one of the LOC metro area tours and was unofficially given the best goodie bag award. LOC Director McCauley noted that Milwaukie had the best food, wine, and art reception of all the tours. Many people commented positively on the event.

**ADJOURNMENT**

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

**Mayor Bernard** adjourned the regular session at 8:05 p.m.

---

Pat DuVal, Recorder

## MINUTES

### MILWAUKIE CITY COUNCIL WORK SESSION

October 17, 2006

**Mayor Bernard** called the work session to order at 5:39 p.m. in the City Hall Conference Room.

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

Staff Present: City Manager Mike Swanson, Planning Director Katie Mangle, and Community Development/ Public Works Director Kenny Asher.

#### **Advisory Board Interview**

The Council interviewed Tom Traver for a position an at-large position on the Public Safety Advisory Committee.

#### **Transportation System Plan Update**

**Ms. Mangle** reported that the City received a \$128,000 grant from the Oregon Department of Transportation (ODOT) to update the Transportation System Plan (TSP). The previous Plan was adopted in 1997, so it was out of date in terms of the data and the project lists. Everyone in Milwaukie talked about his or her concerns with traffic. The update will be about a 9-month process during which the community and staff would work with a consultant to identify opportunities to work on existing issues. The Plan was key to getting grants and funding based on community-identified priorities. From the staff point of view, the important piece was the public involvement process included in the consultant's scope of work. She anticipated having an agreement ready in November for Council consideration. There was no local match related to this grant other than staff time.

**Councilor Stone** commented when the Plan was done in 1997, she was on the Bike/Pedestrian Working Group. Would there be similar citizen committees involved?

**Ms. Mangle** said the Plan right now was to have a number of different forums including small open houses, working groups, and some workshops. There were some issues such as street design that might incorporate pedestrian environment into the existing street system. Some of the workshops and working groups will include bike and pedestrian systems; downtown parking; street design; street network; and transit and freight. Those would focus on the modes, and people would have opportunities to consider those issues in their neighborhoods in what would be called community briefings.

**Councilor Stone** asked when the TSP would be completed.

**Ms. Mangle** said the contractual obligation for the grant was to complete it by the end of ODOT's fiscal year next summer. Most of the work would be done by June 2007 after which it will come to the City Council for adoption.

**Councilor Collette** asked if traffic calming would be part of the street design.

**Ms. Mangle** replied traffic calming was an issue and the solutions would likely be either through street design or traffic management. Issues such as traffic

calming and cut through traffic would be discussed in community briefings when neighborhood issues are discussed.

**Mayor Bernard** asked how much staff time would be involved.

**Ms. Mangle** would be the project manager; Ms. Ragel would be in charge of public involvement, and the new engineering director will be very involved. She had not calculated the amount of staff time at this point.

### **City Manager Matters**

**Mr. Swanson** discussed several issues that had come up after the agenda packet was prepared. He reported that North Main Village was coming together quickly, and Tom Kemper had invited the Council to tour the units on Thursday at 5 p.m. The Council members agreed they would like to do so and would meet in Mr. Swanson's office.

The second matter had to do with requests from two Council members to bring up the issue of the height provisions within the Texaco/City Hall parking lot joint intergovernmental agreement (IGA) between the City and Metro.

**Councilor Loomis** was embarrassed that he did not know the IGA as well as he should have, and the height was brought up to him as an issue and the best effort language. His understanding that best effort would be staff time in researching to achieve that. Personally he was not interested in changing the code. To go to four stories, the ones behind that would go to five, and then six and seven. He would rather start low. He did not want to see staff time involved if it was a moot point – or committee time.

**Councilor Collette** thought the current design guidelines was four or five stories if there was residential and commercial.

**Mr. Firestone** recalled the height limit was 45-feet.

**Councilor Collette** sensed that Metro was willing to be flexible and to let the committee define the building height. She did not know if it was worth trying to revisit the IGA. Perhaps the Council should direct staff to let the committee do its job before it worried about pushing for different standards. She would be fine with that approach if possible.

**Mr. Firestone** explained that “best efforts” implied that staff would make an effort consistent with its legal obligations. Metro understands that staff cannot do contrary to Council direction. Metro also recognized that best efforts did not commit the Council. It was language that was typically used to recognize that Council could make a different decision. Staff would work on it up to the point it was consistent with the City's responsibilities. If Council told staff not to work on it until it got the committee recommendation, then that action was still consistent with best effort. Best efforts did not require staff to go contrary to the Council direction.

**Mr. Swanson** added height was one of many issues the committee would work with before sending a recommendation to the Council. If there was a suggestion to change the 45-foot requirement, then a code change would go to the Planning Commission with final decision by the City Council. One option was to give direction at this time, and another was to let the committee do its thing. The Planning Commission could also say it did not wish to implement a change.

**Councilor Collette** suggested letting the committee do its work without staff's working on code changes. If the committee recommended something like 60-feet, then the staff process would start. She sensed the committee already had a good idea of what the community wanted.

**Councilor Stone** thought Councilor Loomis was trying to get at was that it involved a code change. He was saying should we involve staff time to do that if it was not something the Council really wanted to see.

**Councilor Loomis** did not want to see the committee waste its time either. He was solid on that. The next best thing was for the committee to make its recommendation. Personally he could not see anything unless the design included parking.

**Councilor Stone** thought Councilor Loomis made a good point about building higher in the back to be in scale. Was North Main at 45-feet in terms of the current regulations?

**Mr. Firestone** believed North Main was 45-feet high.

**Councilor Stone** had concerns about the IGA in terms of having the City – the way it was worded in terms that the City would look at amending the code. It implied a command from Metro which was pretty strong language. The City will exert its best efforts. She wished it were worded differently in the contract. She was concerned about the height. She has heard lots of things in the community.

**Councilor Barnes** agreed and thought the best bet was to make it clear about what the Council had in mind. She thought the message had gotten to the committee members. Instead of trying to re-do the IGA, she thought the Council could say publicly that it did not want to change the code. She did not wish to see anything above three or four stories, and she had never said she wanted anything above that.

**Councilor Stone** pointed out e-mails from two members of the committee saying five stories was fine. Five stories did not seem out of scale.

**Councilor Loomis** did not want folks to expend a lot of effort because that had happened before. He was comfortable with that.

**Councilor Collette** asked if staff was to basically stand down and stick to the design guidelines.

**Mayor Bernard** felt the City had great experiences with its committees. The Planning Commission and the committee would forward a recommendation to the Council that had the option in the end. If the committee said five stories worked because that was what was financially feasible, the Council should look at it. If the committee did not say that, then the Council would not look at it. He did not think staff should work on anything until the committee completed its task. People were appointed because they were very aware of community feelings about building height. He was also a strong proponent of a contract, and all members of Council shared in the decision on that IGA. Everyone had the responsibility to read it and understand it. He believed that issue had been discussed.

**Councilor Stone** said there were only three Council members present when the IGA was adopted.

**Mayor Bernard** said the IGA had not changed, and Councilor Stone voted in favor of signing it. At some point a lot of people started telling Council they did not like the IGA. A contract was a contract. He knew how Metro felt, and he did not get the impression at all that the City would be forced into taking something it did not want. Metro did Milwaukie a big favor by buying the land and investing the money. He felt the committee should at least have an opportunity to look at it. He felt the committee understood how the Council and community felt. If they could put a two-block, two-story project in he would support it 100%, but no one had even looked. He got an e-mail saying how disgusted the person was with the design, but there was not even a proposal yet. He thought the committee should be given the chance to look at it. Maybe the committee should provide an interim report.

**Councilor Collette** added that it occurred to her that a five-story building did not have to be over the entire block. The fifth story could be a smaller structure like a rooftop restaurant with outdoor seating. She suggested letting the community do its thing to come up with a good design. There were incredible buildings in Vancouver, B.C with five stories. There were ways to accomplish it without a building's being oppressively tall because there was no sense of the fifth story from the ground.

**Councilor Stone** did not think a big city like Vancouver could be compared with Milwaukie. One needed to think about scale. It was like decorating your house. One would not get an oversized piece of Costco furniture for a small room.

**Councilor Collette** said the building she had used as an example was in a residential neighborhood. It was all in the design.

**Councilor Stone** agreed design was key, but she also agreed with Councilor Loomis that the Council did not want to obscure a view. The Council needed to look beyond five years. It needed to look at what the City would look like in 50 years. If one built tall at the river's edge then it would get even taller as one went back. There were design guidelines in place for a reason. They were there to have a proper scale downtown. She agreed with Councilor Loomis in terms of she did not want to see staff time used if it was not necessary and if it was something the Council wanted to stick with in terms of design guidelines. They were put there for a reason.

**Mr. Swanson** spoke on behalf of the committee process which was what concerned him at this point. The committee was given a charge and moving on that charge he knew there were oftentimes things he ended up doing that did not count for anything because they did not happen for some reason or they were rejected. At least the work had resulted in a healthy discussion about the issue. The Council as the final arbiter did not lose its right to say no regardless of what the committee or Planning Commission did. The Council was firmly in the driver's seat. The committee may say it should not change from what it was now. They may say 'yes' and the Council could say 'no' at that point. The Council could submit it to the Planning Commission. There were a number of places where the Council could make the final decision. As long as it contributed to a discussion he did not mind doing something that was not implemented as long as the final result was that it was used to foster some kind of community discussion. One did not lose anything by moving forward and letting the committee have its time and after that the Planning Commission. If the committee wanted to see staff work done on greater heights then that could be done. If it did not happen at least the information was out there as part of the discussion. He was

concerned about the committee process. This was a strong committee, and he did not wish to pull anything back from them right now.

**Mayor Bernard** said in the downtown plan and in everything the City did it was looking for a certain outcome – vibrancy in the downtown and livability. More people in the downtown would support more businesses. The ultimate goal was a vibrant community, so he felt it was important for the committee to do its work to figure out how to get there. When the downtown plan was done there were tunnels under McLoughlin Boulevard and bridges and bringing the water in. The City in the end said it was not possible although it might have been a wonderful idea. Limiting the committee at this point he felt would be an error. Everyone wanted the same thing in the end which was vibrancy. There was no harm in looking.

**Councilor Barnes** commented Mr. Asher was in charge of this whole thing, and this was a commonsense thing to do. Mr. Asher was listening to these comments and he would likely relay those to the committee. She did not see anyone the Council had appointed to the committee as not caring what the Council said. They had the opportunity to look at things knowing that the Council had concerns about height. The committee knows the process.

**Councilor Stone** commented on when the IGA came out and reiterated what Councilor Loomis said. At the September 20 meeting where the IGA was approved there were three Council members present – Mayor Bernard, Councilor Collette, and herself. She knew the final copy was dated two days before the meeting, so the Council got that copy at the meeting as she recalled. That did not jump out at her maybe because she had not perused it closely enough. She wished she had because it would have raised an issue for her. She knew Councilor Barnes and Councilor Loomis were not there and if they had an issue with that and if they would have voted the same way or not. She felt that was something that should have been looked at closer and also the language of the City's exerting its best efforts to change the design scale. She did not feel good about that decision.

**Councilor Loomis** took personal responsibility for that and did not blame that on anyone but himself.

**Councilor Collette** said the IGA was discussed at two meetings, and those sections had not changed. Council had the agreement for almost a month before it was signed.

**Councilor Stone** said the Council gave Mr. Swanson the authority to negotiate the agreement.

**Councilor Collette** said Council approved it. It seemed as if Councilor Stone was having a different discussion than just the best efforts of staff. She understood Councilor Stone was having a bad feeling about what she did regarding the agreement.

**Councilor Stone** was concerned about the height requirement and all that.

**Councilor Collette** believed everyone interviewed for the committee loved Milwaukie and what it was although they wanted to see it improved. Ms. Coleman had talked about going downtown and buying something at a soda fountain and made people reflect upon what they loved about the City that used to be here. The City cannot have the old Milwaukie back because it was gone, but she believed the committee members were committed to having a better new

Milwaukie that would reflect what people liked about the old Milwaukie. She was comfortable with the committee to be creative and to do the right thing for the City. If it did not and somehow Mr. Asher and the whole committee went sideways and recommend six stories, then the Council could say it did not like it. She hoped to go forward as a team and support the committee and the staff. People worked hard on the design guidelines and helped protect the City and the things people loved. The agreement was signed, and there were things the Council might change about it if they could. But it was done, and it was not that bad. Ultimately, the agreement gave the entities the ability to put something on that block. She thought there was pretty good direction from Council.

**Mr. Swanson** said this agreement was characterized a week ago as being one-sided, and he agreed with that. He did not agree about which party was on the short end of the stick. He negotiated the agreement. He has listened for weeks about this agreement being mischaracterized, being misconstrued, about provisions of it being ignored to make points. He did not sit down with Metro and negotiate this agreement in order to create a disadvantage for Milwaukie. He was upset because he saw an agreement that provided for a great deal of flexibility. What was the default provision? It required that Metro notify the City and 30 days to cure. What if it was not cured? What would be a reasonable penalty given everything that had gone on for the City to pay? To him a reasonable penalty was that the City had to buy the property and reimburse Metro. But rather the penalty was that the City had to give Metro back its 5%. Metro was out \$750,000, \$30,000 in demolition costs and tank removal, \$30,000 in studies, and up to another \$100,000 in soil removal. The City put some asphalt on it to make it a parking lot. That was the money the City was out. It was not his intention when he was asked to do something to do it to the disadvantage of the City, and he was sick and tired of having that suggested.

**Mayor Bernard** believed the agreement was heavily weighted toward Milwaukie, and he was proud to sign it. The City had the use of a parking lot until the project was started, and the Farmers' Market can use the site through the 2007 season.

### **Discuss Citizens Advisory Council (CAC) Recommendation**

**Mr. Swanson** anticipated at the special meeting he would introduce the history and he would provide a recommendation at that time. Mr. Knapp, CAC Chair would speak on behalf of the CAC and deliver the recommendation. He suggested the Council open up the session for public testimony.

**Councilor Collette** asked if it was appropriate to ask questions of Mr. Knapp at this time. She understood the CAC recommendation was to keep Kellogg operating and then divert some flow to Tri-City and build a new plant.

**Mr. Knapp** thought there was a misconception of the recommendation. One bullet was that the Kellogg Treatment Plant had to be kept alive to keep capacity going, and there was a slowdown of staff's working on the new diversionary pipe. The third issue had to do with when Kellogg closed. There had to be capacity until a new plant was built as soon as possible. He discussed the feasibility of a membrane treatment plant to address environmental concerns and provide level 4 irrigation water. As soon as a plant went on line the valve to the Kellogg Treatment Plant would be shut, and it would go away. The Plant does need to stay on line until it was replaced. The full intent of the recommendation was that Kellogg would go away as soon as a new plant was operating. It was not a matter of if but of when. The level 4 stage outflow into a river was not an issue.

He would have to check the regulations regarding putting water back into the creek. The canals in San Antonio, for example, were level 4 used water.

**Mr. Firestone** added that there were more stringent regulations for underground discharge.

**Mr. Knapp** said the Kellogg Treatment Plant processes 10 mgd. Rose Villa was looking for another source for irrigation water as could the Manor.

**Mr. Firestone** asked if there was a time period during which the new plant would provide capacity for everything in the District.

**Mr. Knapp** said that would be brought forward at the special meeting to launch this project. The Sunrise membrane plant took about 18 months to build, and there was already an intake for 25 mgd, but wastewater was a little different.

**Mayor Bernard** commented both Tri-City and Oak Lodge were having financial problems. What opportunities were there for those entities to participate? Damascus and Happy Valley also had concerns. Initially Clearwater was intended to be a regional solution to solve everyone's difficulties. How did everyone partner to solve the problems?

**Mr. Knapp** originally got involved with the CAC because no one would talk about the game plan and still will not talk about the regional and financial purpose of what was being done. He tried to engage Oregon City, West Linn, and Gladstone in a regional conversation, but it seemed like the powers to be did not want that to happen. The powers that be would be the County administrator. He went to Oak Lodge six months ago to ask it to participate in a group discussion with Milwaukie and the CAC. Last Tuesday night Oak Lodge indicated it wanted to do so. They were looking at \$50 to \$70 million to build a plant in Oak Lodge. He asked Ron Brown, engineer from CH2MHill, to find out if there was an advantage to piggybacking on building the treatment plant. He was told it would be a very good time to do it because they were in the middle of their master planning and were considering membrane filtration. It costs a little more to construct but would save money over the long term. The problem with Clearwater was that CCSD1 was debt free and had all the cash from development, but Milwaukie and the District would not have any participation by going down to Tri-City. The IGAs for Milwaukie were horribly written, and he was appalled by the limited representation.

**Mayor Bernard** thought there was a great opportunity to get Damascus and Happy Valley involved in the conversation. It seemed as if the Board of County Commissioners (BCC) was looking for someone to save them.

**Mr. Knapp** replied that Damascus had said many times that it did not want to be involved in the process, and they decided to stay out of the study.

**Mayor Bernard** commented it would cost \$25 million just to get a trunk line to Damascus. He felt the only option was for Damascus to have a seat at the table.

**Mr. Knapp** said some thought the CAC was set up for failure, but he believed a solution could be found.

**Councilor Collette** asked if there was a possibility of broadening the District to be a region wide service.

**Mr. Knapp** replied the Kellogg Treatment Plant was originally built for 100,000 people and included Happy Valley. That mark has not been reached. He asked

Commissioner Sowa and WES staff to what degree it should be planned. He was told the area that Kellogg Treatment Plant now served. The CAC could not plan for Tri-City because of the charge.

**Mr. Swanson** commented when they started looking at Clearwater it was a logical answer to a question of how to regionalization. The CAC charge was restricted to the District, so it was narrowly written.

**Mr. Firestone** added the CAC was for CCSD1 and not for any other district or the County as a whole. The BCC did restrict the scope.

**Councilor Collette** understood that in order to look more broadly than some other sort of structure would have to be formed.

**Mr. Knapp** replied when one looked at drainage basins gravity worked all the time, and pumping costs a lot of money. It did not make sense to gravity feed and then pump six miles uphill. The costs would be more scrutinized during the design phase. At that point the CAC said it did not really matter if the amounts were within \$10 - \$20 million of each other. The CAC looked at membrane filtration and dry solid option that would initially cost more but would save money in the long run. This was an engineer's estimate that would come down to earth during design.

**Mayor Bernard** asked if Kellogg Treatment Plant, Tri-City, and Oak Lodge were at capacity.

**Mr. Knapp** said during the study the CAC found out that \$5 million in capital improvements were not done at Kellogg Treatment Plant. As a result the Plant was at capacity because Clackamas County continued to hook up houses without another digester or clarifier. That did not show good leadership to him. Building house after house without adding digesters did not show good leadership. Good leadership would have come to Milwaukie and others to discuss the capacity problem, but the County did not. Tri-City was reaching capacity but did have some reserve, and the ratepayers were paying \$500,000 annually to process sewage through the diversion agreement. One of the recommendations was to continue to do that until a new plant was built. It was understood that Tri-City needed more capacity. He had started to attend the Tri-City advisory group where it was stated that reserve was running out, and there needed to be a rate increase or something because Tri-City could not live on CCSD1 any more. Oregon City was growing and service needs should be considered. CCSD1 would bring its money to Tri-City with no representation. He did not feel that was a good option. No one was coming to the CAC with an IGA or was sitting down and talking with the group. They expected the CAC to go along with it. He would provide documentation at the special meeting that he felt would open everyone's eyes. Oregon City wants to develop The Cover, and it would cost several million to beautify the Tri-City Plant.

**Councilor Loomis** asked how the CAC was formed and why he felt bamboozled.

**Mr. Knapp** replied CCSD1 was formed in 1967 and was supposed to have an advisory group. For the past 20 years, CCSD1 had been working in a vacuum. There was no advisory group. Milwaukie was not represented, and the District ratepayers were not represented. People were being represented by the Water Environment Services (WES) director. Decisions were being made behind closed doors, so the ratepayers were naturally concerned. That was why he got

involved with Clearwater because no one would answer any questions. He was never able to spend five minutes with any of those people who were in charge, and they hung up on him when he called. Jay Bacon told him Oak Lodge won the vote, so stay out of WES business. He told Bacon his sewer went to Kellogg, but he said he could not talk to Mr. Knapp and pointed to the air. He called again and asked what could be done because ratepayers felt they should have representation. The County violated first amendment freedom of speech, served the group with a summons, sued people personally, and went to court. They thought it was an administrative rule and not a legislative rule. The petitioners got enough signatures to qualify for an election. This was a negotiated deal to form the CAC, and Mr. Knapp was told he would have to get back in the box after the recommendation was made. That was why he was before the City Council. He thought it was time to cooperate and look at this as a joint business deal with affected parties to make some common sense out of this. It was an opportunity and vision to carry this for the next 50 to 100 years. The County never expected the CAC and Milwaukie to talk about advantages. It was Happy Valley as well. The discussion needed to take place and be positive to determine what this could do for all parties. He hoped Milwaukie would gain some kind of representation and encouraged everyone to be positive in finding a solution. Milwaukie wanted its waterfront, and he wanted to do something better.

**Mayor Bernard** asked what the plant would look like at that estimate. Did it look like the plants in the Seattle area?

**Mr. Knapp** replied the one in Seattle looked like an office building. Membrane filtration in a Costco-sized warehouse would never be seen again – no one would know it was there. There could be a waterfall in front with reused water. Dollars can be discussed. Siting might be part of the recommendation. There were many things that could be done. We always fight, but let's find a solution to bring it together.

**Mr. Swanson** learned some time ago that one did not enter a process for the purpose of rubberstamping something that was believed in the beginning. He was always interested in seeing if people changed by going through a process. If he went back to January 2006, Mr. Knapp said it would all take place at the Kellogg Treatment Plant and things would not be done differently. He hated his guts when he filed the petition. He could not talk with Mr. Hofeld for months because all he was interested in was cost. When the CAC made its decision the recommendation was also based on non-cost issues and questioned there assumptions.

**Mr. Knapp** started out by wanting to look at all of the IGAs for the past 15 years to find out what all of them said. Finally he wanted the plant operators in a room to help him understand what the plant was really doing. He could never get to the staff, and he was on a need-to-know basis. The CAC was not given all of the information it should have had. He was disgusted and put out that ratepayers did not get all the information they asked for. They went as far submitting a public records request to WES. That was why he tried to run the most open meetings possible to get everything out on the table, but he was criticized for that. As a result the powers that be tried to stop the CAC because it was going too far and getting too many answers. Mr. Schoenheit asked for flow charts for the plant, but they were not provided until Mr. Knapp took stronger action. There were issues with the ammonia limit. The barriers needed to come down so decisions could be based on good information. There were still no clear answers on Tri-City, and

he would provide documentation at the special City Council meeting. Oregon City and West Linn were both facing financial issues, so it was a given ratepayers would be paying the bill.

**Mayor Bernard** observed that everyone had the same problem, and the solution needed to benefit all. If that meant Milwaukie had to be the lead, then it would. Tri-City needed to find a solution and adding Milwaukie to save the ship was a good idea for them. It might have been for Milwaukie. Damascus also needed to be at the table. The BCC will determine the next steps, but he felt another 9-month CAC process should be avoided if possible.

**Mr. Knapp** commented regionalization was great, but the outfalls have been established. The CAC was put in a shoebox. It was looking for its partners to come together and get this launched. Milwaukie was a 40% user, and he felt the City needed representation.

**Mr. Swanson** had provided Mr. Lang's comments with his memo.

**Councilor Stone** was interested in finding a solution that was economically feasible and environmentally sound. She wanted to see the truth come out. It was abominable that process was cycled by the people in charge and the ratepayers were ultimately having to eat in the end was just wrong. She just wanted to see the truth come out.

**Mayor Bernard** adjourned the work session at 6:56 p.m.

---

Pat DuVal, Recorder

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING TOM TRAVER TO THE PUBLIC SAFETY ADVISORY COMMITTEE AS A MEMBER-AT-LARGE.**

**WHEREAS**, a vacancy exists on the Public Safety Advisory Committee for a member-at-large; and

**WHEREAS**, Milwaukie Municipal Code Section 2.24.020(B) provides for appointment of members of the Milwaukie Public Safety Advisory Committee “by the council;” and

**WHEREAS**, Tom Traver possesses the necessary qualifications to serve on the Committee and has indicated his desire to serve.

**Now, therefore, the City of Milwaukie, Oregon resolves as follows:**

**SECTION 1:** That Tom Traver is appointed to the Milwaukie Public Safety Advisory Committee as a member-at-large.

**SECTION 2:** That his term of appointment shall commence upon adoption of this resolution and shall expire on March 31, 2009.

**SECTION 3:** This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on November 9, 2006.

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

ATTEST:

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

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

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



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: Stewart Taylor, Finance Director

Subject: Resolution: Amend Public Contracting Rules and City Contracts

Date: October 18, 2006 for November 7, 2006 Council Meeting

#### Action Requested

By resolution approve amendments to the Public Contracting Rules and City Contracts.

#### Background

The City of Milwaukie frequently enters into contracts for public improvements and professional services where the scope of work requires the contractor to have regular interaction with the public. The proposed amendments add language to the Public Contracting Rules and City Contracts that requires contractors to maintain good relations with the public.

#### Concurrence

The City Attorney, Records and Information Management Director and Finance Director concur with this request.

#### Fiscal Impact

The amendments can be implemented within existing budget.

#### Alternatives

- Approve the resolution as proposed.
- Modify the resolution.
- Take no action.

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON  
AMENDING THE PUBLIC CONTRACTING RULES AND CITY CONTRACTS**

**WHEREAS**, the City of Milwaukie frequently enters into contracts for public improvements and professional services where the scope of work requires the contractor to have regular interaction with the public; and

**WHEREAS**, the proposed amendments add language to the Public Contracting Rules and City Contracts that requires contractors to maintain good relations with the public.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Milwaukie:

1. Section 30.150C of the Public Contracting Rules is amended to read as follows:  
“A prospective bidder or proposer may be debarred from consideration for an award for a period of up to three years if the contractor:
  1. Has been convicted of a criminal offense relating to (a) a public contract, (b) dishonesty (as provided in ORS 279B.130(2)(b) or (c) under antitrust statute
  2. Has violated a City contract;
  3. Has failed to carry workers compensation or unemployment insurance, or
  4. Has failed to maintain reasonable relations with the public while performing work under a City contract.”
  
2. Language is added to Section 1 of the public improvements contract and similar language to other City contracts as follows:  
“Contractor may have some contact with the public in the course of performing this contract. Contractor shall maintain good relations with the public. Failure to maintain good relations with the public shall constitute a non-curable material breach allowing the City to terminate under Section 14A and to disqualify Contractor from future work for the City.”
  
3. Section 14A of the public improvement contract is amended to add a new subsection 5 to read as follows:  
“The Contractor fails to maintain reasonable relations with the public. Verbal abuse, threats, or other inappropriate behaviors towards members of the public constitute grounds for termination.”

Introduced and adopted by the City Council on November 9, 2006. This resolution is effective upon passage.

---

James Bernard, Mayor

ATTEST:

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

---

Pat DuVal, City Recorder

---

City Attorney

*Boilerplate IGA – To be replaced with proposed IGA and attachments.*

TGM Grant Agreement No. 23XXX  
TGM File Code XX-05  
EA # TGM7LAXX

## **INTERGOVERNMENTAL AGREEMENT**

### **TGM Grant**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation (“ODOT” or “Agency”), and City of XXX (“City” or “Grantee”).

### **RECITALS**

1. The Transportation and Growth Management (“TGM”) Program is a joint program of ODOT and the Oregon Department of Land Conservation and Development.

2. The TGM Program includes a program of grants for local governments for planning projects. The objective of these projects is to better integrate transportation and land use planning and develop new ways to manage growth in order to achieve compact pedestrian, bicycle, and transit friendly urban development.

3. This TGM Grant (as defined below) is financed with federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”) funds. Local funds are used as match for SAFETEA-LU funds.

4. By authority granted in ORS 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies to perform any functions and activities that the parties to the agreement or their officers or agents have the duty or authority to perform.

5. City has been awarded a TGM Grant which is conditional upon the execution of this Agreement.

6. The parties desire to enter into this Agreement for their mutual benefit.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **SECTION 1. DEFINITIONS**

Unless the context requires otherwise, the following terms, when used in this Agreement, shall have the meanings assigned to them below:

A. “City's Amount” means the portion of the Grant Amount payable by ODOT to City for performing the tasks indicated in Exhibit A as being the responsibility of City.

B. “City's Matching Amount” means the amount of matching funds which City is required to expend to fund the Project.

C. “City's Project Manager” means the individual designated by City as its project manager for the Project. “Consultant” means the personal services contractor(s) (if any) hired by ODOT to do the tasks indicated in Exhibit A as being the responsibility of such contractor(s).

D. “Consultant’s Amount” means the portion of the Grant Amount payable by ODOT to the Consultant for the deliverables described in Exhibit A for which the Consultant is responsible.

E. “Direct Project Costs” means those costs which are directly associated with the Project. These may include the salaries and benefits of personnel assigned to the Project and the cost of supplies, postage, travel, and printing. General administrative costs, capital costs, and overhead are not Direct Project Costs. Any jurisdiction or metropolitan planning organization that has federally approved indirect cost plans may treat such indirect costs as Direct Project Costs.

F. “Federally Eligible Costs” means those costs which are Direct Project Costs of the type listed in Exhibit D incurred by City and Consultant during the term of this Agreement.

G. “Grant Amount” or “Grant” means the total amount of financial assistance disbursed under this Agreement, which consists of the City's Amount and the Consultant’s Amount.

H. “ODOT’s Contract Administrator” means the individual designated by ODOT to be its contract administrator for this Agreement.

I. “PSK” means the personal services contract(s) executed between ODOT and the Consultant related to the portion of the Project that is the responsibility of the Consultant.

J. “Project” means the project described in Exhibit A.

K. “Termination Date” has the meaning set forth in Section 2.A below.

L. “Total Project Costs” means the total amount of money required to complete the Project.

N. “Work Product” has the meaning set forth in Section 5.J below.

## SECTION 2. TERMS OF AGREEMENT

A. Term. This Agreement becomes effective on the date on which all parties have signed this Agreement and all approvals (if any) required to be obtained by ODOT have been received. This Agreement terminates on xxx, 200x (“Termination Date”).

B. Grant Amount. The Grant Amount shall not exceed xxx.

C. City's Amount. The City's Amount shall not exceed \$x.

D. Consultant’s Amount. The Consultant’s Amount shall not exceed \$x

E. City's Matching Amount. The City's Matching Amount is \$x or x% of the Total Project Costs.

## SECTION 3. DISBURSEMENTS

A. Subject to submission by City of such documentation of costs and progress on the Project (including deliverables) as are satisfactory to ODOT, ODOT shall reimburse City only for Direct Project Costs that it incurs after the execution of this Agreement up to the City's Amount. Generally accepted accounting principles and definitions of ORS 294.311 shall be applied to clearly document verifiable costs that are incurred.

B. City shall present cost reports, progress reports, and deliverables to ODOT’s Contract Administrator no less than every other month. City shall submit cost reports for 100% of City’s Federally Eligible Costs.

C. ODOT shall make interim payments to City for deliverables identified as being City’s responsibility in the approved statement of work set out in Exhibit A within 45 days of satisfactory completion (as determined by ODOT’s Contract Administrator) of such deliverables.

D. ODOT reserves the right to withhold payment equal to ten percent (10%) of each disbursement until 45 days after ODOT’s Contract Administrator’s approval of the completion report described Section 5.L(2), at which time the balance due to City under this Agreement shall be payable.

E. Within 45 days after the latter of the Termination Date of this Agreement or City's compliance with Section 5.L. below, ODOT shall pay to City the balance due under this Agreement.

F. ODOT shall limit reimbursement of travel expenses in accordance with current State of Oregon Accounting Manual, General Travel Rules, effective on the date the expenses are incurred.

#### **SECTION 4. CITY'S REPRESENTATIONS, WARRANTIES, AND CERTIFICATION**

A. City represents and warrants to ODOT as follows:

1. It is a Municipality duly organized and existing under the laws of the State of Oregon.

2. It has full legal right and authority to execute and deliver this Agreement and to observe and perform its duties, obligations, covenants and agreements hereunder and to undertake and complete the Project.

3. All official action required to be taken to authorize this Agreement has been taken, adopted and authorized in accordance with applicable state law and the organizational documents of City.

4. This Agreement has been executed and delivered by an authorized officer(s) of City and constitutes the legal, valid and binding obligation of City enforceable against it in accordance with its terms.

5. The authorization, execution and delivery of this Agreement by City, the observation and performance of its duties, obligations, covenants and agreements hereunder, and the undertaking and completion of the Project do not and will not contravene any existing law, rule or regulation or any existing order, injunction, judgment, or decree of any court or governmental or administrative agency, authority or person having jurisdiction over it or its property or violate or breach any provision of any agreement, instrument or indenture by which City or its property is bound.

6. The statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of City.

B. As federal funds are involved in this Grant, City, by execution of this Agreement, makes the certifications set forth in Exhibits B and C.

## **SECTION 5. GENERAL COVENANTS OF CITY**

A. City shall be responsible for the portion of the Total Project Costs in excess of the Grant Amount. City shall complete the Project; provided, however, that City shall not be liable for the quality or completion of that part of the Project which Exhibit A describes as the responsibility of the Consultant.

B. City shall, in a good and workmanlike manner, perform the work, and provide the deliverables, for which City is identified in Exhibit A as being responsible.

C. City shall perform such work identified in Exhibit A as City's responsibility as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform such work. City shall also be responsible for providing for employment-related benefits and deductions that are required by law, including, but not limited to, federal and state income tax withholdings, unemployment taxes, workers' compensation coverage, and contributions to any retirement system.

D. All employers, including City, that employ subject workers as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). City shall require and ensure that each of its subcontractors complies with these requirements.

E. City shall be responsible, to the extent permitted by the Oregon Tort Claims Act, ORS 30.260-30.300, only for the acts, omissions or negligence of its own officers, employees or agents.

F. City shall not enter into any subcontracts to accomplish any of the work described in Exhibit A, unless it first obtains written approval from ODOT.

G. City agrees to cooperate with ODOT's Contract Administrator. At the request of ODOT's Contract Administrator, City agrees to:

- (1) Meet with the ODOT's Contract Administrator; and
- (2) Form a project steering committee (which shall include ODOT's Contract Administrator) to oversee the Project.

H. City shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, applicable provisions of the Oregon Public Contracting Code. Without limiting the generality of the foregoing, City expressly agrees to comply with: (1) Title VI of Civil Rights Act of 1964; (2) Title V and Section 504 of the Rehabilitation Act of 1973; (3) the Americans with Disabilities Act of 1990 and ORS 659A.142; (4) all regulations and administrative rules established pursuant to the foregoing laws; and (5) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

I. City shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records pertinent to this Agreement in such a manner as to clearly document City's performance. City acknowledges and agrees that ODOT, the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans, and writings of City that are pertinent to this Agreement to perform examinations and audits and make copies, excerpts and transcripts.

City shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

J. (1) All of City's work product related to the Project that results from this Agreement ("Work Product") is the exclusive property of ODOT. ODOT and City intend that such Work Product be deemed "work made for hire" of which ODOT shall be deemed the author. If, for any reason, such Work Product is not deemed "work made for hire", City hereby irrevocably assigns to ODOT all of its rights, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. City shall execute such further documents and instruments as ODOT may reasonably request in order to fully vest such rights in ODOT. City forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

(2) ODOT hereby grants to City a royalty free, non-exclusive license to reproduce any Work Product for distribution upon request to members of the public.

(3) City shall ensure that any work products produced pursuant to this Agreement include the following statement:

“This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), local government, and State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon.”

(4) The Oregon Department of Land Conservation and Development and ODOT may each display appropriate products on its “home page”.

K. Unless otherwise specified in Exhibit A, City shall submit all final products produced in accordance with this Agreement to ODOT’s Contract Administrator in the following form:

- (1) two hard copies; and
- (2) in electronic form using generally available word processing or graphics programs for personal computers via e-mail or on compact diskettes.

L. Within 30 days after the Termination Date, City shall

(1) pay to ODOT City’s Matching Amount less Federally Eligible Costs previously reported as City’s Matching Amount. ODOT may use any funds paid to it under this Section 5.L (1) to substitute for an equal amount of federal SAFETEA-LU funds used for the Project or use such funds as matching funds; and

(2) provide to ODOT’s Contract Administrator, in a format provided by ODOT, a completion report. This completion report shall contain:

- (a) The permanent location of Project records (which may be subject to audit);
- (b) A summary of the Total Project Costs, including a breakdown of those Project costs that are reimbursable hereunder and those costs which are being treated by City as City’s Matching Amount;

- (c) A list of final deliverables; and
- (d) City's final disbursement request.

## **SECTION 6. CONSULTANT**

If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to accomplish the work described in Exhibit A as being the responsibility of the Consultant. In such a case, even though ODOT, rather than City is the party to the PSK with the Consultant, ODOT and City agree that as between themselves:

- A. Selection of the Consultant will be conducted by ODOT in accordance with ODOT procedures with the participation and input of City;
- B. ODOT will review and approve Consultant's work, billings and progress reports after having obtained input from City;
- C. City shall be responsible for prompt communication to ODOT's Contract Administrator of its comments regarding (1) and (2) above; and
- D. City will appoint a Project Manager to:
  - (1) be City's principal contact person for ODOT's Contract Administrator and the Consultant on all matters dealing with the Project;
  - (2) monitor the work of the Consultant and coordinate the work of the Consultant with ODOT's Contract Administrator and City personnel, as necessary;
  - (3) review any deliverables produced by the Consultant and communicate any concerns it may have to ODOT's Contract Administrator; and
  - (4) review disbursement requests and advise ODOT's Contract Administrator regarding payments to Consultant.

## **SECTION 7. ODOT'S REPRESENTATIONS AND COVENANTS**

A. ODOT certifies that, at the time this Agreement is executed, sufficient funds are authorized and available for expenditure to finance ODOT's portion of this Agreement within the appropriation or limitation of its current biennial budget.

B. The statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of ODOT.

C. ODOT will assign a Contract Administrator for this Agreement who will be ODOT's principal contact person regarding administration of this Agreement and will participate in the selection of the Consultant, the monitoring of the Consultant's work, and the review and approval of the Consultant's work, billings and progress reports.

D. If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to perform the work described in Exhibit A designated as being the responsibility of the Consultant, and in such a case ODOT agrees to pay the Consultant in accordance with the terms of the PSK up to the Consultant's Amount.

## **SECTION 8. TERMINATION**

This Agreement may be terminated by mutual written consent of all parties. ODOT may terminate this Agreement effective upon delivery of written notice to City, or at such later date as may be established by ODOT under, but not limited to, any of the following conditions:

A. City fails to complete work specified in Exhibit A within the time specified in this Agreement, including any extensions thereof, or fails to perform any of the provisions of this Agreement and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

B. Consultant fails to complete work specified in Exhibit A within the time specified in this Agreement, including any extensions thereof, and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

C. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or ODOT is prohibited from paying for such work from the planned funding source.

D. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.

In the case of termination pursuant to A, B, C or D above, ODOT shall have any remedy at law or in equity, including but not limited to termination of any further disbursements hereunder. Any termination of this Agreement shall not prejudice any right or obligations accrued to the parties prior to termination.

## **SECTION 9. GENERAL PROVISIONS**

A. Time is of the essence of this Agreement.

B. Except as otherwise expressly provided in this Agreement, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to ODOT or City at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed is in effect five (5) days after the date postmarked. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against ODOT, such facsimile transmission must be confirmed by telephone notice to ODOT's Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

C. ODOT and City are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons (including but not limited to any Consultant) unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

D. Sections 5(I), 5(K), 5(L) and 9 of this Agreement and any other provision which by its terms is intended to survive termination of this Agreement shall survive.

E. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between ODOT (and/or any other agency or department of the State of Oregon) and City that arise from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on

the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. City, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

F. This Agreement and attached Exhibits (which are by this reference incorporated herein) constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No modification or change of terms of this Agreement shall bind either party unless in writing and signed by all parties and all necessary approvals have been obtained. Budget modifications and adjustments from the work described in Exhibit A must be processed as an amendment(s) to this Agreement and the PSK. No waiver or consent shall be effective unless in writing and signed by the party against whom such waiver or consent is asserted. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

On June 18, 2003, the Oregon Transportation Commission (“Commission”) approved Delegation Order No. 2, which authorizes the Director of ODOT to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program (“STIP”) or a line item in the biennial budget approved by the Commission

On April 12, 2004, the Director approved Subdelegation Order No. 10 in which the Director delegates authority to the Division Administrator, Transportation Development, to approve and execute personal service contracts and agreements over \$75,000 for programs within the Transportation Development Division when the work is related to a project included in the STIP or in other system plans approved by the Commission or in a line item in the legislatively adopted biennial budget.

**City**

*City of Gresham*

By: \_\_\_\_\_  
(Official's Signature)

\_\_\_\_\_  
(Printed Name and Title of Official)

Date: \_\_\_\_\_

**ODOT**

STATE OF OREGON, by and through  
its Department of Transportation

By: \_\_\_\_\_  
Craig Greenleaf, Division Administrator  
Transportation Development Division

Date: \_\_\_\_\_

**Contact Names:**

XXX  
City of XXX  
XXX Pkwy.  
XXX, OR XXXXX  
Phone: XXX-XXX-XXXX  
Fax: XXX-XXX-XXXX  
E-Mail: XX.XXX@ci.XXXXXX.or.us

Andy Johnson, Contract Administrator  
Transportation and Growth Management Program  
123 NW Flanders  
Portland, OR 97209-4037  
Phone: 503-731-8356  
Fax: 503-731-3266  
E-Mail: Andrew.JOHNSON@odot.state.or.us

TGM Grant Agreement No. 23XXX  
TGM File Code XX-05  
EA # TGM7LAXX



# Oregon

Theodore R. Kulongoski, Governor

## Transportation & Growth Management Program

555 13<sup>th</sup> Street, Suite 2

Salem, OR 97301-4178

(503) 986-4121

Fax: (503) 986-4174

Web Address: <http://www.oregon.gov/lcd>

October 31, 2006

Katie Mangle  
City of Milwaukie  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206

Subject: File Code 1R-05; Transportation System Plan Update

Dear Ms. Mangle:

This transmittal contains your TGM Intergovernmental Agreement. Please obtain authorized signatures on the three tabbed copies and return them to me at the ODOT TGM office in Salem. You may keep a copy that is not tabbed for your records. I will return one copy to you, with original signatures, for your records after execution of the agreement.

Please note that we can reimburse only eligible costs incurred after all parties have signed and before the termination date of this agreement (June 30, 2007). You will be notified when this agreement is fully executed.

If you have any questions, please contact your Contract Administrator, Andy Johnson, at 503-731-8356, or e-mail at [Andrew.JOHNSON@odot.state.or.us](mailto:Andrew.JOHNSON@odot.state.or.us).

Sincerely,

Frances Campo  
TGM Program Support Specialist

Cc: Andy Johnson, TGM  
TGM 1R-05



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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH ODOT TO PARTICIPATE IN A TGM GRANT-FUNDED TRANSPORTATION SYSTEM PLAN UPDATE.**

**WHEREAS**, the ODOT Transportation Growth Management program has awarded the City a \$128,000 grant to update the Transportation System Plan; and

**WHEREAS**, the funds must be expended during the 2006 fiscal year; and

**WHEREAS**, having an updated Transportation System Plan will enable the City to more effectively allocate future funds to improve the City's transportation systems;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Milwaukie adopt a resolution authorizing the City Manager to sign an Intergovernmental Agreement with ODOT to participate in a grant-funded project to update the City's Transportation System Plan.

Introduced and adopted by the City Council on November 9, 2006.

This resolution is effective on November 9, 2006.

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

ATTEST:

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

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

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

**INTERGOVERNMENTAL AGREEMENT**  
City of Milwaukie, Transportation System Plan Update

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation (“ODOT” or “Agency”), and City of Milwaukie (“City” or “Grantee”).

**RECITALS**

1. The Transportation and Growth Management (“TGM”) Program is a joint program of ODOT and the Oregon Department of Land Conservation and Development.

2. The TGM Program includes a program of grants for local governments for planning projects. The objective of these projects is to better integrate transportation and land use planning and develop new ways to manage growth in order to achieve compact pedestrian, bicycle, and transit friendly urban development.

3. This TGM Grant (as defined below) is financed with federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”) funds. Local funds are used as match for SAFETEA-LU funds.

4. By authority granted in ORS 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies to perform any functions and activities that the parties to the agreement or their officers or agents have the duty or authority to perform.

5. City has been awarded a TGM Grant which is conditional upon the execution of this Agreement.

6. The parties desire to enter into this Agreement for their mutual benefit.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**SECTION 1. DEFINITIONS**

Unless the context requires otherwise, the following terms, when used in this Agreement, shall have the meanings assigned to them below:

A. “City's Amount” means the portion of the Grant Amount payable by ODOT to City for performing the tasks indicated in Exhibit A as being the responsibility of City.

B. “City's Matching Amount” means the amount of matching funds which City is required to expend to fund the Project.

C. “City's Project Manager” means the individual designated by City as its project manager for the Project.

D. “Consultant” means the personal services contractor(s) (if any) hired by ODOT to do the tasks indicated in Exhibit A as being the responsibility of such contractor(s).

E. “Consultant’s Amount” means the portion of the Grant Amount payable by ODOT to the Consultant for the deliverables described in Exhibit A for which the Consultant is responsible.

F. “Direct Project Costs” means those costs which are directly associated with the Project. These may include the salaries and benefits of personnel assigned to the Project and the cost of supplies, postage, travel, and printing. General administrative costs, capital costs, and overhead are not Direct Project Costs. Any jurisdiction or metropolitan planning organization that has federally approved indirect cost plans may treat such indirect costs as Direct Project Costs.

G. “Federally Eligible Costs” means those costs which are Direct Project Costs of the type listed in Exhibit D incurred by City and Consultant during the term of this Agreement.

H. “Grant Amount” or “Grant” means the total amount of financial assistance disbursed under this Agreement, which consists of the City's Amount and the Consultant’s Amount.

I. “ODOT’s Contract Administrator” means the individual designated by ODOT to be its contract administrator for this Agreement.

J. “PSK” means the personal services contract(s) executed between ODOT and the Consultant related to the portion of the Project that is the responsibility of the Consultant.

K. “Project” means the project described in Exhibit A.

L. “Termination Date” has the meaning set forth in Section 2.A below.

M. “Total Project Costs” means the total amount of money required to complete the Project.

N. “Work Product” has the meaning set forth in Section 5.J below.

## **SECTION 2. TERMS OF AGREEMENT**

A. Term. This Agreement becomes effective on the date on which all parties have signed this Agreement and all approvals (if any) required to be obtained by ODOT have been received. This Agreement terminates on June 30, 2007 (“Termination Date”).

B. Grant Amount. The Grant Amount shall not exceed \$128,500.

C. City's Amount. The City's Amount shall not exceed \$0.

D. Consultant's Amount. The Consultant's Amount shall not exceed \$128,500.

E. City's Matching Amount. The City's Matching Amount is \$18,000 or 12.29% of the Total Project Costs.

## **SECTION 3. {RESERVED}**

## **SECTION 4. CITY'S REPRESENTATIONS, WARRANTIES, AND CERTIFICATION**

A. City represents and warrants to ODOT as follows:

1. It is a municipality duly organized and existing under the laws of the State of Oregon.

2. It has full legal right and authority to execute and deliver this Agreement and to observe and perform its duties, obligations, covenants and agreements hereunder and to undertake and complete the Project.

3. All official action required to be taken to authorize this Agreement has been taken, adopted and authorized in accordance with applicable state law and the organizational documents of City.

4. This Agreement has been executed and delivered by an authorized officer(s) of City and constitutes the legal, valid and binding obligation of City enforceable against it in accordance with its terms.

5. The authorization, execution and delivery of this Agreement by City, the observation and performance of its duties, obligations, covenants and agreements hereunder, and the undertaking and completion of the Project do not and will not contravene any existing law, rule or regulation or any existing order, injunction, judgment, or decree of any court or governmental or administrative agency, authority or person having jurisdiction over it or its property or violate or breach any provision of any agreement, instrument or indenture by which City or its property is bound.

6. The statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of City.

B. As federal funds are involved in this Grant, City, by execution of this Agreement, makes the certifications set forth in Exhibits B and C.

#### **SECTION 5. GENERAL COVENANTS OF CITY**

A. City shall be responsible for the portion of the Total Project Costs in excess of the Grant Amount. City shall complete the Project; provided, however, that City shall not be liable for the quality or completion of that part of the Project which Exhibit A describes as the responsibility of the Consultant.

B. City shall, in a good and workmanlike manner, perform the work, and provide the deliverables, for which City is identified in Exhibit A as being responsible.

C. City shall perform such work identified in Exhibit A as City's responsibility as an independent contractor and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform such work. City shall also be responsible for providing for employment-related benefits and deductions that are required by law, including, but not limited to, federal and state income tax withholdings, unemployment taxes, workers' compensation coverage, and contributions to any retirement system.

D. All employers, including City, that employ subject workers as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption

under ORS 656.126(2). City shall require and ensure that each of its subcontractors complies with these requirements.

E. City shall be responsible, to the extent permitted by the Oregon Tort Claims Act, ORS 30.260-30.300, only for the acts, omissions or negligence of its own officers, employees or agents.

F. City shall not enter into any subcontracts to accomplish any of the work described in Exhibit A, unless it first obtains written approval from ODOT.

G. City agrees to cooperate with ODOT's Contract Administrator. At the request of ODOT's Contract Administrator, City agrees to:

- (1) Meet with the ODOT's Contract Administrator; and
- (2) Form a project steering committee (which shall include ODOT's Contract Administrator) to oversee the Project.

H. City shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, applicable provisions of the Oregon Public Contracting Code. Without limiting the generality of the foregoing, City expressly agrees to comply with: (1) Title VI of Civil Rights Act of 1964; (2) Title V and Section 504 of the Rehabilitation Act of 1973; (3) the Americans with Disabilities Act of 1990 and ORS 659A.142; (4) all regulations and administrative rules established pursuant to the foregoing laws; and (5) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

I. City shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles. In addition, City shall maintain any other records pertinent to this Agreement in such a manner as to clearly document City's performance. City acknowledges and agrees that ODOT, the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans, and writings of City that are pertinent to this Agreement to perform examinations and audits and make copies, excerpts and transcripts.

City shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

J. (1) All of City's work product related to the Project that results from this Agreement ("Work Product") is the exclusive property of ODOT. ODOT and City intend that such Work Product be deemed "work made for hire" of which ODOT shall be deemed the author. If, for any reason, such Work Product is not deemed "work made for hire", City hereby irrevocably assigns to ODOT all of its rights, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. City shall execute such further documents and instruments as ODOT may reasonably request in order to fully vest such rights in ODOT. City forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

(2) ODOT hereby grants to City a royalty free, non-exclusive license to reproduce any Work Product for distribution upon request to members of the public.

(3) City shall ensure that any work products produced pursuant to this Agreement include the following statement:

"This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), local government, and State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon."

(4) The Oregon Department of Land Conservation and Development and ODOT may each display appropriate products on its "home page".

K. Unless otherwise specified in Exhibit A, City shall submit all final products produced in accordance with this Agreement to ODOT's Contract Administrator in the following form:

- (1) two hard copies; and
- (2) in electronic form using generally available word processing or graphics programs for personal computers via e-mail or on compact diskettes.

- L. City shall submit such documentation of progress on the Project (including deliverables) as are satisfactory to ODOT. City shall present progress reports, and deliverables to ODOT's Contract Administrator no less than every other month. City shall submit cost reports for 100% of City's Federally Eligible Costs. Generally accepted accounting principles and definitions of ORS 294.311 shall be applied to clearly document verifiable costs that are incurred.
- M. Within 30 days after the Termination Date, City shall
- (1) pay to ODOT City's Matching Amount less Federally Eligible Costs previously reported as City's Matching Amount. ODOT may use any funds paid to it under this Section 5.L (1) to substitute for an equal amount of federal SAFETEA-LU funds used for the Project or use such funds as matching funds; and
  - (2) provide to ODOT's Contract Administrator, in a format provided by ODOT, a completion report. This completion report shall contain:
    - (a) The permanent location of Project records (which may be subject to audit);
    - (b) A summary of the Total Project Costs, including a breakdown of those Project costs that are reimbursable hereunder and those costs which are being treated by City as City's Matching Amount;
    - (c) A list of final deliverables; and
    - (d) City's final disbursement request.

## **SECTION 6. CONSULTANT**

If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to accomplish the work described in Exhibit A as being the responsibility of the Consultant. In such a case, even though ODOT, rather than City is the party to the PSK with the Consultant, ODOT and City agree that as between themselves:

- A. Selection of the Consultant will be conducted by ODOT in accordance with ODOT procedures with the participation and input of City;
- B. ODOT will review and approve Consultant's work, billings and progress reports after having obtained input from City;

- C. City shall be responsible for prompt communication to ODOT's Contract Administrator of its comments regarding (1) and (2) above; and
- D. City will appoint a Project Manager to:
  - (1) be City's principal contact person for ODOT's Contract Administrator and the Consultant on all matters dealing with the Project;
  - (2) monitor the work of the Consultant and coordinate the work of the Consultant with ODOT's Contract Administrator and City personnel, as necessary;
  - (3) review any deliverables produced by the Consultant and communicate any concerns it may have to ODOT's Contract Administrator; and
  - (4) review disbursement requests and advise ODOT's Contract Administrator regarding payments to Consultant.

#### **SECTION 7. ODOT'S REPRESENTATIONS AND COVENANTS**

- A. ODOT certifies that, at the time this Agreement is executed, sufficient funds are authorized and available for expenditure to finance ODOT's portion of this Agreement within the appropriation or limitation of its current biennial budget.
- B. The statement of work attached to this Agreement as Exhibit A has been reviewed and approved by the necessary official(s) of ODOT.
- C. ODOT will assign a Contract Administrator for this Agreement who will be ODOT's principal contact person regarding administration of this Agreement and will participate in the selection of the Consultant, the monitoring of the Consultant's work, and the review and approval of the Consultant's work, billings and progress reports.
- D. If the Grant provided pursuant to this Agreement includes a Consultant's Amount, ODOT shall enter into a PSK with the Consultant to perform the work described in Exhibit A designated as being the responsibility of the Consultant, and in such a case ODOT agrees to pay the Consultant in accordance with the terms of the PSK up to the Consultant's Amount.

#### **SECTION 8. TERMINATION**

This Agreement may be terminated by mutual written consent of all parties. ODOT may terminate this Agreement effective upon delivery of written notice to City, or

at such later date as may be established by ODOT under, but not limited to, any of the following conditions:

A. City fails to complete work specified in Exhibit A within the time specified in this Agreement, including any extensions thereof, or fails to perform any of the provisions of this Agreement and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

B. Consultant fails to complete work specified in Exhibit A within the time specified in this Agreement, including any extensions thereof, and does not correct any such failure within 10 days of receipt of written notice or the date specified by ODOT in such written notice.

C. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or ODOT is prohibited from paying for such work from the planned funding source.

D. If ODOT fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow ODOT, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.

In the case of termination pursuant to A, B, C or D above, ODOT shall have any remedy at law or in equity, including but not limited to termination of any further disbursements hereunder. Any termination of this Agreement shall not prejudice any right or obligations accrued to the parties prior to termination.

## **SECTION 9. GENERAL PROVISIONS**

A. Time is of the essence of this Agreement.

B. Except as otherwise expressly provided in this Agreement, any notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to ODOT or City at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either party may hereafter indicate pursuant to this Section. Any communication or notice so addressed and mailed is in effect five (5) days after the date postmarked. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against ODOT, such facsimile transmission must be confirmed by telephone notice to ODOT's

Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

C. ODOT and City are the only parties to this Agreement and are the only parties entitled to enforce the terms of this Agreement. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons (including but not limited to any Consultant) unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

D. Sections 5(I), 5(K), 5(L) and 9 of this Agreement and any other provision which by its terms is intended to survive termination of this Agreement shall survive.

E. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between ODOT (and/or any other agency or department of the State of Oregon) and City that arise from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. City, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

F. This Agreement and attached Exhibits (which are by this reference incorporated herein) constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No modification or change of terms of this Agreement shall bind either party unless in writing and signed by all parties and all necessary approvals have been obtained. Budget modifications and adjustments from the work described in Exhibit A must be processed as an amendment(s) to this Agreement and the PSK. No waiver or consent shall be effective unless in writing and signed by the party against whom such waiver or consent is asserted. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of ODOT to enforce any provision of this Agreement shall not constitute a waiver by ODOT of that or any other provision.

On June 18, 2003, the Oregon Transportation Commission (“Commission”) approved Delegation Order No. 2, which authorizes the Director of ODOT to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program (“STIP”) or a line item in the biennial budget approved by the Commission

On April 12, 2004, the Director approved Subdelegation Order No. 10 in which the Director delegates authority to the Division Administrator, Transportation Development, to approve and execute personal service contracts and agreements over \$75,000 for programs within the Transportation Development Division when the work is related to a project included in the STIP or in other system plans approved by the Commission or in a line item in the legislatively adopted biennial budget.

**City**

*City of Milwaukie*

By: \_\_\_\_\_  
(Official’s Signature)

\_\_\_\_\_  
(Printed Name and Title of Official)

Date: \_\_\_\_\_

**ODOT**

STATE OF OREGON, by and through  
its Department of Transportation

By: \_\_\_\_\_  
Craig Greenleaf, Division Administrator  
Transportation Development Division

Date: \_\_\_\_\_

**ATTORNEY GENERAL’S OFFICE**

Approved as to legal sufficiency by the  
Attorney General's office.

By: \_\_\_\_\_  
(Official's Signature)

Date: \_\_\_\_\_

**Contact Names:**

Katie Mangle  
City of Milwaukie  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206  
Phone: 503-786-7502  
Fax: 503-774-8236  
E-Mail:

Andy Johnson, Contract Administrator  
Transportation and Growth Management Program  
123 NW Flanders  
Portland, OR 97209-4037  
Phone: 503-731-8356  
Fax: 503-731-3266  
E-Mail: Andrew.JOHNSON@odot.state.or.us

## **EXHIBIT A**

### **STATEMENT OF WORK**

#### **City of Milwaukie TSP Update**

#### **Definitions**

AC – Advisory Committee  
CIP – Capital Improvement Plan  
City – City of Milwaukie  
County – Clackamas County  
CP – Milwaukie Comprehensive Plan  
DLCD – Department of Land Conservation and Development  
NILUS – North Industrial Land Use and Transportation Study  
ODOT/Agency – Oregon Department of Transportation  
OHP – Oregon Highway Plan  
RTP – Metro’s Regional Transportation Plan  
Section 4(f) - Section 4(f) of the Department of Transportation (DOT) Act of 1966 and set forth in Title 49 United States Code (U.S.C.), Section 1653(f).  
TDM – Transportation Demand Management  
TGM – Transportation and Growth Management Program  
Title 3 – Title 3 of Metro’s code related to Water Quality, Flood Management and Fish and Wildlife Conservation.  
TPR – Transportation Planning Rule  
TSP – Transportation System Plan  
UGB - Urban Growth Boundary  
v/c – volume to capacity  
WG – Working Group consisting of citizens and agency representatives focused on specific topics.  
WOCPM – Work Order Contract Project Manager

This statement of work describes the responsibilities of all entities involved in this cooperative project.

The work order contract (for the purposes of the quoted language below the “WOC”) with the work order consultant (“Consultant”) shall contain the following provisions in substantially the form set forth below:

#### **“PROJECT COOPERATION**

This statement of work describes the responsibilities of the entities involved in this cooperative Project. In this Work Order Contract (WOC), the Consultant shall only be responsible for those deliverables assigned to the Consultant. All work assigned to other

entities are not Consultant's obligations under this WOC, but shall be obtained by Agency through separate intergovernmental agreements which contain a statement of work that is the same as or similar to this statement of work. The obligations of entities in this statement of work other than the Consultant are merely stated for informational purposes and are in no way binding, nor are the named entities parties to this WOC. Any tasks or deliverables assigned by Consultant to its subcontractor shall be construed as being the responsibility of the Consultant.

Any Consultant tasks or deliverables which are contingent upon receiving information, resources, assistance, or cooperation in any way from another entity as described in this statement of work shall be subject to the following guidelines:

1. At the first sign of non-cooperation, the Consultant shall provide written notice (email acceptable) to Oregon Department of Transportation (Agency) Work Order Contract Project Manager (WOCPM) of any deliverables that may be delayed due to lack of cooperation by other entities referenced in this statement of work.
2. WOCPM shall contact the non-cooperative entity or entities to discuss the matter and attempt to correct the problem and expedite items determined to be delaying the Consultant.

If Consultant has followed the notification process described in item 1, and Agency finds that delinquency of any deliverable is a result of the failure of other referenced entities to provide information, resources, assistance, or cooperation, as described in this statement of work, the Consultant will not be found in breach of contract. WOCPM will negotiate with Consultant in the best interest of the State, and may amend the delivery schedule to allow for delinquencies beyond the control of the Consultant.

### **Key Persons**

Contractor acknowledges and agrees that Agency selected Contractor, and is entering into this WOC, because of the special qualifications of Contractor's key people. In particular, Agency through this WOC is engaging the expertise, experience, judgment, and personal attention of **Carl D. Springer** ("Key Person"). Contractor's Key Personnel shall not delegate performance of the management powers and responsibilities he/she is required to provide under this WOC to another (other) Contractor employee(s) without first obtaining the written consent (email acceptable) of Agency. Further, Contractor shall not re-assign or transfer a Key Person to other duties or positions such that a Key Person is no longer available to provide Agency with his/her expertise, experience, judgment, and personal attention, without first obtaining Agency's prior written consent to such re-assignment or transfer. In the event Contractor requests that Agency approve a re-assignment or transfer of a Key Person, Agency shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the a Key Person. Any

approved substitute or replacement for a Key Person shall be deemed a Key Person under this WOC.”

### **Project Background and Description**

City of Milwaukie (City) is an older first tier suburb of Portland. Land supply is limited for commercial, industrial and residential development. Population and employment figures have grown modestly in previous decades (population is approximately 15% above 1980 level). However, several significant new commercial and residential developments are underway (North Main Village, Oak Street Square and construction of a Safeway at the King Road shopping center). These have been paralleled by an upswing in building permit activity for smaller residential development as well. City contains several significant redevelopment opportunities, in downtown and along Highway 224.

City lies at the intersection of several regional transportation facilities and downstream from several areas slated for significant growth in Metro’s 2040 Growth Concept. Milwaukie’s existing Transportation System Plan (TSP), adopted in 1997, does not adequately address performance and capacity needs at key intersections especially along Highway 224. 1997 TSP defers study of access and mobility at the six city intersections with Highway 224 to a prospective corridor plan. While included in the Metro Regional Transportation Plan (RTP), the corridor refinement project has not been scheduled for near-term consideration due to priority work on other projects.

Since the 1997 adoption of the current TSP, City has adopted a Town Center Master Plan (December 1997) and a Downtown and Riverfront Land Use Framework Plan (2000). The Oregon Transportation Commission in January 2004 created a Special Transportation Area on Highway 99E in City of Milwaukie from Southeast Scott Street to Southeast Blue Bird Street (mile point 6.30), spanning the downtown area.

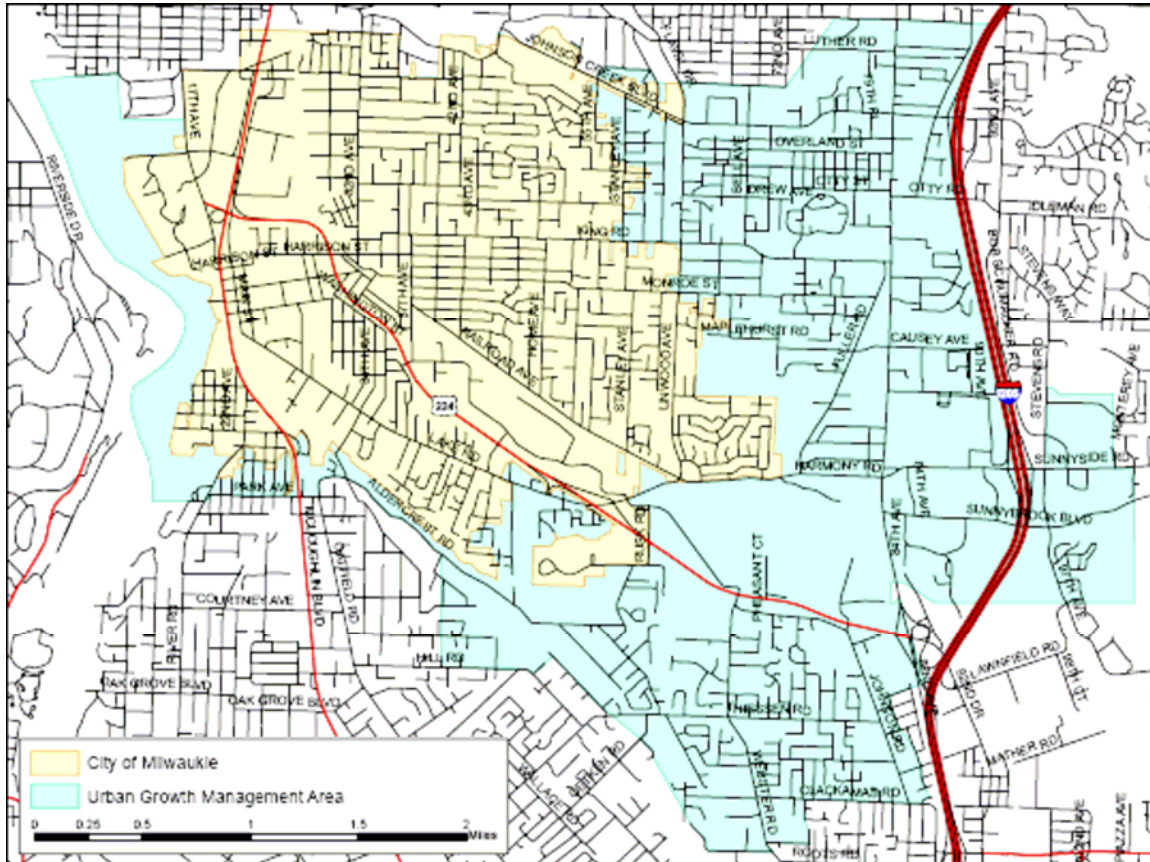
The 2004 RTP forecasts continued “strong north/south demand” in urbanized Clackamas County (County). Segments of Highway 224 and McLoughlin Boulevard/OR 99-E within City are integral elements of the regional network serving this north/south travel. McLoughlin/OR 99-E in and through City has long been identified as an important future route for high capacity transit.

The North Industrial Land Use and Transportation Study (NILUS) identified several transportation improvements to help address the tension between local access and the free flow of traffic on McLoughlin/99-E immediately north of Highway 224. Proposed regional high capacity transit facilities could place additional burdens on that area. Developing a framework in which the multi-faceted issues facing the North Industrial Area could be addressed is overdue.

The TSP update will significantly advance City’s understanding of transportation system needs and City’s ability to plan for and implement improvements in support of adopted land use plans and in a manner consistent with the Transportation Planning Rule (TPR), Oregon Highway Plan (OHP), and the RTP.

## Project Area

Project Area encompasses the City limits, and the surrounding lands within City's Urban Planning Area. City has a population of 20,755 (2004) and encompasses an area of 3,085 acres.



## Transportation Relationship and Benefits

This project updates City's TSP to identify planned transportation facilities and services needed to support planned land uses and transportation patterns associated with those uses. This update assures consistency with the RTP and past Transportation and Growth Management (TGM) projects. Updated TSP must provide a framework to accomplish the following:

- Establish a network of arterials/collectors that are interconnected, appropriately spaced and reasonably direct.
- Protect the function of transportation facilities and corridors and the environment.

- Provide public transportation services, including transit and ridesharing, that offer transportation options for riders of choice and meet the basic needs of the transportation disadvantaged.
- Provide a network of sidewalks and bikeways linking residential areas to activity centers.

Updated TSP must:

- Include a transportation improvement program that identifies facilities/services that implement the TSP.
- Include a transportation finance program that identifies the funds that will be used to pay for projects identified in the transportation improvement program.
- Include adoption ordinances that protect facilities and corridor function and encourage alternate modes

**Project Objectives**

- Build upon and encourage local interest in participation in transportation policy discussions,
- Provide ample opportunity for community dialogue on issues, vision, and priorities.
- Prepare conceptual solutions or alternatives for improving local access into the North Milwaukie Industrial Area,
- Prepare to update relevant sections of City Code, Comprehensive Plan, Capital Improvement Plan, and Development Standards.
- Analyze potential crossing improvements across and over OR 224 along with other corridor refinement strategies,
- Review the Neighborhood Traffic Management Plan and consider policy guidance for development of neighborhood traffic control plans and proposals,
- Review street design guidance, incorporating green street and other design principles and standards for retrofits in areas with constrained right-of-way,
- Bring TSP into compliance with the new TPR, RTP and periodic review requirements,
- Avoid and minimize impacts to resources to the maximum extent possible,
- Plan transportation facilities to accommodate growth in City and surrounding area while protecting Milwaukie's local access needs and quality of life,
- Establish a clear connection between foreseeable resources and planned improvements.

**Table of Contents of Updated TSP**

Chapter 1 – User's Guide

Chapter 2 - Transportation Goals, Plans and Policies

    Subchapter: Review of existing goals, plans and policies

    Subchapter: Updated TSP goals, plans and policies

Chapter 3 - Existing Conditions

Subchapter: Inventory of Transportation Facilities

Chapter 4 - Future Demand and Land Use

Chapter 5 - Pedestrian Plan

Chapter 6 - Bicycle Plan

Chapter 7 - Public Transit Plan

Chapter 8 - Auto/Street Network Plan (must include Transportation Demand Management)

Chapter 9 – Freight and Other Modes Plan (Air, Rail, Water, Pipeline)

Chapter 10 - Street Design

Chapter 11 - Neighborhood Traffic Management

Chapter 12 – Parking

Chapter 13 – Funding and Implementation Plan

Subchapter: Definition of Resources (Financial and Regulatory)

Subchapter: Outcome Priorities

Chapter 14 – Plan Implementation Recommendations for ordinance amendments (zoning, subdivision, public works construction standards) to implement Updated TSP and to meet TPR and RTP requirements (per *Transportation System Planning Guidelines 2001* Step 13)

**Expectations about Written and Graphic Deliverables**

In completing the Updated TSP, Contractor shall provide copies of the final Updated TSP to City and WOCPM in both hard copy and electronic versions. Electronic versions must include both Adobe Acrobat and an editable text format appropriate to each jurisdiction or Agency (City and Agency require Microsoft Word format for editable versions). In addition, Contractor shall deliver Adobe Acrobat versions to County and members of the project advisory committees.

Contractor shall provide map and graphic deliverables in hard copy to City, Agency and WOCPM. Contractor shall also provide electronic copies of all maps to City, Agency and WOCPM; electronic versions are to include Adobe Acrobat and Microstation or ARCView formats. The data must be in an ESRI-compatible format (shapefile, coverage, or geodatabase). The spatial reference system must be NAD83 HARN, Oregon State Plane North. Maps must include details necessary to ensure usability, such as city limits, Urban Growth Boundaries (UGBs), street names, relevant environmental and cultural features, legend, date, etc. Maps included in the Updated TSP must be at a scale that is legible. Maps and graphics may be in color but must be printable in black and white.

Consultant shall ensure that any work products produced pursuant to this contract include the following statement:

This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), local government, and the State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon.

### **Expectations about Project Management**

#### **Objective**

Provide sufficient oversight to ensure this project is well managed; to ensure consistency with city, regional, and state policies, public comment, and project objectives; to ensure successful project completion; and to ensure the Contract and Grant are well managed.

#### **Strategy**

1. Project Management Team (PMT): The PMT will be the final decision body regarding scope, schedule and budget issues. The PMT shall meet as needed to address project management issues and public interest and outcomes from public meetings.
2. City shall prepare and forward to the WOCPM bi-monthly project match reports.
3. City shall review all Consultant invoices and recommend approval or disapproval for TGM payment.
4. City shall prepare the final TGM grant close out and match report.

#### **City Responsibilities:**

1. Bi-monthly progress reports and invoices to WOCPMTGMCA.
2. Respond to Consultant and WOCPM inquiries quickly
3. Project Management Team, committee and working group (WG) rosters, and meeting schedules.
4. Recommend Approval or disapproval on Consultant invoices
5. Final grant close out and match report.
6. Coordination of City Staff

#### **Consultant Responsibilities:**

1. Communicate regularly with City and WOCPM
2. Respond to City and WOCPM inquiries quickly
3. Work closely with City Staff in cooperative manner
4. Notify WOCPM of potential scope, schedule and budget issues

5. Notify WOCPM and City of any potential delays in deliverables and provide new deadline

**WOCPM Responsibilities:**

1. Process invoices in an expedited manner
2. Respond to City and Consultant inquiries quickly
3. Track milestones, and compliance with WOC and IGA
4. Act as intermediary between City and Consultant if conflict arises and intermediary is desired
5. Coordinate and track grant requirements with TGM Program in Salem

**Task 1 Public Involvement Process Initiation**

**Objective:** To stimulate broad public discussions and awareness of TSP work areas.

**Subtasks**

1.1 Advisory Committee (AC) Roster - City shall prepare AC Roster, listing the names and contact information of policy advisors, technical experts; service providers; regulators; and representatives of residents, businesses, neighborhood groups, and/or existing civic groups which will provide input throughout Project. At a minimum, AC must include representatives from ODOT, Department of Land Conservation and Development (DLCDD), Metro, County (transportation and land use planning) and City (Community Development & Public Works Department, Planning, and the Fire Department (or another representative for emergency services)). City shall seek Policy Advisors with expertise in economic development, real estate development, regional governance, sustainability, urban design, Americans with Disabilities Act accessibility, safe routes to schools, and elderly transportation issues.

AC will provide opinion and feedback to Consultant from both the public and the Policy Advisors. It will also provide a forum for exploration of the interactions among the multiple issue areas that arise during the planning process. AC members will review draft chapters of the TSP. AC meetings must be open to the public and interested parties will be welcome to participate in all AC activities.

1.2 Working Group (WG) Rosters – WG meetings will be held to solicit community input on issues and solutions; advance understanding existing policies, local needs, values and conditions; to develop publicly desired outcomes, and to identify and select alternative approaches. Some meetings shall be facilitated by Consultant and all will be assisted by an expert in the particular policy area, to be provided by Consultant. City will assign staff to each group and will be responsible for educating the group on City policy, developing the agenda, meeting management, and providing strategic direction. City shall be responsible for meeting scheduling, notices, set-up and material distribution. Consultant shall be responsible for preparing technical information for display and discussion, and taking and preparing meeting notes. City shall set up the meetings and circulate the materials at least one week before the meeting.

Working groups and workshops will be formed for several topics, including

- Bicycle Systems
- Pedestrian Systems

- Downtown Parking
- Street Design
- Street Network and Traffic
- Transit
- Freight

1.3 Interested Citizen Rosters - City shall organize and prepare Rosters of interested citizens for attendance at all public meetings.

1.4 Public Involvement Plan - City shall develop Public Involvement Plan to include schedule of AC meetings, WG meetings, Open Houses, planning commission and city council briefings, newsletter articles, and public notices of public involvement opportunities. Consultant shall advise City on public outreach strategy and review and comment on the draft Public Involvement Plan.

1.5 Community Briefings - City shall schedule, facilitate and staff a series of five Community Briefings to serve as a public launch for Project. City shall handle logistics (time, place, set up, invitations). Consultant shall produce technical material to be displayed and provide technical expertise. The primary purpose will be to introduce the process and provide an invitation to participate.

1.6 Public Outcome Prioritization Survey - Consultant shall prepare Public Outcome Prioritization Survey, a deliverable intended to elicit attitudes and desires and to assist Consultant and AC in prioritizing transportation outcomes in later tasks. Public Outcome Prioritization Survey must consist of a survey instrument for electronic distribution and a report that tabulates responses. Consultant shall format questions, preparing mock-up survey, troubleshooting and analyzing results. City shall distribute, collect and forward the completed surveys to Consultant. Consultant shall tabulate and report results to City and WOCPM.

**Schedule:** 1 month from Notice to Proceed

**City Deliverables:**

- 1.A AC Roster (1.1)
- 1.B Interested Citizen Rosters (1.2)
- 1.C WG Rosters (1.3)Public Involvement Plan (1.4)
- 1.D Five Community Briefings (1.5)
- 1.E Preparation and Distribution of Public Outcome Prioritization survey instrument (1.6)

**Consultant Deliverables**

- 1.A Technical and display information for and attend 5 Community Briefings (1.5)
- 1.B Public Outcome Prioritization Survey and Report(1.6)

**Task 2      Review Relevant Plans and Policies**

**Objectives:** To review existing plans and policies to ensure compliance with applicable laws, policies and plans.

Define an expected level of funding for transportation improvements, including sources and allowable uses.

**Subtasks**

2.1 Background Information - City shall provide Consultant with Background Information, local, regional and state policy and regulatory documents and inventory data. City shall compile and provide to Consultant:

- 1) Comprehensive Plan (CP)
- 2) Capital Improvement Program (CIP),
- 3) TSP
- 4) NILUS
- 5) Milwaukie Urban Growth Management Agreement
- 6) Milwaukie Zoning Code
- 7) Milwaukie Downtown and Riverfront Land Use Framework Plan (2000)
- 8) North Industrial Area Business Interview Notes (2006)
- 9) Case file on Transit Center siting
- 10) Downtown Milwaukie Parking and Traffic Management Plan (2003)
- 11) Milwaukie Goal 5 Inventory

City shall obtain the following documents from relevant agencies and provide to Consultant:

- 1) TriMet Transit Investment Plan (2005)
- 2) Clackamas County Transportation System Plan (Rural and Urban)
- 3) Oregon TPR (OAR 660-012)
- 4) Oregon Statewide Planning Goals
- 5) Oregon Access Management Rule (OAR 734-051)
- 6) 1999 OHP
- 7) Current State Transportation Improvement Program
- 8) Transportation System Planning Guidelines 2001
- 9) Utility Master Plans
- 10) Clackamas County CIP
- 11) Oregon Conservation Strategy
- 12) RTP (2004) – Including street design types and modal classifications.
- 13) South Corridor Project Supplemental Draft Environmental Impact Statement (December 2002)
- 14) Oregon Rail Plan (2001)

2.2 Draft Chapter 2 - Consultant shall prepare Draft Chapter 2, new and updated TSP goals, plans and policies. Consultant shall review all documents listed in Task 2.1 and prepare draft Chapter 2 that summarizes the documents reviewed and identifies conflicts and discrepancies between the documents and 1997 TSP. The discrepancies must include

consistency of 2004 RTP and TPR. Consultant shall also include an annotated list of the plans, policies, and goals of the transportation-related documents with a brief historical context for a framework of state, regional and local policies and requirements. Draft Chapter 2 will be finalized in Task 3 to allow a proper period for feedback and coordination.

- 2.3 Draft Definition of Resources - Consultant shall prepare a subchapter of Chapter 13, Definition of Resources, which must describe foreseeable likely and possible funding sources for transportation improvements, including the restrictions on uses of those funds, and available regulatory mechanisms. City shall estimate funds to be collected from transportation related fees and distribute to Consultant prior to Consultant beginning work on draft.
- 2.4 Draft Desired Outcomes Memo - Consultant shall prepare a draft Desired Outcomes statement for review and discussion at AC and WG public meetings.
- 2.5 AC Meeting #1 - Consultant shall facilitate AC Meeting #1. The agenda will include project orientation and expectations, and discussion of draft desired outcomes. Consultant shall prepare handout materials for use at the meeting and prepare meeting notes. City shall set up the meeting and circulate the materials to AC at least one week before the meeting. Consultant will incorporate review comments from AC when Draft Chapter 2 is finalized in Task 3.

**Schedule:** 1 month (City to provide documents within first 2 weeks) from Notice to Proceed

**City Deliverables:**

- 2.A Background Information to Consultant (2.1)
- 2.B Estimate of funds to be collected from transportation related fees (2.3)
- 2.C AC Meeting #1 (2.5)

**Consultant Deliverables:**

- 2.A Draft Chapter 2 (2.2)
- 2.B Draft Definition of Resources (2.3)
- 2.C Draft Desired Outcomes Memo (2.4)
- 2.D AC Meeting #1 (2.5)

**Task 3 Existing Conditions**

**Objectives:** Perform field work and data collection to inventory the existing transportation system within the Urban Growth Boundary of Milwaukie.

Evaluate functional classification, street cross-sections, location of facilities

## Subtasks

3.1 Draft Chapter 3 – Consultant shall prepare Draft Chapter 3, an inventory and analysis of existing conditions for each of the modes for which elements will be developed.

Consultant shall be responsible for data collection and documentation, supplemented by specific field work, as needed to obtain a complete inventory as described below; this information must be displayed in both graphic (map) and written format. Actions taken to prepare Draft Chapter 3 must include:

1. **Pedestrian:** Consultant shall update the location of sidewalks and paths.
2. **Bicycle:** Consultant shall update the location of on- and off-street bicycle facilities.
3. **Rail:** Consultant shall update the location of rail facilities.
4. **Marine:** Consultant shall update the location and use of Marine facilities.
5. **Airport:** Consultant shall update the facilities at any Milwaukie area airport.
6. **Pipeline:** Consultant shall identify (but not map) major pipeline facilities, if any, that serve City.
7. **Transit:** Consultant shall identify existing transit service including demand and schedules, location of transit routes and stops, and where the routes go.
8. **Roadways:** Consultant shall update (and/or prepare as necessary) a matrix of items to include functional classifications, jurisdiction, number of lanes, facility capacity, traffic control (signal/stop sign), pavement conditions, driveways/access points (segment-level inventory on arterial and higher class), marked parking, and speed zones. Roadway classifications for arterial and collector level segments should be incorporated from previous TSP. Consultant shall compile a list of collisions, including those involving an automobile and pedestrian and bicycle. Draft functional classification map must be included in Chapter 8.
9. **Traffic Volumes:** Consultant shall obtain traffic counts to include intersection turn movements for the PM peak hour (24-hour tube counts may be needed for local streets). An Oregon-registered professional engineer (Civil or Traffic) must perform or oversee all traffic analysis work in Task 3 and 4. Traffic analysis software programs must follow HCM 2000 procedures. Traffic analysis must be consistent with ODOT's analysis procedures available on the internet at:  
<http://www.oregon.gov/ODOT/TD/TP/Analysis.shtml> ). Operational standards for state facilities must include volume to capacity (v/c) and queuing analysis, non-state facilities can be v/c or level of service (LOS), and must also include queuing and/or delay. Post-processing for model results must be approved by Region 1 Traffic. All traffic volumes must use the 30<sup>th</sup> highest hour. PM peak hour turn movement count data must be obtained between 3:00 PM and 6:00 PM. It is anticipated that Consultant shall conduct new PM peak hour turn movement counts at up to 9 of the 22 intersections listed below. PM peak hour turn movement counts at 13 Project Area intersections may be obtained from historical data files up to three years old.

### **Traffic Count Locations:**

- SE Oatfield Rd @ SE Lake Road

- SE Lake Road @ OR 224
- Harmony Road SE @ SE Linwood Ave
- SE King Road @ SE Linwood Ave
- SE Johnson Creek Blvd @ SE Linwood Ave
- SE 32<sup>nd</sup> @ SE Harrison St
- SE Harrison St @ SE Main St
- SE Harrison St @ OR 224
- SE Harrison St @ OR 99E (McLoughlin Blvd)
- OR 99E (McLoughlin Blvd) @ SE Milport St
- OR 99E (McLoughlin Blvd) @ SE Ochoco St
- OR 99E (McLoughlin Blvd) @ SE River Road
- OR 99E (McLoughlin Blvd) @ SE 22<sup>nd</sup> Ave
- OR 99E (McLoughlin Blvd) @ Monroe St
- OR 99E (McLoughlin Blvd) @ Washington St
- SE 17<sup>th</sup> @ OR 224
- OR 224 @ OR 99E
- OR 224 @ SE Oak St
- OR 224 @ SE Monroe St
- OR 224 @ Edison St
- OR 224 @ Freeman Way
- OR 224 @ Rusk Road
- OR 224 @ 37<sup>th</sup> Ave.
- OR 224 @ Harmony Street
- Up to 10 tube counts on local streets (To be determined by WOCPM and City)

10. **Environmental Resources:** Consultant shall map the known environmental resources, for the purposes of avoiding and minimizing when examining future projects and needs. The Environmental Resources Map must include local Goal 5 inventory, National Wetland Inventory layers, identified historic properties and known cultural resources. This sub-chapter of the TSP must include a map of the inventory, as well as a brief summary of those resources. Those resources must include known wetlands, visual resources, cultural resources, water resources, endangered species habitat and Section 4 (f) eligible property. City shall provide Consultant maps of historic resources, Title 3 wetlands areas (vegetated corridor and wetland buffer), and Willamette Greenway areas.

11. **Environmental Justice:** Consultant shall identify and map locations with concentrations of low income and transportation disadvantaged citizens for the purposes of meeting their needs and avoiding undue adverse impacts when examining future projects and needs. Consultant shall gather information about the current and future transportation disadvantaged community. Consultant shall contact agencies or organizations serving transportation disadvantaged to gather information about the transportation needs of these populations.

Consultant shall submit draft chapter to City and AC for review. City shall distribute relevant sections to the public and WG members. City shall review Draft Chapter 3 and provide consolidated comments to Consultant.

- 3.2 Final Chapter 2/Final Chapter 3 – Consultant shall prepare Final Chapter 2 and Final Chapter 3, incorporating Task 2 and Task 3 comments into drafts. Consultant shall discuss any review comments of City, DLCDD, and ODOT with the respective agency, and incorporate agency comments.
- 3.3 AC Meeting #2 - Consultant shall facilitate AC Meeting #2. The agenda will include discussion of desired outcomes, priorities and existing conditions. Consultant shall prepare handout materials for use at the meeting and prepare meeting notes. City shall set up the meeting and circulate the materials to AC at least one week before the meeting. Consultant will incorporate review comments from AC.
- 3.4 WG Meetings - City shall organize seven WG meetings to discuss draft desired outcomes and existing conditions information. Consultant shall facilitate, prepare meeting notes, and provide a policy area expert for each of the seven WG meetings. City will develop the agenda and be responsible for meeting scheduling, notices, set-up and material distribution. Consultant shall prepare technical information for display and discussion. City shall set up the meetings and circulate the materials at least one week before the meeting. Consultant shall incorporate comments WG and others into final versions of Chapters 2 and 3.

**Schedule:** 3 months from Notice to Proceed

**City Deliverables:**

- 3.A Map of historic resources, Title 3 wetlands areas and Willamette Greenway areas to Consultant (3.1)
- 3.B Distribution of Draft Chapter 3 to AC. Written review comments on the Draft Chapter 3 (3.1)
- 3.C AC Meeting #2 (3.3)
- 3.D WG Meetings (3.4)

**Consultant Deliverables:**

- 3.A Draft Chapter 3 (3.1)
- 3.B Final Chapter 2 (3.2)
- 3.C Final Chapter 3 (3.2)
- 3.D AC Meeting #2 (3.3)
- 3.E WG Meetings (3.4)

**Task 4 Future Conditions and Needs**

**Objectives:** To determine future needs and deficiencies to inform the Alternatives section.

To develop prioritization among the various Desired Outcomes as defined by the WG.

To consider the needs of the transportation disadvantaged (defined as those who are, by necessity, more reliant on transit and other non-auto modes of transportation and/or are physically disabled) when examining future transportation needs.

### **Subtasks**

4.1 Draft Chapter 4 - Consultant shall prepare Draft Chapter 4, an analysis (*per Transportation System Planning Guidelines 2001 Step 8*) of existing and committed capacity of the transportation system against future needs. This task should employ a level three (3) cumulative analysis. Consultant shall rely upon the following data to assess future needs:

- A. Population and employment projections for City and County. Consultant shall coordinate with County in order to come to agreement on appropriate population and employment projections between City and County. These projections will consider the forecast for the on-going Regional Transportation Plan update, and be consistent with these forecasts. DLCDC must be given an opportunity to review and confirm population and employment projections.
- B. Any known and approved development plans within the UGB, in addition to known development target areas. Traffic analysis software programs must follow Highway Capacity Manual 2000 procedures. Traffic analysis must be consistent with ODOT's analysis procedures available on the internet at: (<http://www.oregon.gov/ODOT/TD/TP/Analysis.shtml> ). Operational standards for state facilities must include v/c analysis, non-state facilities can be v/c or LOS, and can also include delay. Post-processing for model results must be approved by Region 1 Traffic. All traffic volumes must use the 30<sup>th</sup> highest hour. Future year analysis planning horizon must be 2030. Consultant shall consult with ODOT Region 1 Traffic, DLCDC and City to confirm methodology and forecast parameters.

Consultant shall compare the population and needs with the existing service to identify any inadequacies for further consideration. Consultant shall state all assumptions and findings. City shall submit one set of consistent comments to Consultant on draft Chapter 4.

4.2 AC Meeting #3 - Consultant shall facilitate AC Meeting #3. The agenda will include review of future conditions and alternatives. Consultant shall prepare handout materials for use at the meeting and prepare meeting notes. City shall set up the meeting and circulate the materials to AC at least one week before the meeting. Consultant will incorporate review comments from AC.

4.3 WG Meetings - City shall organize six WG meetings to discuss future conditions information. Consultant shall facilitate, prepare meeting notes, and provide a policy area expert for each of the six WG meetings. City will develop the agenda and be responsible for meeting

scheduling, notices, set-up and material distribution. Consultant shall be responsible for preparing technical information for display and discussion. City shall set up the meetings and circulate the materials at least one week before the meeting. Consultant shall incorporate comments WG and others into final versions.

4.4 Final Chapter 4 - Consultant shall prepare Final Chapter 4, incorporating comments from WGs, AC meeting #3, WOCPM and City into draft.

**Schedule:** 5 months from Notice to Proceed

**City Deliverables:**

- 4.A Staff comments on draft Chapter 4 (4.1)
- 4.B AC Meeting #3 (4.2)
- 4.C WG Meetings (4.3)

**Consultant Deliverables:**

- 4.A Draft Chapter 4 (4.1)
- 4.B AC Meeting #3 (4.2)
- 4.C WG Meetings (4.3)
- 4.D Final Chapter 4 (4.4)

**Task 5 Alternative Evaluation and Selection**

**Objective:** A series of criteria must be developed to evaluate alternatives and establish a methodology for packaging and prioritizing projects. A comparison to functional classifications and plans of other agencies (Clackamas County, ODOT) may be used to compare alternatives

**Subtasks**

- 5.1 Evaluation Criteria - Consultant shall develop Evaluation Criteria to be used to evaluate and select system alternatives. Use of Evaluation Criteria should result in alternatives that can reasonably be expected to meet the existing and future transportation system needs in a safe manner, at a feasible cost, and with available technology. Criteria must be informed by Desired Outcomes developed by WG (finalized in 4.3).
- 5.2 Hwy 99E Conceptual Designs - Consultant shall prepare Hwy 99E Conceptual Designs, alternatives for improved grade separated local access along OR 99E near Ochoco. The alternatives must be conceptual level design, and must be provided in graphic format. The Conceptual Design must be of sufficient detail to determine if they are feasible to construct to applicable standards. Each alternative must meet the future travel demand (local and through-travel).
- 5.3 Hwy 224 Crossings Conceptual Designs - Consultant shall prepare Hwy 224 Crossings Conceptual Designs, designs which address opportunities and constraints for improved grade separated crossings along OR 224 in City of Milwaukie.

- 5.4 Draft Chapters 5 – 12 – Consultant shall prepare Draft Chapters 5-12, detailing the recommended future transportation system, standards, and actions. Actions taken to prepare Draft Chapters must include:
- a. Alternative Strategies Memo - Using Evaluation Criteria developed in subtask 5.1, Consultant shall develop and examine Alternative Strategies, improvements for addressing the problems and needs identified in Task 4 (per *Transportation System Planning Guidelines 2001* Steps 9 and 10). Consultant shall take into consideration the various plans, studies and reports reviewed in prior tasks together with feedback from agencies (e.g., ODOT, City and County), and the AC and WG in prior tasks. Consultant shall list alternatives not analyzed with explanation as to why they did not merit further analysis. Consultant shall emphasize maintaining and improving the efficiency of the existing system. City shall provide feedback to Consultant. Consultant shall use the standards listed under OAR 660-12-0035 considering No Build and a revised list of Build improvements for the TSP update. Consultant shall evaluate system alternatives and proposed improvements based on the Evaluation Criteria. Alternative strategies must address the following transportation components:
    - A. Transportation System Management
    - B. Transit improvements and additional transit opportunities
    - C. Pedestrian and bicycle travel
    - D. Achieving transportation demand management objectives such as non-Single Occupancy Vehicle modal targets and vehicle miles traveled/capita reductions; identify major employers as potential candidates for expanded Transportation Demand Management (TDM) activities; must use Highway Design Manual v/c ratios for state facilities and appropriate standards for local facilities
    - E. Truck traffic and freight movement
    - F. Air, rail and water transportation
    - G. Street design
    - H. Neighborhood Traffic Management – Potential route designations, implementation guidelines, and toolbox of solutions.
    - I. Parking
  2. Consultant shall incorporate Hwy 99E Conceptual Designs and Hwy 224 Crossings Conceptual Designs into Chapter 8.

Consultant shall submit a draft of the chapters 5-12 to City for review and comment. Consultant shall also submit a copy to ODOT and DLCDC for their compliance review with TPR. Consultant shall discuss the comments of City, and ODOT with the respective agency, meet with each agency to resolve differences, if necessary, and incorporate them into Task 6 Draft Updated TSP.

- 5.5 AC Meeting #4 - Consultant shall facilitate AC Meeting #4. The agenda will include review of draft chapters 5-12. Consultant shall prepare handout materials for use at the meeting and prepare meeting notes. City shall set up the meeting and circulate the materials to AC at least one week before the meeting. Consultant will incorporate review comments from AC.
- 5.6 WG Meetings - City will organize four WG meetings. Agendas will include review of alternatives and implementation plans. Consultant shall facilitate, prepare meeting notes, and provide a policy area expert for each of the four WG meetings. City will develop the agenda and be responsible for meeting scheduling, notices, set-up and material distribution. Consultant shall be responsible for preparing technical information for display and discussion. City shall set up the meetings and circulate the materials at least one week before the meeting. Consultant shall incorporate comments WG and others into final versions.
- 5.7 Open House #1 - Consultant shall facilitate one Open House to present Task 5 information to members of the public. City staff shall attend to introduce and assist Consultant. City shall handle logistics. Consultant shall prepare and produce technical information for display at the meeting. The Open House must include mountable/hanging maps and photos, with a minimum size of 34 X 44 inches, which shall be provided by Consultant. Consultant shall record all public comment for consideration.

**Schedule:** 8 months from Notice to Proceed

**City Deliverables:**

- 5.A Review Alternative Strategies Memo (5.4)
- 5.B Review of Draft Chapter 5-12 (5.4)
- 5.C AC Meeting #4 (5.5)
- 5.D WG Meetings (5.6)
- 5.E Open House #1 (5.7)

**Consultant Deliverables:**

- 5.A Evaluation Criteria (5.1)
- 5.B Hwy 99E Conceptual Designs (5.2)
- 5.C Hwy 224 Crossing Conceptual Designs (5.3)
- 5.D Draft Chapters 5 – 12 and Alternative Strategies Memo (5.4)
- 5.E AC Meeting #4 (5.5)
- 5.F WG Meetings (5.6)
- 5.G Open House #1 (5.7)

**Task 6 Transportation Systems Plan, Financing Plan**

**Objective:** To document the transportation findings from the technical work and community meetings to produce Draft Transportation System Plan Update. To create a Financing and Implementation Plan and Implementation Recommendations.

### **Subtasks**

- 6.1 Project Costs and Financing - Consultant shall prepare Project Costs and Financing, an evaluation of potential funding options for the proposed improvement projects in Chapters 5-12.
- 6.2 Funding Sources - City shall prepare Funding Sources, an identification and update of the level of funding from sources that are directed to transportation such as System Development Charges.
- 6.3 Draft CIP - Consultant shall prepare Draft CIP, a Capital Improvement Project List that updates City's existing CIP.
- 6.4 Draft Chapters 13 and 14 - Consultant shall prepare Draft Chapters 13 and 14, project and regulatory implementation. Draft Chapter 13 must include:
- i a list of planned improvements,
  - ii a general estimate for the timing of the improvements consistent with the funding sources, and
  - iii a determination of rough cost estimates and sources of the funding.

Draft Chapter 14 must include recommended ordinance amendments (zoning, subdivision, public works construction standards) to implement the Updated TSP and to meet TPR and RTP requirements (per Transportation System Planning Guidelines 2001 Step 13) and recommended changes to CP to help implement the TSP (as per ORS 660-012-0045).

- 6.5 Draft Chapter 1 - Consultant shall prepare Draft Chapter 1, a "User's Guide" which uses non-technical language and graphics to explain the key elements of TSP and refer readers to the appropriate sections for additional details.
- 6.6 Draft Updated TSP - Consultant shall prepare Draft Updated TSP, a well organized, easy-to-understand draft Updated TSP that has been compiled from the chapters of prior tasks (organized per Table of Contents) and incorporates the various comments and suggestions made by the specific agencies, WG, AC and general public over the course of the project (per Transportation System Planning Guidelines 2001 Step 11). Draft Updated TSP must address and meet the current requirements of TPR. Consultant shall submit Draft Updated TSP to City, County, DLCD, Metro, TriMet and ODOT for their review and comment.
- 6.7 Revised Draft Updated TSP - Consultant shall incorporate feedback from AC, public meetings, County, Metro, TriMet, ODOT and DLCD into a revised version of Draft Updated TSP. Consultant shall discuss comments from DLCD, ODOT, Metro, County and TriMet and make modifications where appropriate. City shall supply comments to Consultant.
- 6.8 Talking Points - Consultant shall prepare a "talking points" paper for use at Task 7 Planning Commission, and City Council meetings that summarizes those parts of Draft Updated TSP that are in need of further clarification or direction.
- 6.9 Draft Chapter 14 – Consultant shall prepare Draft Chapter 14, an identification of amendments to City Codes needed to comply with TPR 0045(1) through (4).

**Schedule:** Final draft 8 months from Notice to Proceed.

**City Deliverables:**

- 6.A Funding Sources (6.2)
- 6.B Review Draft Updated TSP and provide written comments (6.6 and 6.7)

**Consultant Deliverables:**

- 6.A Project Costs and Financing (6.1)
- 6.B Draft CIP (6.3)
- 6.C Draft Chapters 13 and 14 (6.4)
- 6.D Draft Chapter 1 (6.5)
- 6.E Draft Updated TSP (6.6)
- 6.F Talking Points (6.8)
- 6.G Revised Draft Updated TSP (6.7)
- 6.H Draft Chapter 14 (6.9)

**Task 7 Adoption Process**

**Objective:** Present TSP Update to Planning Commission and City Council for adoption. Present Plan Implementation Recommendations to the appropriate sections of City Municipal Code to the Planning Commission and City Council for adoption.

**Subtasks**

- 7.1 45-Day Notice. City shall prepare 45-Day Notice and submit Adoption Draft Updated TSP and TPR Implementation Amendments to DLCDC for its review
- 7.2 Consultant shall make revisions to the Revised Draft Updated TSP (6.G) based on input from City Council and Planning Commission. Consultant shall distribute to City to prepare for adoption.
- 7.3 Adoption - City shall arrange for Adoption of Adoption Draft Updated TSP Update and TPR Implementation Amendments.
- 7.4 Consultant shall finalize adopted version of TSP. Consultant shall supply City with one electronic and five hard copies of Updated TSP and Adopted TPR Implementation Amendments. Consultant shall supply WOCPM with three hard copies and two electronic (CD) copies of both. Consultant shall supply DLCDC with one hard and one electronic copy of both.
- 7.5 Acknowledgement - City shall submit Updated TSP and Adopted TPR Implementation Amendments for acknowledgment by DLCDC as per ORS 197.610 and OAR 660-018.

**Schedule:** 9 months from Notice to Proceed.

**City Deliverables:**

- 7.A 45-Day Notice (7.1)
- 7.B Adoption (7.4)
- 7.C Acknowledgment (7.5)

**Consultant Deliverables:**

- 7.A Draft Final TSP (7.2)
- 7.B Final TSP (7.4)

Consultant Deliverable Table with Fixed Prices Per Deliverable

Deliverable	Fixed Price/Deliverable
1.A Community Briefings (1.5)	\$2,500
1.B Public Outcome Prioritization Survey and Report (1.6)	\$1,500
<i>Task Total</i>	\$4,000
2.A Draft Chapter 2 (2.2)	\$3,000
2.B Draft Definition of Resources (2.3)	\$3,000
2.C Draft Desired Outcomes Memo (2.4)	\$2,000
2.D AC Meeting #1 (2.5)	\$2,000
<i>Task Total</i>	\$10,000
3.A Draft Chapter 3 (3.1)	\$17,000
3.B Final Chapter 2 (3.2)	\$2,000
3.C Final Chapter 3 (3.2)	\$1,000
3.D AC Meeting #2 (3.3)	\$2,500
3.E WG Meetings (3.4)	\$6,900
<i>Task Total</i>	\$29,400
4.A Draft Chapter 4 (4.1)	\$15,000
4.B AC Meeting #3 (4.2)	\$1,500
4.C WG Meetings (4.3)	\$7,200
4.D Final Chapter 4 (4.4)	\$2,000
<i>Task Total</i>	\$25,700

Deliverable		Fixed Price/Deliverable
5.A	Evaluation Criteria (5.1)	\$1,500
5.B	Hwy. 99E Conceptual Designs (5.2)	\$5,000
5.C	Hwy. 224 Crossings Conceptual Designs (5.3)	\$3,500
5.D	Draft Chapters 5 –12 (5.4)	\$12,000
5.E	AC Meeting #4 (5.5)	\$2,000
5.F	WG Meetings (5.6)	\$4,800
5.G	Open House #1 (5.7)	\$5,000
	<i>Task Total</i>	\$33,800
6.A	Project Costs and Financing (6.1)	\$5,000
6.B	Draft CIP (6.3)	\$6,000
6.C	Draft Chapters 13 and 14 (6.4)	\$3,500
6.D	Draft Chapter 1 (6.5)	\$1,500
6.E	Draft Updated TSP (6.6)	\$3,000
6.F	Talking Points (6.8)	\$500
6.G	Revised Draft Updated TSP (6.7)	\$1,000
6.H	<i>Draft Chapter 14 (6.9)</i>	\$1,000
	<i>Task Total</i>	\$21,500
7.A	Draft Final TSP (7.2)	\$1,000
7.B	Final TSP (7.4)	\$3,100
	<i>Task Total</i>	\$4,100
	TOTAL FIXED PRICE	\$128,500
	PROJECT AVAILABLE TOTAL	\$128,500

**EXHIBIT B (Local Agency or State Agency)**

**CONTRACTOR CERTIFICATION**

Contractor certifies by signing this contract that Contractor has not:

- (a) Employed or retained for a commission, percentage, brokerage, contingency fee or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this contract,
- (b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant), any fee, contribution, donation or consideration of any kind for or in connection with, procuring or carrying out the contract, except as here expressly stated (if any):

Contractor further acknowledges that this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

**AGENCY OFFICIAL CERTIFICATION (ODOT)**

Department official likewise certifies by signing this contract that Contractor or his/her representative has not been required directly or indirectly as an expression of implied condition in connection with obtaining or carrying out this contract to:

- (a) Employ, retain or agree to employ or retain, any firm or person or
- (b) pay or agree to pay, to any firm, person or organization, any fee, contribution, donation or consideration of any kind except as here expressly stated (if any):

Department official further acknowledges this certificate is to be furnished to the Federal Highway Administration, and is subject to applicable State and Federal laws, both criminal and civil.

---

---

**EXHIBIT C**

Federal Provisions  
Oregon Department of Transportation

**I. CERTIFICATION OF NONINVOLVEMENT IN ANY DEBARMENT AND SUSPENSION**

Contractor certifies by signing this contract that to the best of its knowledge and belief, it and its principals:

- 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
- 2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

List exceptions. For each exception noted, indicate to whom the exception applies, initiating agency, and dates of action. If additional space is required, attach another page with the following heading: Certification Exceptions continued, Contract Insert.

#### **EXCEPTIONS:**

Exceptions will not necessarily result in denial of award, but will be considered in determining Contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

The Contractor is advised that by signing this contract, the Contractor is deemed to have signed this certification.

#### **II. INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS—PRIMARY COVERED TRANSACTIONS**

1. By signing this contract, the Contractor is providing the certification set out below.
2. The inability to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The Contractor shall explain why he or she cannot provide the certification set out below. This explanation will be considered in connection with the Oregon Department of Transportation determination to enter into this transaction. Failure to furnish an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the Department determined to enter into this transaction. If it is later determined that the Contractor knowingly rendered an erroneous

certification, in addition to other remedies available to the Federal Government or the Department may terminate this transaction for cause of default.

4. The Contractor shall provide immediate written notice to the Department to whom this proposal is submitted if at any time the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department's Program Section (Tel. (503) 986-3400) to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The Contractor agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transactions with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency entering into this transaction.
7. The Contractor further agrees by submitting this proposal that it will include the Addendum to Form FHWA-1273 titled, "Appendix B--Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions", provided by the Department entering into this covered transaction without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List published by the U. S. General Services Administration.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government or the Department, the Department may terminate this transaction for cause or default.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
  5. The prospective lower tier participant agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

### III. ADDENDUM TO FORM FHWA-1273, REQUIRED CONTRACT PROVISIONS

This certification applies to subcontractors, material suppliers, vendors, and other lower tier participants.

- Appendix B of 49 CFR Part 29 -

#### **Appendix B--Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions**

##### Instructions for Certification

1. By signing and submitting this contract, the prospective lower tier participant is providing the certification set out below.
  2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
  3. The prospective lower tier participant shall provide immediate written notice to the person to which this contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
6. The prospective lower tier participant further agrees by submitting this contract that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
  7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement list.
  8. Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
  9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is

suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions**

- a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**IV. EMPLOYMENT**

1. Contractor warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this contract and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warranting, Department shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
2. Contractor shall not engage, on a full or part-time basis or other basis, during the period of the contract, any professional or technical personnel who are or have been at any time during the period of this contract, in the employ of Department, except regularly retired employees, without written consent of the public employer of such person.
3. Contractor agrees to perform consulting services with that standard of care, skill and diligence normally provided by a professional in the performance of such consulting services on work similar to that hereunder. Department shall be

entitled to rely on the accuracy, competence, and completeness of Contractor's services.

**V. NONDISCRIMINATION**

During the performance of this contract, Contractor, for himself, his assignees and successors in interest, hereinafter referred to as Contractor, agrees as follows:

1. Compliance with Regulations. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and Section 162(a) of the Federal-Aid Highway Act of 1973 and the Civil Rights Restoration Act of 1987. Contractor shall comply with the regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated by reference and made a part of this contract. Contractor, with regard to the work performed after award and prior to completion of the contract work, shall not discriminate on grounds of race, creed, color, sex or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contract covers a program set forth in Appendix B of the Regulations.
2. Solicitation for Subcontractors, including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations made by Contractor for work to be performed under a subcontract, including procurement of materials and equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this contract and regulations relative to nondiscrimination on the grounds of race, creed, color, sex or national origin.
3. Nondiscrimination in Employment (Title VII of the 1964 Civil Rights Act). During the performance of this contract, Contractor agrees as follows:
  - a. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment,

without regard to their race, creed, color, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.

- b. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin.
4. Information and Reports. Contractor will provide all information and reports required by the Regulations or orders and instructions issued pursuant thereto, and will permit access to his books, records, accounts, other sources of information, and his facilities as may be determined by Department or FHWA as appropriate, and shall set forth what efforts he has made to obtain the information.
  5. Sanctions for Noncompliance. In the event of Contractor's noncompliance with the nondiscrimination provisions of the contract, Department shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
    - a. Withholding of payments to Contractor under the agreement until Contractor complies; and/or
    - b. Cancellation, termination or suspension of the agreement in whole or in part.
  6. Incorporation of Provisions. Contractor will include the provisions of paragraphs 1 through 6 of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt from Regulations, orders or instructions issued pursuant thereto. Contractor shall take such action with respect to any subcontractor or procurement as Department or FHWA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event Contractor becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such

direction, Department may, at its option, enter into such litigation to protect the interests of Department, and, in addition, Contractor may request Department to enter into such litigation to protect the interests of the State of Oregon.

#### VI. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

In accordance with Title 49, Code of Federal Regulations, Part 26, Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following statement:

#### DBE POLICY STATEMENT

**DBE Policy.** It is the policy of the United States Department of Transportation (USDOT) to practice nondiscrimination on the basis of race, color, sex and/or national origin in the award and administration of USDOT assist contracts. Consequently, the DBE requirements of 49 CFR 26 apply to this contract.

**Required Statement For USDOT Financial Assistance Agreement.** If as a condition of assistance the Agency has submitted and the US Department of Transportation has approved a Disadvantaged Business Enterprise Affirmative Action Program which the Agency agrees to carry out, this affirmative action program is incorporated into the financial assistance agreement by reference.

**DBE Obligations.** The Oregon Department of Transportation (ODOT) and its contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, Contractor shall take all necessary and reasonable steps in accordance with 49 CFR 26 to ensure that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts. Neither ODOT nor its contractors shall discriminate on the basis of race, color, national origin or sex in the award and performance of federally-assisted contracts. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of such contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as ODOT deems appropriate.

The DBE Policy Statement and Obligations shall be included in all subcontracts entered into under this contract.

**Records and Reports.** Contractor shall provide monthly documentation to Department that it is subcontracting with or purchasing materials from the DBEs identified to meet contract goals. Contractor shall notify Department and obtain its written approval before replacing a DBE or making any change in the DBE participation listed. If a DBE is unable to fulfill the original obligation to the contract, Contractor must demonstrate to Department the Affirmative Action steps taken to replace the DBE with another DBE. Failure to do so will result in withholding payment on those items. The monthly documentation will not be required after the DBE goal commitment is satisfactory to Department.

Any DBE participation attained after the DBE goal has been satisfied should be reported to the Departments.

**DBE Definition.** Only firms DBE certified by the State of Oregon, Department of Consumer & Business Services, Office of Minority, Women & Emerging Small Business, may be utilized to satisfy this obligation.

**CONTRACTOR'S DBE CONTRACT GOAL**

**DBE GOAL**   0   %

By signing this contract, Contractor assures that good faith efforts have been made to meet the goal for the DBE participation specified in the Request for Proposal/Qualification for this project as required by ORS 200.045, and 49 CFR 26.53 and 49 CFR, Part 26, Appendix A.

**VII. LOBBYING**

The Contractor certifies, by signing this agreement to the best of his or her knowledge and belief, that:

- 1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to

influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

- 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor also agrees by signing this agreement that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

**FOR INQUIRY CONCERNING ODOT'S  
DBE PROGRAM REQUIREMENT  
CONTACT OFFICE OF CIVIL RIGHTS  
AT (503)986-4354.**

EXHIBIT D ELIGIBLE PARTICIPATING COST
DESCRIPTION
<b>PERSONNEL SERVICES</b>
<i>Salaries</i> - Straight time pay for regular working hours in a monthly period. Includes standard labor distributions like Social Security Taxes, Workers' Compensation Assessments and Medical, Dental, Life Insurance. Excludes mass transit tax, vacation leave, sick leave and compensatory time taken.
<i>Overtime</i> - Payments to employees for work performed in excess of their regular work shift.
<i>Shift Differential</i> - Payments to employees, in addition to regular pay, for shift differential work as described in labor contracts or Personnel Rules.
<i>Travel Differential</i> - Payments to employees, in addition to regular pay, for travel time to and from work on projects in excess and beyond an 8 hour day as described in labor contracts or Personnel Rules.
<b>SERVICES AND SUPPLIES</b>
<b>In-State Travel - Per Rates Identified in State Travel Handbook</b>
<i>Meals &amp; Misc</i> - Payment for meals incurred while traveling within the State of Oregon.
<i>Lodging &amp; Room Tax</i> - Payment for lodging, including room taxes, incurred while traveling within the State of Oregon. Fares, Taxi, Bus, Air, Etc.
<i>Per Diem</i> - Payment for per diem, incurred while traveling within the State of Oregon.
<i>Other</i> - Payment for other miscellaneous expense, incurred while traveling within the State of Oregon.
<i>Private Car Mileage</i> - Payment for private car mileage while traveling within the State of Oregon.
<b>Office Expense</b>
<i>Direct Project Expenses Including:</i>
<i>Photo, Video &amp; Microfilm Supplies</i> - Payment for photography, video and microfilm supplies such as film for cameras, blank video tapes, storage folders, etc.
<i>Printing, Reproduction &amp; Duplication</i> - Expenditures for services to copy, print, reproduce and/or duplicate documents.
<i>Postage</i> - Payment for direct project postage.
<i>Freight &amp; Express Mail</i> - Payment for direct project freight services on outgoing shipments.
<b>Telecommunications</b>
<i>Phone Toll Charges (long-distance)</i> - Payment for telephone long distance charges.
<b>Publicity &amp; Publication</b>
<i>Publish &amp; Print Photos</i> - Payment for printing and publishing photographs to development of publicity and publications.
<i>Conferences</i> (costs to put on conference or seminars)
<b>Equipment \$250 - \$4,999</b>
<b>NOT ELIGIBLE</b>
<b>Employee Training, Excluding Travel</b>
<b>NOT ELIGIBLE</b>
<b>Training In-State Travel</b>
<b>NOT ELIGIBLE</b>
<b>CAPITOL OUTLAY</b>
<b>NOT ELIGIBLE</b>

<b>EXHIBIT D</b>	
<b>ELIGIBLE PARTICIPATING COST</b>	
<b>DESCRIPTION</b>	
<b>PERSONNEL SERVICES</b>	
<i>Salaries</i> - Straight time pay for regular working hours in a monthly period. Includes standard labor distributions like Social Security Taxes, Workers' Compensation Assessments and Medical, Dental, Life Insurance. Excludes mass transit tax, vacation leave, sick leave and compensatory time taken.	
<i>Overtime</i> - Payments to employees for work performed in excess of their regular work shift.	
<i>Shift Differential</i> - Payments to employees, in addition to regular pay, for shift differential work as described in labor contracts or Personnel Rules.	
<i>Travel Differential</i> - Payments to employees, in addition to regular pay, for travel time to and from work on projects in excess and beyond an 8 hour day as described in labor contracts or Personnel Rules.	
<b>SERVICES AND SUPPLIES</b>	
<b>In-State Travel - Per Rates Identified in State Travel Handbook</b>	
<i>Meals &amp; Misc.</i> - Payment for meals incurred while traveling within the State of Oregon.	
<i>Lodging &amp; Room Tax</i> - Payment for lodging, including room taxes, incurred while traveling within the State of Oregon. Fares, Taxi, Bus, Air, Etc.	
<i>Per Diem</i> - Payment for per diem, incurred while traveling within the State of Oregon.	
<i>Other</i> - Payment for other miscellaneous expense, incurred while traveling within the State of Oregon.	
<i>Private Car Mileage</i> - Payment for private car mileage while traveling within the State of Oregon.	
<b>Office Expense</b>	
<i>Direct Project Expenses Including:</i>	
<i>Photo, Video &amp; Microfilm Supplies</i> - Payment for photography, video and microfilm supplies such as film for cameras blank video tapes, storage folders, etc.	
<i>Printing, Reproduction &amp; Duplication</i> - Expenditures for services to copy, print, reproduce and/or duplicate documents.	
<i>Postage</i> - Payment for direct project postage.	
<i>Freight &amp; Express Mail</i> - Payment for direct project freight services on outgoing shipments.	
<b>Telecommunications</b>	
<i>Phone Toll Charges (long-distance)</i> - Payment for telephone long distance charges.	
<b>Publicity &amp; Publication</b>	
<i>Publish &amp; Print Photos</i> - Payment for printing and publishing photographs to development of publicity and publications.	
<i>Conferences</i> (costs to put on conference or seminars)	
<b>Equipment \$250 - \$4,999</b>	
<b>NOT ELIGIBLE</b>	
<b>Employee Training, Excluding Travel</b>	
<b>NOT ELIGIBLE</b>	
<b>Training In-State Travel</b>	
<b>NOT ELIGIBLE</b>	
<b>CAPITOL OUTLAY</b>	
<b>NOT ELIGIBLE</b>	

**WORK ORDER CONTRACT**

**Architectural & Engineering and Related Services (A&E) Personal Services**

**Work Order Contract #8**

**Price Agreement # 25112**

Project Name and Location: City of Milwaukie, Transportation System Plan Update

This Work Order Contract (“WOC”) hereby incorporates by this reference all of the terms and conditions contained in the Price Agreement, between the Oregon Department of Transportation (“Agency”) and DKS Associates, which the parties agree is synonymous with the defined term “Contractor” or “Consultant” as referenced in the Price Agreement, effective date November 23, 2005, as amended, and all references to “Price Agreement” therein are deemed to be references to “Work Order Contract” for purposes of this WOC except for references to “Price Agreement” in Section 1(a) Effective Date, Section 1(b) Expiration and in Section 3, Compensation.

No Services shall occur until this Work Order Contract is signed by all parties and all necessary State of Oregon governmental approvals are obtained, and the Notice-to-Proceed is issued by Agency.

**WOC Expiration Date: June 30, 2007**

DBE Goal (Does this WOC include federal funds? Y <input checked="" type="checkbox"/> N <input type="checkbox"/> )	0%
ODOT Key # (or N/A)	#N/A
<b>The authorized Not-to-Exceed (NTE) compensation for this WOC</b>	<b>\$128,500</b>

STATEMENT OF WORK is attached and incorporated by this reference.

**Certification:** The individual signing on behalf of Consultant hereby certifies and swears under penalty of perjury: (a) the number shown on the above-referenced Price Agreement is Consultant’s correct taxpayer identification; (b) Consultant is not subject to backup withholding because (i) Consultant is exempt from backup withholding, (ii) Consultant has not been notified by the IRS that Consultant is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Consultant that Consultant is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of Consultant, s/he has authority and knowledge regarding Consultant’s payment of taxes, and to the best of her/his knowledge, Consultant is not in violation of any Oregon tax laws, including any state tax imposed by ORS 401.792 to 401.816 (Tax For Emergency Communications), 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 320 (Amusement Device and Transient Lodging Taxes), 321 (Timber and Forestland Tax), 323 (Cigarettes and Tobacco Products Tax), and the elderly rental assistance program under ORS 310.630 to 310.706, and any local taxes administered by the Department of Revenue under ORS 305.620; (d) Consultant is an independent contractor as defined in ORS 670.600, and (e) if required by 40 CFR 1506.5(c), Consultant has no financial or other interest in the outcome of the Project.

**CONSULTANT**

\_\_\_\_\_  
Name/Title Date

**LEGAL REVIEW:** *Approved by* \_\_\_\_\_, *Sr. AAG, by email date* \_\_\_\_\_

**AGENCY**

\_\_\_\_\_  
Approved by ODOT Procurement Office Manager or designee Date

\_\_\_\_\_  
Approved by Director, Division Administrator or designee Date

## ATTACHMENT A

### City of Milwaukie TSP Update

#### Definitions

AC –Advisory Committee

CIP – Capital Improvement Plan

City – City of Milwaukie

County – Clackamas County

CP – Milwaukie Comprehensive Plan

DLCD – Department of Land Conservation and Development

NILUS – North Industrial Land Use and Transportation Study

ODOT/Agency – Oregon Department of Transportation

OHP – Oregon Highway Plan

RTP – Metro’s Regional Transportation Plan

Section 4(f) - Section 4(f) of the Department of Transportation (DOT) Act of 1966 and set forth in Title 49 United States Code (U.S.C.), Section 1653(f).

TDM – Transportation Demand Management

TGM – Transportation and Growth Management Program

Title 3 – Title 3 of Metro’s code related to Water Quality, Flood Management and Fish and Wildlife Conservation.

TPR – Transportation Planning Rule

TSP – Transportation System Plan

UGB - Urban Growth Boundary

v/c – volume to capacity

WG – Working Group consisting of citizens and agency representatives focused on specific topics.

WOCPM – Work Order Contract Project Manager

This statement of work describes the responsibilities of all entities involved in this cooperative project.

#### PROJECT COOPERATION

This statement of work describes the responsibilities of the entities involved in this cooperative Project. In this Work Order Contract (WOC), the Consultant shall only be responsible for those deliverables assigned to the Consultant. All work assigned to other entities are not Consultant’s obligations under this WOC, but shall be obtained by Agency through separate intergovernmental agreements which contain a statement of work that is the same as or similar to this statement of work. The obligations of entities in this statement of work other than the Consultant are merely stated for informational purposes and are in no way binding, nor are the named entities parties to this WOC. Any tasks or deliverables assigned to a subcontractor shall be construed as being the responsibility of the Consultant.

Any Consultant tasks or deliverables which are contingent upon receiving information, resources, assistance, or cooperation in any way from another entity as described in this statement of work shall be subject to the following guidelines:

1. At the first sign of non-cooperation, the Consultant shall provide written notice (email acceptable) to Oregon Department of Transportation (Agency) Work Order Contract Project Manager (WOCPM) of any deliverables that may be delayed due to lack of cooperation by other entities referenced in this statement of work.
2. WOCPM shall contact the non-cooperative entity or entities to discuss the matter and attempt to correct the problem and expedite items determined to be delaying the Consultant.

If Consultant has followed the notification process described in item 1, and Agency finds that delinquency of any deliverable is a result of the failure of other referenced entities to provide information, resources, assistance, or cooperation, as described in this statement of work, the Consultant will not be found in breach of contract. WOCPM will negotiate with Consultant in the best interest of the State, and may amend the delivery schedule to allow for delinquencies beyond the control of the Consultant.

### **Key Personnel**

Contractor acknowledges and agrees that Agency selected Contractor, and is entering into this WOC, because of the special qualifications of Contractor's key people. In particular, Agency through this WOC is engaging the expertise, experience, judgment, and personal attention of **Carl D. Springer**. ("Key Personnel"). Contractor's Key Personnel shall not delegate performance of the management powers and responsibilities he/she is required to provide under this WOC to another (other) Contractor employee(s) without first obtaining the written consent (email acceptable) of Agency. Further, Contractor shall not re-assign or transfer a Key Person to other duties or positions such that a Key Person is no longer available to provide Agency with his/her expertise, experience, judgment, and personal attention, without first obtaining Agency's prior written consent to such re-assignment or transfer. In the event Contractor requests that Agency approve a re-assignment or transfer of a Key Person, Agency shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the a Key Person. Any approved substitute or replacement for a Key Person shall be deemed a Key Person under this WOC.

### **Project Background and Description**

City of Milwaukie (City) is an older first tier suburb of Portland. Land supply is limited for commercial, industrial and residential development. Population and employment figures have grown modestly in previous decades (population is approximately 15% above 1980 level). However, several significant new commercial and residential developments are underway (North Main Village, Oak Street Square and construction of a Safeway at the King Road shopping center). These have been paralleled by an upswing in building permit activity for smaller residential development as well. City contains several significant redevelopment opportunities, in downtown and along Highway 224.

City lies at the intersection of several regional transportation facilities and downstream from several areas slated for significant growth in Metro's 2040 Growth Concept. Milwaukie's existing Transportation System Plan (TSP), adopted in 1997, does not adequately address performance and capacity needs at key intersections especially along Highway 224. 1997 TSP defers study of access and mobility at the six city intersections with Highway 224 to a prospective corridor plan. While included in the Metro Regional Transportation Plan (RTP), the corridor refinement project has not been scheduled for near-term consideration due to priority work on other projects.

Since the 1997 adoption of the current TSP, City has adopted a Town Center Master Plan (December 1997) and a Downtown and Riverfront Land Use Framework Plan (2000). The Oregon Transportation Commission in January 2004 created a Special Transportation Area on Highway 99E in City of Milwaukie from Southeast Scott Street to Southeast Blue Bird Street (mile point 6.30), spanning the downtown area.

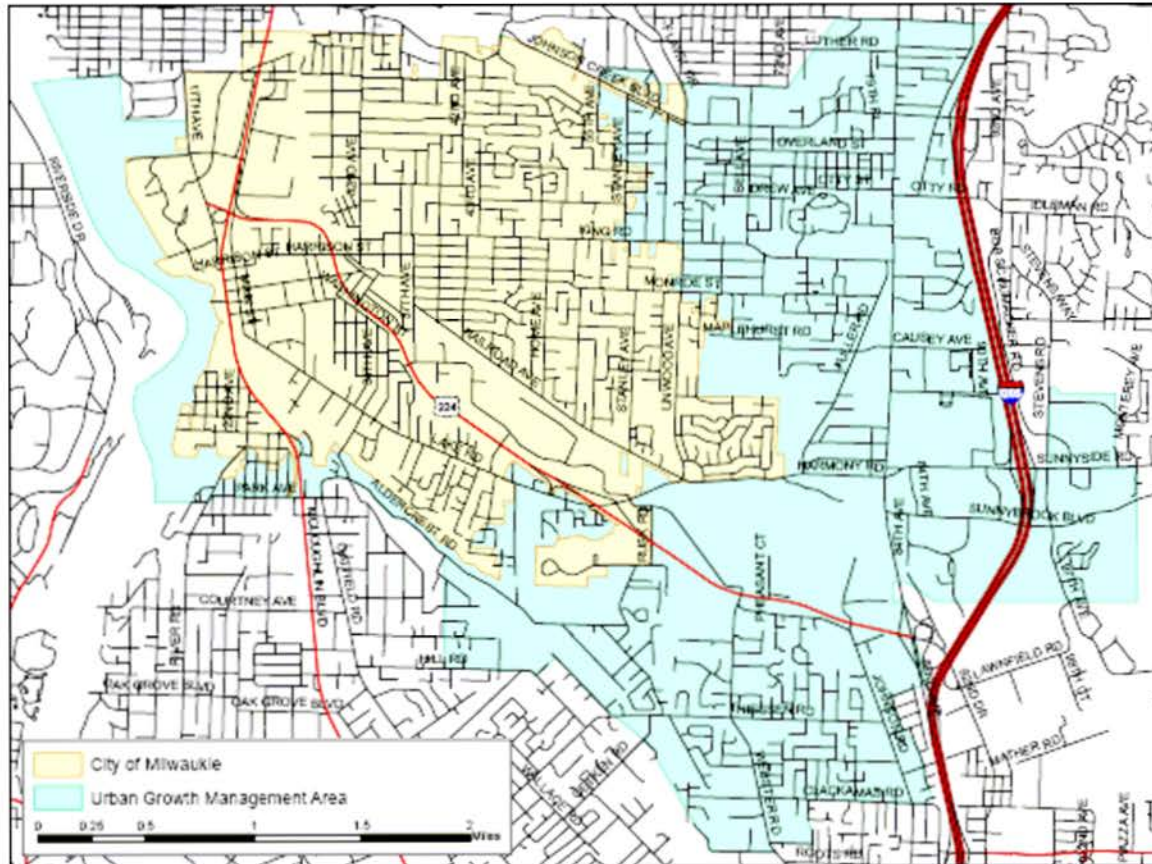
The 2004 RTP forecasts continued "strong north/south demand" in urbanized Clackamas County (County). Segments of Highway 224 and McLoughlin Boulevard/OR 99-E within City are integral elements of the regional network serving this north/south travel. McLoughlin/OR 99-E in and through City has long been identified as an important future route for high capacity transit.

The North Industrial Land Use and Transportation Study (NILUS) identified several transportation improvements to help address the tension between local access and the free flow of traffic on McLoughlin/99-E immediately north of Highway 224. Proposed regional high capacity transit facilities could place additional burdens on that area. Developing a framework in which the multi-faceted issues facing the North Industrial Area could be addressed is overdue.

The TSP update will significantly advance City's understanding of transportation system needs and City's ability to plan for and implement improvements in support of adopted land use plans and in a manner consistent with the Transportation Planning Rule (TPR), Oregon Highway Plan (OHP), and the RTP.

## Project Area

Project Area encompasses the City limits, and the surrounding lands within City's Urban Planning Area. City has a population of 20,755 (2004) and encompasses an area of 3,085 acres.



## **Transportation Relationship and Benefits**

This project updates City's TSP to identify planned transportation facilities and services needed to support planned land uses and transportation patterns associated with those uses. This update assures consistency with the RTP and past Transportation and Growth Management (TGM) projects. Updated TSP must provide a framework to accomplish the following:

- Establish a network of arterials/collectors that are interconnected, appropriately spaced and reasonably direct.
- Protect the function of transportation facilities and corridors and the environment.
- Provide public transportation services, including transit and ridesharing, that offer transportation options for riders of choice and meet the basic needs of the transportation disadvantaged.
- Provide a network of sidewalks and bikeways linking residential areas to activity centers.

Updated TSP must:

- Include a transportation improvement program that identifies facilities/services that implement the TSP.
- Include a transportation finance program that identifies the funds that will be used to pay for projects identified in the transportation improvement program.
- Include adoption ordinances that protect facilities and corridor function and encourage alternate modes

## **Project Objectives**

- Build upon and encourage local interest in participation in transportation policy discussions,
- Provide ample opportunity for community dialogue on issues, vision, and priorities.
- Prepare conceptual solutions or alternatives for improving local access into the North Milwaukie Industrial Area,
- Prepare to update relevant sections of City Code, Comprehensive Plan, Capital Improvement Plan, and Development Standards.
- Analyze potential crossing improvements across and over OR 224 along with other corridor refinement strategies,
- Review the Neighborhood Traffic Management Plan and consider policy guidance for development of neighborhood traffic control plans and proposals,
- Review street design guidance, incorporating green street and other design principles and standards for retrofits in areas with constrained right-of-way,
- Bring TSP into compliance with the new TPR, RTP and periodic review requirements,
- Avoid and minimize impacts to resources to the maximum extent possible,
- Plan transportation facilities to accommodate growth in City and surrounding area while protecting Milwaukie's local access needs and quality of life,
- Establish a clear connection between foreseeable resources and planned improvements.

## **Table of Contents of Updated TSP**

Chapter 1 – User’s Guide

Chapter 2 - Transportation Goals, Plans and Policies

    Subchapter: Review of existing goals, plans and policies

    Subchapter: Updated TSP goals, plans and policies

Chapter 3 - Existing Conditions

    Subchapter: Inventory of Transportation Facilities

Chapter 4 - Future Demand and Land Use

Chapter 5 - Pedestrian Plan

Chapter 6 - Bicycle Plan

Chapter 7 - Public Transit Plan

Chapter 8 - Auto/Street Network Plan (must include Transportation Demand Management)

Chapter 9 – Freight and Other Modes Plan (Air, Rail, Water, Pipeline)

Chapter 10 - Street Design

Chapter 11 - Neighborhood Traffic Management

Chapter 12 – Parking

Chapter 13 – Funding and Implementation Plan

    Subchapter: Definition of Resources (Financial and Regulatory)

    Subchapter: Outcome Priorities

Chapter 14 – Plan Implementation Recommendations for ordinance amendments (zoning, subdivision, public works construction standards) to implement Updated TSP and to meet TPR and RTP requirements (per *Transportation System Planning Guidelines 2001* Step 13)

## **Expectations about Written and Graphic Deliverables**

In completing the Updated TSP, Contractor shall provide copies of the final Updated TSP to City and WOCPM in both hard copy and electronic versions. Electronic versions must include both Adobe Acrobat and an editable text format appropriate to each jurisdiction or Agency (City and Agency require Microsoft Word format for editable versions). In addition, Contractor shall deliver Adobe Acrobat versions to County and members of the project advisory committees.

Contractor shall provide map and graphic deliverables in hard copy to City, Agency and WOCPM. Contractor shall also provide electronic copies of all maps to City, Agency and WOCPM; electronic versions are to include Adobe Acrobat and Microstation or ARCVIEW

formats. The data must be in an ESRI-compatible format (shapefile, coverage, or geodatabase). The spatial reference system must be NAD83 HARN, Oregon State Plane North. Maps must include details necessary to ensure usability, such as city limits, Urban Growth Boundaries (UGBs), street names, relevant environmental and cultural features, legend, date, etc. Maps included in the Updated TSP must be at a scale that is legible. Maps and graphics may be in color but must be printable in black and white.

Consultant shall ensure that any work products produced pursuant to this contract include the following statement:

This project is partially funded by a grant from the Transportation and Growth Management (TGM) Program, a joint program of the Oregon Department of Transportation and the Oregon Department of Land Conservation and Development. This TGM grant is financed, in part, by federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), local government, and the State of Oregon funds.

The contents of this document do not necessarily reflect views or policies of the State of Oregon.

### **Expectations about Project Management**

#### **Objective**

Provide sufficient oversight to ensure this project is well managed; to ensure consistency with city, regional, and state policies, public comment, and project objectives; to ensure successful project completion; and to ensure the Contract and Grant are well managed.

#### **Strategy**

1. Project Management Team (PMT): The PMT will be the final decision body regarding scope, schedule and budget issues. The PMT shall meet as needed to address project management issues and public interest and outcomes from public meetings.
2. City shall prepare and forward to the WOCPM bi-monthly project match reports.
3. City shall review all Consultant invoices and recommend approval or disapproval for TGM payment.
4. City shall prepare the final TGM grant close out and match report.

#### **City Responsibilities:**

1. Bi-monthly progress reports and invoices to WOCPMTGMCA.
2. Respond to Consultant and WOCPM inquiries quickly
3. Project Management Team, committee and working group (WG) rosters, and meeting schedules.
4. Recommend Approval or disapproval on Consultant invoices
5. Final grant close out and match report.
6. Coordination of City Staff

#### **Consultant Responsibilities:**

1. Communicate regularly with City and WOCPM

2. Respond to City and WOCPM inquiries quickly
3. Work closely with City Staff in cooperative manner
4. Notify WOCPM of potential scope, schedule and budget issues
5. Notify WOCPM and City of any potential delays in deliverables and provide new deadline

**WOCPM Responsibilities:**

1. Process invoices in an expedited manner
2. Respond to City and Consultant inquiries quickly
3. Track milestones, and compliance with WOC and IGA
4. Act as intermediary between City and Consultant if conflict arises and intermediary is desired
5. Coordinate and track grant requirements with TGM Program in Salem

**Task 1 Public Involvement Process Initiation**

**Objective:** To stimulate broad public discussions and awareness of TSP work areas.

**Subtasks**

1.1 Advisory Committee (AC) Roster - City shall prepare AC Roster, listing the names and contact information of policy advisors, technical experts; service providers; regulators; and representatives of residents, businesses, neighborhood groups, and/or existing civic groups which will provide input throughout Project. At a minimum, AC must include representatives from ODOT, Department of Land Conservation and Development (DLCD), Metro, County (transportation and land use planning) and City (Community Development & Public Works Department, Planning, and the Fire Department (or another representative for emergency services)). City shall seek Policy Advisors with expertise in economic development, real estate development, regional governance, sustainability, urban design, Americans with Disabilities Act accessibility, safe routes to schools, and elderly transportation issues.

AC will provide opinion and feedback to Consultant from both the public and the Policy Advisors. It will also provide a forum for exploration of the interactions among the multiple issue areas that arise during the planning process. AC members will review draft chapters of the TSP. AC meetings must be open to the public and interested parties will be welcome to participate in all AC activities.

1.2 Working Group (WG) Rosters – WG meetings will be held to solicit community input on issues and solutions; advance understanding existing policies, local needs, values and conditions; to develop publicly desired outcomes, and to identify and select alternative approaches. Some meetings shall be facilitated by Consultant and all will be assisted by an expert in the particular policy area, to be provided by Consultant. City will assign staff to each group and will be responsible for educating the group on City policy, developing the agenda, meeting management, and providing strategic direction. City shall be responsible for meeting scheduling, notices, set-up and material distribution. Consultant shall be responsible for preparing technical information for display and discussion, and taking and preparing meeting notes. City shall set up the meetings and circulate the materials at least one week before the meeting.

Working groups and workshops will be formed for several topics, including

- Bicycle Systems
- Pedestrian Systems
- Downtown Parking

- Street Design
- Street Network and Traffic
- Transit
- Freight

1.3 Interested Citizen Rosters - City shall organize and prepare Rosters of interested citizens for attendance at all public meetings.

1.4 Public Involvement Plan - City shall develop Public Involvement Plan to include schedule of AC meetings, WG meetings, Open Houses, planning commission and city council briefings, newsletter articles, and public notices of public involvement opportunities. Consultant shall advise City on public outreach strategy and review and comment on the draft Public Involvement Plan.

1.5 Community Briefings - City shall schedule, facilitate and staff a series of five Community Briefings to serve as a public launch for Project. City shall handle logistics (time, place, set up, invitations). Consultant shall produce technical material to be displayed and provide technical expertise. The primary purpose will be to introduce the process and provide an invitation to participate.

1.6 Public Outcome Prioritization Survey - Consultant shall prepare Public Outcome Prioritization Survey, a deliverable intended to elicit attitudes and desires and to assist Consultant and AC in prioritizing transportation outcomes in later tasks. Public Outcome Prioritization Survey must consist of a survey instrument for electronic distribution and a report that tabulates responses. Consultant shall format questions, preparing mock-up survey, troubleshooting and analyzing results. City shall distribute, collect and forward the completed surveys to Consultant. Consultant shall tabulate and report results to City and WOCPM.

**Schedule:** 1 month

**City Deliverables:**

- 1.A AC Roster (1.1)
- 1.B Interested Citizen Rosters (1.2)
- 1.C WG Rosters (1.3) Public Involvement Plan (1.4)
- 1.D Five Community Briefings (1.5)
- 1.E Preparation and Distribution of Public Outcome Prioritization survey instrument (1.6)

**Consultant Deliverables**

- 1.A Technical and display information for and attend 5 Community Briefings (1.5)
- 1.B Public Outcome Prioritization Survey and Report(1.6)

**Task 2 Review Relevant Plans and Policies**

**Objectives:** To review existing plans and policies to ensure compliance with applicable laws, policies and plans.

Define an expected level of funding for transportation improvements, including sources and allowable uses.

### **Subtasks**

2.1 Background Information - City shall provide Consultant with Background Information, local, regional and state policy and regulatory documents and inventory data. City shall compile and provide to Consultant:

- 1) Comprehensive Plan (CP)
- 2) Capital Improvement Program (CIP),
- 3) TSP
- 4) NILUS
- 5) Milwaukie Urban Growth Management Agreement
- 6) Milwaukie Zoning Code
- 7) Milwaukie Downtown and Riverfront Land Use Framework Plan (2000)
- 8) North Industrial Area Business Interview Notes (2006)
- 9) Case file on Transit Center siting
- 10) Downtown Milwaukie Parking and Traffic Management Plan (2003)
- 11) Milwaukie Goal 5 Inventory

City shall obtain the following documents from relevant agencies and provide to Consultant:

- 1) TriMet Transit Investment Plan (2005)
- 2) Clackamas County Transportation System Plan (Rural and Urban)
- 3) Oregon TPR (OAR 660-012)
- 4) Oregon Statewide Planning Goals
- 5) Oregon Access Management Rule (OAR 734-051)
- 6) 1999 OHP
- 7) Current State Transportation Improvement Program
- 8) Transportation System Planning Guidelines 2001
- 9) Utility Master Plans
- 10) Clackamas County CIP
- 11) Oregon Conservation Strategy
- 12) RTP (2004) – Including street design types and modal classifications.
- 13) South Corridor Project Supplemental Draft Environmental Impact Statement (December 2002)
- 14) Oregon Rail Plan (2001)

2.2 Draft Chapter 2 - Consultant shall prepare Draft Chapter 2, new and updated TSP goals, plans and policies. Consultant shall review all documents listed in Task 2.1 and prepare draft Chapter 2 that summarizes the documents reviewed and identifies conflicts and discrepancies between the documents and 1997 TSP. The discrepancies must include consistency of 2004 RTP and TPR. Consultant shall also include an annotated list of the plans, policies, and goals of the transportation-related documents with a brief historical context for a framework of state, regional and local policies and requirements. Draft Chapter 2 will be finalized in Task 3 to allow a proper period for feedback and coordination.

2.3 Draft Definition of Resources - Consultant shall prepare a subchapter of Chapter 13, Definition of Resources, which must describe foreseeable likely and possible funding

sources for transportation improvements, including the restrictions on uses of those funds, and available regulatory mechanisms. City shall estimate funds to be collected from transportation related fees and distribute to Consultant prior to Consultant beginning work on draft.

- 2.4 Draft Desired Outcomes Memo - Consultant shall prepare a draft Desired Outcomes statement for review and discussion at AC and WG public meetings.
- 2.5 AC Meeting #1 - Consultant shall facilitate AC Meeting #1. The agenda will include project orientation and expectations, and discussion of draft desired outcomes. Consultant shall prepare handout materials for use at the meeting and prepare meeting notes. City shall set up the meeting and circulate the materials to AC at least one week before the meeting. Consultant will incorporate review comments from AC when Draft Chapter 2 is finalized in Task 3.

**Schedule:** 1 month (City to provide documents within first 2 weeks).

**City Deliverables:**

- 2.A Background Information to Consultant (2.1)
- 2.B Estimate of funds to be collected from transportation related fees (2.3)
- 2.C AC Meeting #1 (2.5)

**Consultant Deliverables:**

- 2.A Draft Chapter 2 (2.2)
- 2.B Draft Definition of Resources (2.3)
- 2.C Draft Desired Outcomes Memo (2.4)
- 2.D AC Meeting #1 (2.5)

**Task 3 Existing Conditions**

**Objectives:** Perform field work and data collection to inventory the existing transportation system within the Urban Growth Boundary of Milwaukee.

Evaluate functional classification, street cross-sections, location of facilities

**Subtasks**

- 3.1 Draft Chapter 3 – Consultant shall prepare Draft Chapter 3, an inventory and analysis of existing conditions for each of the modes for which elements will be developed. Consultant shall be responsible for data collection and documentation, supplemented by specific field work, as needed to obtain a complete inventory as described below; this information must be displayed in both graphic (map) and written format. Actions taken to prepare Draft Chapter 3 must include:
  - 1. **Pedestrian:** Consultant shall update the location of sidewalks and paths.
  - 2. **Bicycle:** Consultant shall update the location of on- and off-street bicycle facilities.
  - 3. **Rail:** Consultant shall update the location of rail facilities.
  - 4. **Marine:** Consultant shall update the location and use of Marine facilities.

5. **Airport:** Consultant shall update the facilities at any Milwaukie area airport.
6. **Pipeline:** Consultant shall identify (but not map) major pipeline facilities, if any, that serve City.
7. **Transit:** Consultant shall identify existing transit service including demand and schedules, location of transit routes and stops, and where the routes go.
8. **Roadways:** Consultant shall update (and/or prepare as necessary) a matrix of items to include functional classifications, jurisdiction, number of lanes, facility capacity, traffic control (signal/stop sign), pavement conditions, driveways/access points (segment-level inventory on arterial and higher class), marked parking, and speed zones. Roadway classifications for arterial and collector level segments should be incorporated from previous TSP. Consultant shall compile a list of collisions, including those involving an automobile and pedestrian and bicycle. Draft functional classification map must be included in Chapter 8.
9. **Traffic Volumes:** Consultant shall obtain traffic counts to include intersection turn movements for the PM peak hour (24-hour tube counts may be needed for local streets). An Oregon-registered professional engineer (Civil or Traffic) must perform or oversee all traffic analysis work in Task 3 and 4. Traffic analysis software programs must follow HCM 2000 procedures. Traffic analysis must be consistent with ODOT's analysis procedures available on the internet at: <http://www.oregon.gov/ODOT/TD/TP/Analysis.shtml> ). Operational standards for state facilities must include volume to capacity (v/c) and queuing analysis, non-state facilities can be v/c or level of service (LOS), and must also include queuing and/or delay. Post-processing for model results must be approved by Region 1 Traffic. All traffic volumes must use the 30<sup>th</sup> highest hour. PM peak hour turn movement count data must be obtained between 3:00 PM and 6:00 PM. It is anticipated that Consultant shall conduct new PM peak hour turn movement counts at up to 9 of the 22 intersections listed below. PM peak hour turn movement counts at 13 Project Area intersections may be obtained from historical data files up to three years old.

**Traffic Count Locations:**

- SE Oatfield Rd @ SE Lake Road
- SE Lake Road @ OR 224
- Harmony Road SE @ SE Linwood Ave
- SE King Road @ SE Linwood Ave
- SE Johnson Creek Blvd @ SE Linwood Ave
- SE 32<sup>nd</sup> @ SE Harrison St
- SE Harrison St @ SE Main St
- SE Harrison St @ OR 224
- SE Harrison St @ OR 99E (McLoughlin Blvd)
- OR 99E (McLoughlin Blvd) @ SE Milport St
- OR 99E (McLoughlin Blvd) @ SE Ochoco St
- OR 99E (McLoughlin Blvd) @ SE River Road
- OR 99E (McLoughlin Blvd) @ SE 22<sup>nd</sup> Ave
- OR 99E (McLoughlin Blvd) @ Monroe St
- OR 99E (McLoughlin Blvd) @ Washington St
- SE 17<sup>th</sup> @ OR 224

- OR 224 @ OR 99E
- OR 224 @ SE Oak St
- OR 224 @ SE Monroe St
- OR 224 @ Edison St
- OR 224 @ Freeman Way
- OR 224 @ Rusk Road
- OR 224 @ 37th Ave.
- OR 224 @ Harmony Street
- Up to 10 tube counts on local streets (To be determined by WOCPM and City)

10. **Environmental Resources:** Consultant shall map the known environmental resources, for the purposes of avoiding and minimizing when examining future projects and needs. The Environmental Resources Map must include local Goal 5 inventory, National Wetland Inventory layers, identified historic properties and known cultural resources. This sub-chapter of the TSP must include a map of the inventory, as well as a brief summary of those resources. Those resources must include known wetlands, visual resources, cultural resources, water resources, endangered species habitat and Section 4 (f) eligible property. City shall provide Consultant maps of historic resources, Title 3 wetlands areas (vegetated corridor and wetland buffer), and Willamette Greenway areas.
11. **Environmental Justice:** Consultant shall identify and map locations with concentrations of low income and transportation disadvantaged citizens for the purposes of meeting their needs and avoiding undue adverse impacts when examining future projects and needs. Consultant shall gather information about the current and future transportation disadvantaged community. Consultant shall contact agencies or organizations serving transportation disadvantaged to gather information about the transportation needs of these populations.

Consultant shall submit draft chapter to City and AC for review. City shall distribute relevant sections to the public and WG members. City shall review Draft Chapter 3 and provide consolidated comments to Consultant.

- 3.2 Final Chapter 2/Final Chapter 3 – Consultant shall prepare Final Chapter 2 and Final Chapter 3, incorporating Task 2 and Task 3 comments into drafts. Consultant shall discuss any review comments of City, DLCD, and ODOT with the respective agency, and incorporate agency comments.
- 3.3 AC Meeting #2 - Consultant shall facilitate AC Meeting #2. The agenda will include discussion of desired outcomes, priorities and existing conditions. Consultant shall prepare handout materials for use at the meeting and prepare meeting notes. City shall set up the meeting and circulate the materials to AC at least one week before the meeting. Consultant will incorporate review comments from AC.
- 3.4 WG Meetings - City shall organize seven WG meetings to discuss draft desired outcomes and existing conditions information. Consultant shall facilitate, prepare meeting notes, and provide a policy area expert for each of the seven WG meetings. City will develop

the agenda and be responsible for meeting scheduling, notices, set-up and material distribution. Consultant shall prepare technical information for display and discussion. City shall set up the meetings and circulate the materials at least one week before the meeting. Consultant shall incorporate comments WG and others into final versions of Chapters 2 and 3.

**Schedule:** 3 months

**City Deliverables:**

- 3.A Map of historic resources, Title 3 wetlands areas and Willamette Greenway areas to Consultant (3.1)
- 3.B Distribution of Draft Chapter 3 to AC. Written review comments on the Draft Chapter 3 (3.1)
- 3.C AC Meeting #2 (3.3)
- 3.D WG Meetings (3.4)

**Consultant Deliverables:**

- 3.A Draft Chapter 3 (3.1)
- 3.B Final Chapter 2 (3.2)
- 3.C Final Chapter 3 (3.2)
- 3.D AC Meeting #2 (3.3)
- 3.E WG Meetings (3.4)

**Task 4 Future Conditions and Needs**

**Objectives:** To determine future needs and deficiencies to inform the Alternatives section.

To develop prioritization among the various Desired Outcomes as defined by the WG.

To consider the needs of the transportation disadvantaged (defined as those who are, by necessity, more reliant on transit and other non-auto modes of transportation and/or are physically disabled) when examining future transportation needs.

**Subtasks**

4.1 Draft Chapter 4 - Consultant shall prepare Draft Chapter 4, an analysis (*per Transportation System Planning Guidelines 2001 Step 8*) of existing and committed capacity of the transportation system against future needs. This task should employ a level three (3) cumulative analysis. Consultant shall rely upon the following data to assess future needs:

- A. Population and employment projections for City and County. Consultant shall coordinate with County in order to come to agreement on appropriate population and employment projections between City and County. These projections will consider the forecast for the on-going Regional Transportation Plan update, and be consistent with these forecasts. DLCD must be given an opportunity to review and confirm population and employment projections.

- B. Any known and approved development plans within the UGB, in addition to known development target areas. Traffic analysis software programs must follow Highway Capacity Manual 2000 procedures. Traffic analysis must be consistent with ODOT's analysis procedures available on the internet at: (<http://www.oregon.gov/ODOT/TD/TP/Analysis.shtml> ). Operational standards for state facilities must include v/c analysis, non-state facilities can be v/c or LOS, and can also include delay. Post-processing for model results must be approved by Region 1 Traffic. All traffic volumes must use the 30<sup>th</sup> highest hour. Future year analysis planning horizon must be 2030. Consultant shall consult with ODOT Region 1 Traffic, DLCD and City to confirm methodology and forecast parameters.

Consultant shall compare the population and needs with the existing service to identify any inadequacies for further consideration. Consultant shall state all assumptions and findings. City shall submit one set of consistent comments to Consultant on draft Chapter 4.

4.2 AC Meeting #3 - Consultant shall facilitate AC Meeting #3. The agenda will include review of future conditions and alternatives. Consultant shall prepare handout materials for use at the meeting and prepare meeting notes. City shall set up the meeting and circulate the materials to AC at least one week before the meeting. Consultant will incorporate review comments from AC.

4.3 WG Meetings - City shall organize six WG meetings to discuss future conditions information. Consultant shall facilitate, prepare meeting notes, and provide a policy area expert for each of the six WG meetings. City will develop the agenda and be responsible for meeting scheduling, notices, set-up and material distribution. Consultant shall be responsible for preparing technical information for display and discussion. City shall set up the meetings and circulate the materials at least one week before the meeting. Consultant shall incorporate comments WG and others into final versions.

4.4 Final Chapter 4 - Consultant shall prepare Final Chapter 4, incorporating comments from WGs, AC meeting #3, WOCPM and City into draft.

**Schedule:** 5 months

**City Deliverables:**

- 4.A Staff comments on draft Chapter 4 (4.1)
- 4.B AC Meeting #3 (4.2)
- 4.C WG Meetings (4.3)

**Consultant Deliverables:**

- 4.A Draft Chapter 4 (4.1)
- 4.B AC Meeting #3 (4.2)
- 4.C WG Meetings (4.3)
- 4.D Final Chapter 4 (4.4)

## **Task 5 Alternative Evaluation and Selection**

**Objective:** A series of criteria must be developed to evaluate alternatives and establish a methodology for packaging and prioritizing projects. A comparison to functional classifications and plans of other agencies (Clackamas County, ODOT) may be used to compare alternatives

### **Subtasks**

- 5.1 Evaluation Criteria - Consultant shall develop Evaluation Criteria to be used to evaluate and select system alternatives. Use of Evaluation Criteria should result in alternatives that can reasonably be expected to meet the existing and future transportation system needs in a safe manner, at a feasible cost, and with available technology. Criteria must be informed by Desired Outcomes developed by WG (finalized in 4.3).
- 5.2 Hwy 99E Conceptual Designs - Consultant shall prepare Hwy 99E Conceptual Designs, alternatives for improved grade separated local access along OR 99E near Ochoco. The alternatives must be conceptual level design, and must be provided in graphic format. The Conceptual Design must be of sufficient detail to determine if they are feasible to construct to applicable standards. Each alternative must meet the future travel demand (local and through-travel).
- 5.3 Hwy 224 Crossings Conceptual Designs - Consultant shall prepare Hwy 224 Crossings Conceptual Designs, designs which address opportunities and constraints for improved grade separated crossings along OR 224 in City of Milwaukie.
- 5.4 Draft Chapters 5 – 12 – Consultant shall prepare Draft Chapters 5-12, detailing the recommended future transportation system, standards, and actions. Actions taken to prepare Draft Chapters must include:
  - a. Alternative Strategies Memo - Using Evaluation Criteria developed in subtask 5.1, Consultant shall develop and examine Alternative Strategies, improvements for addressing the problems and needs identified in Task 4 (per *Transportation System Planning Guidelines 2001* Steps 9 and 10). Consultant shall take into consideration the various plans, studies and reports reviewed in prior tasks together with feedback from agencies (e.g., ODOT, City and County), and the AC and WG in prior tasks. Consultant shall list alternatives not analyzed with explanation as to why they did not merit further analysis. Consultant shall emphasize maintaining and improving the efficiency of the existing system. City shall provide feedback to Consultant. Consultant shall use the standards listed under OAR 660-12-0035 considering No Build and a revised list of Build improvements for the TSP update. Consultant shall evaluate system alternatives and proposed improvements based on the Evaluation Criteria. Alternative strategies must address the following transportation components:
    - A. Transportation System Management
    - B. Transit improvements and additional transit opportunities
    - C. Pedestrian and bicycle travel
    - D. Achieving transportation demand management objectives such as non-Single Occupancy Vehicle modal targets and vehicle miles traveled/capita reductions; identify major employers as potential candidates for expanded Transportation Demand Management (TDM)

activities; must use Highway Design Manual v/c ratios for state facilities and appropriate standards for local facilities

- E. Truck traffic and freight movement
- F. Air, rail and water transportation
- G. Street design
- H. Neighborhood Traffic Management – Potential route designations, implementation guidelines, and toolbox of solutions.
- I. Parking

2. Consultant shall incorporate Hwy 99E Conceptual Designs and Hwy 224 Crossings Conceptual Designs into Chapter 8.

Consultant shall submit a draft of the chapters 5-12 to City for review and comment. Consultant shall also submit a copy to ODOT and DLCD for their compliance review with TPR. Consultant shall discuss the comments of City, and ODOT with the respective agency, meet with each agency to resolve differences, if necessary, and incorporate them into Task 6 Draft Updated TSP.

- 5.5 AC Meeting #4 - Consultant shall facilitate AC Meeting #4. The agenda will include review of draft chapters 5-12. Consultant shall prepare handout materials for use at the meeting and prepare meeting notes. City shall set up the meeting and circulate the materials to AC at least one week before the meeting. Consultant will incorporate review comments from AC.
- 5.6 WG Meetings - City will organize four WG meetings. Agendas will include review of alternatives and implementation plans. Consultant shall facilitate, prepare meeting notes, and provide a policy area expert for each of the four WG meetings. City will develop the agenda and be responsible for meeting scheduling, notices, set-up and material distribution. Consultant shall be responsible for preparing technical information for display and discussion. City shall set up the meetings and circulate the materials at least one week before the meeting. Consultant shall incorporate comments WG and others into final versions.
- 5.7 Open House #1 - Consultant shall facilitate one Open House to present Task 5 information to members of the public. City staff shall attend to introduce and assist Consultant. City shall handle logistics. Consultant shall prepare and produce technical information for display at the meeting. The Open House must include mountable/hanging maps and photos, with a minimum size of 34 X 44 inches, which shall be provided by Consultant. Consultant shall record all public comment for consideration.

**Schedule:** 8 months

**City Deliverables:**

- 5.A Review Alternative Strategies Memo (5.4)
- 5.B Review of Draft Chapter 5-12 (5.4)
- 5.C AC Meeting #4 (5.5)

- 5.D WG Meetings (5.6)
- 5.E Open House #1 (5.7)

**Consultant Deliverables:**

- 5.A Evaluation Criteria (5.1)
- 5.B Hwy 99E Conceptual Designs (5.2)
- 5.C Hwy 224 Crossing Conceptual Designs (5.3)
- 5.D Draft Chapters 5 – 12 and Alternative Strategies Memo (5.4)
- 5.E AC Meeting #4 (5.5)
- 5.F WG Meetings (5.6)
- 5.G Open House #1 (5.7)

**Task 6 Transportation Systems Plan, Financing Plan**

**Objective:** To document the transportation findings from the technical work and community meetings to produce Draft Transportation System Plan Update. To create a Financing and Implementation Plan and Implementation Recommendations.

**Subtasks**

- 6.1 Project Costs and Financing - Consultant shall prepare Project Costs and Financing, an evaluation of potential funding options for the proposed improvement projects in Chapters 5-12.
- 6.2 Funding Sources - City shall prepare Funding Sources, an identification and update of the level of funding from sources that are directed to transportation such as System Development Charges.
- 6.3 Draft CIP - Consultant shall prepare Draft CIP, a Capital Improvement Project List that updates City's existing CIP.
- 6.4 Draft Chapters 13 and 14 - Consultant shall prepare Draft Chapters 13 and 14, project and regulatory implementation. Draft Chapter 13 must include:
  - i a list of planned improvements,
  - ii a general estimate for the timing of the improvements consistent with the funding sources, and
  - iii a determination of rough cost estimates and sources of the funding.

Draft Chapter 14 must include recommended ordinance amendments (zoning, subdivision, public works construction standards) to implement the Updated TSP and to meet TPR and RTP requirements (per *Transportation System Planning Guidelines 2001* Step 13) and recommended changes to CP to help implement the TSP (as per ORS 660-012-0045).

- 6.5 Draft Chapter 1 - Consultant shall prepare Draft Chapter 1, a “User’s Guide” which uses non-technical language and graphics to explain the key elements of TSP and refer readers to the appropriate sections for additional details.
- 6.6 Draft Updated TSP - Consultant shall prepare Draft Updated TSP, a well organized, easy-to-understand draft Updated TSP that has been compiled from the chapters of prior tasks (organized per Table of Contents) and incorporates the various comments and suggestions made by the specific agencies, WG, AC and general public over the course of the project (per *Transportation System Planning Guidelines 2001* Step 11). Draft Updated TSP must address and meet the current requirements of TPR. Consultant shall submit Draft Updated TSP to City, County, DLCD, Metro, TriMet and ODOT for their review and comment.

6.7 Revised Draft Updated TSP - Consultant shall incorporate feedback from AC, public meetings, County, Metro, TriMet, ODOT and DLCD into a revised version of Draft Updated TSP. Consultant shall discuss comments from DLCD, ODOT, Metro, County and TriMet and make modifications where appropriate. City shall supply comments to Consultant.

6.8 Talking Points - Consultant shall prepare a “talking points” paper for use at Task 7 Planning Commission, and City Council meetings that summarizes those parts of Draft Updated TSP that are in need of further clarification or direction.

6.9 Draft Chapter 14 – Consultant shall prepare Draft Chapter 14, an identification of amendments to City Codes needed to comply with TPR 0045(1) through (4).

**Schedule:** Final draft 8 months from notice to proceed.

**City Deliverables:**

6.A Funding Sources (6.2)

6.B Review Draft Updated TSP and provide written comments (6.6 and 6.7)

**Consultant Deliverables:**

6.A Project Costs and Financing (6.1)

6.B Draft CIP (6.3)

6.C Draft Chapters 13 and 14 (6.4)

6.D Draft Chapter 1 (6.5)

6.E Draft Updated TSP (6.6)

6.F Talking Points (6.8)

6.G Revised Draft Updated TSP (6.7)

6.H Draft Chapter 14 (6.9)

**Task 7 Adoption Process**

**Objective:** Present TSP Update to Planning Commission and City Council for adoption.  
Present Plan Implementation Recommendations to the appropriate sections of City Municipal Code to the Planning Commission and City Council for adoption.

**Subtasks**

7.1 45-Day Notice. City shall prepare 45-Day Notice and submit Adoption Draft Updated TSP and TPR Implementation Amendments to DLCD for its review

7.2 Consultant shall make revisions to the Revised Draft Updated TSP (6.G) based on input from City Council and Planning Commission. Consultant shall distribute to City to prepare for adoption.

7.3 Adoption - City shall arrange for Adoption of Adoption Draft Updated TSP Update and TPR Implementation Amendments.

7.4 Consultant shall finalize adopted version of TSP. Consultant shall supply City with one electronic and five hard copies of Updated TSP and Adopted TPR Implementation Amendments. Consultant shall supply WOCPM with three hard copies and two electronic (CD) copies of both. Consultant shall supply DLCD with one hard and one electronic copy of both.

7.5 Acknowledgement - City shall submit Updated TSP and Adopted TPR Implementation Amendments for acknowledgment by DLCDC as per ORS 197.610 and OAR 660-018.

**Schedule:** 9 months from notice to proceed.

**City Deliverables:**

- 7.A 45-Day Notice (7.1)
- 7.B Adoption (7.4)
- 7.C Acknowledgment (7.5)

**Consultant Deliverables:**

- 7.A Draft Final TSP (7.2)
- 7.B Final TSP (7.4)

Consultant Deliverable Table with Budgets

Deliverable	Budget
1.A Community Briefings (1.5)	\$2,500
1.B Public Outcome Prioritization Survey and Report (1.6)	\$1,500
<i>Task Total</i>	\$4,000
2.A Draft Chapter 2 (2.2)	\$3,000
2.B Draft Definition of Resources (2.3)	\$3,000
2.C Draft Desired Outcomes Memo (2.4)	\$2,000
2.D AC Meeting #1 (2.5)	\$2,000
<i>Task Total</i>	\$10,000
3.A Draft Chapter 3 (3.1)	\$17,000
3.B Final Chapter 2 (3.2)	\$2,000
3.C Final Chapter 3 (3.2)	\$1,000
3.D AC Meeting #2 (3.3)	\$2,500
3.E WG Meetings (3.4)	\$6,900
<i>Task Total</i>	\$29,400
4.A Draft Chapter 4 (4.1)	\$15,000
4.B AC Meeting #3 (4.2)	\$1,500
4.C WG Meetings (4.3)	\$7,200
4.D Final Chapter 4 (4.4)	\$2,000

Deliverable	<i>Task Total</i>	Budget \$25,700
5.A	Evaluation Criteria (5.1)	\$1,500
5.B	Hwy. 99E Conceptual Designs (5.2)	\$5,000
5.C	Hwy. 224 Crossings Conceptual Designs (5.3)	\$3,500
5.D	Draft Chapters 5 –12 (5.4)	\$12,000
5.E	AC Meeting #4 (5.5)	\$2,000
5.F	WG Meetings (5.6)	\$4,800
5.G	Open House #1 (5.7)	\$5,000
	<i>Task Total</i>	\$33,800
6.A	Project Costs and Financing (6.1)	\$5,000
6.B	Draft CIP (6.3)	\$6,000
6.C	Draft Chapters 13 and 14 (6.4)	\$3,500
6.D	Draft Chapter 1 (6.5)	\$1,500
6.E	Draft Updated TSP (6.6)	\$3,000
6.F	Talking Points (6.8)	\$500
6.G	Revised Draft Updated TSP (6.7)	\$1,000
6.H	<i>Draft Chapter 14 (6.9)</i>	\$1,000
	<i>Task Total</i>	\$21,500
7.A	Draft Final TSP (7.2)	\$1,000
7.B	Final TSP (7.4)	\$3,100
	<i>Task Total</i>	\$4,100
	TOTAL	\$128,500
	PROJECT AVAILABLE TOTAL	\$128,500



To: Mayor and City Council

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

From: Katie Mangle, Planning Director

**Subject: Authorize City Manager to sign IGA with ODOT for  
Transportation System Plan Grant**

Date: **October 24, 2006 for November 9, 2006 Consent Agenda**

Action Requested

Authorize the City Manager to sign an Intergovernmental Agreement with the Oregon Department of Transportation (ODOT) to accept a Transportation and Growth Management grant award for updating the City's upcoming Transportation System Plan project.

Background

ODOT's Transportation Growth Management (TGM) program has awarded the City of Milwaukie a \$128,000 grant to update the City's Transportation System Plan. Participation in this grant-funded project requires that the City enter into an intergovernmental agreement (IGA) with ODOT, which will pay a consultant team directly for its work on the City's behalf. The IGA requires the City to manage and participate in the project, and contribute an in-kind match of approximately \$18,000. The City's match will be composed of staff time and project expenses.

The City's existing Transportation System Plan (TSP) was written in 1997 and is overdue for an update. The TSP is the City's long-term policy and planning document for transportation improvements and contains the list of transportation improvement projects that could be implemented through the Capital Improvement Plan, development review, or grant funding. Having an updated TSP is essential for the City to compete for regional, state, and federal funding for transportation project. This planning process presents a great opportunity for

the community to define its transportation goals, and discuss how the whole transportation system can be improved to support livability in Milwaukie.

The planning process will provide ample opportunity for community dialogue on issues, vision, and priorities. Issues to be addressed include freight access, auto circulation, bicycle connections, sidewalk needs, transit facilities, traffic calming, and alternative approaches to designing street improvements in existing neighborhoods.

#### Concurrence

The Community Development and Public Works Director, Engineering Director, Community Services Director, and Economic Development Specialist concur that participation in this grant-funded project should be a high priority for the City and support the allocation of staff time required to support the update the TSP.

#### Fiscal Impact

The City will not receive the grant funds directly, therefore there will not be any impact on the budget. The City will contribute an in-kind local match that equates 12.29% of the grant amount (approximately \$18,000). Staffing for the project can be managed within the adopted FY06-07 budget.

#### Work Load Impacts

Staff will be required to manage the project, review technical documents, lead working groups discussions, and participate in policy discussions. Significant staff time will be required to attain the high quality of public involvement that is necessary for this plan. Planning Department staff will spend approximately 20% of their time on this project. Community Services and Engineering Staff will spend approximately 10% of their time on this project. Transportation-related studies already take some staff time, and this concerted effort will serve to focus such work toward an outcomes-oriented plan.

#### Alternatives

None.

#### Attachments

1. Resolution

Exhibit A:

Boilerplate ODOT Intergovernmental Agreement

Draft Scope of Work as of October 24, 2006



To: Mayor and City Council

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

From: Brett Kolver, Assistant Planner

Subject: Appeal of Planning Commission Decision on Milwaukie High School electronic reader-board (CSU-06-05)

Date: October 27, 2006 for November 9, 2006 Hearing

### **Action Requested**

Consider the Milwaukie High School appeal of the Planning Commission's decision to deny installation of an electronic reader-board sign on SE Washington Street (File #CSU-06-05).

### **Background**

Milwaukie High School has an internally illuminated, manual reader-board sign at the north end of its athletic fields along SE Washington Street. Records indicate that the existing sign was erected in 1991 and replaced a previous sign in the same location.

The school has proposed to replace the existing manual reader-board sign with a new electronic reader-board at the same location. The proposed sign would be double-sided and oriented so as to be visible to traffic moving in either direction on SE Washington Street. The sign cabinet would present approximately 40 square feet of display surface, including electronically illuminated messages that could change automatically. As proposed, the new sign would be mounted on a steel pole and have a top height of 25 feet above grade.

The proposed electronic reader-board sign required review and approval by the Planning Commission for several reasons: 1) Milwaukie High School is a community service use located in a residential (R-2) zone; 2) the existing sign was not previously reviewed and approved by the Planning Commission; 3) it exceeds the dimensions allowed outright in Milwaukie Municipal Code (MMC)

Section 14.08.090 for community service use signs; 4) replacing the existing manual reader-board with an electronic reader-board constitutes more than a simple copy-change or normal sign maintenance.

At a public hearing for CSU-06-05 begun on September 12, 2006, and continued to September 26, 2006, the Planning Commission considered a staff recommendation to approve the new sign with conditions on the height, size, hours of operation, frequency of message-change, and level of illumination. During the hearing, the Planning Commission heard testimony for and against the proposed sign. With five of the six current Planning Commissioners present on September 26<sup>th</sup>, the Planning Commission voted four to one to deny the application.

The Planning Commission based its decision to deny the proposed electronic sign on the following points and concerns:

1. The sign would present light-related impacts that would not be compatible with the surrounding residential area.
2. SE Washington Street is heavily traveled by both pedestrians (including students at nearby schools and neighborhood residents) and motorists. The proposed sign would be distracting to motorists on SE Washington Street, presenting a negative impact to public safety.
3. The proposed sign would not be permitted in the residential (R-2) zone where it would be located, nor would it be permitted in any of the surrounding residential zones or the adjacent downtown zone.

### ***Key Issue for Consideration***

The key issue is whether the applicant adequately demonstrated that the proposed electronic reader-board sign meets the community service use approval criteria. Specifically, do the public benefits of the proposed sign outweigh any negative impacts to the surrounding neighborhood?

### ***Analysis of Key Issue***

The appellants have challenged the Planning Commission's findings related to the above points of concern. As required by MMC Section 19.1002, the appellants have addressed the specific issues with which they disagree, namely the Planning Commission's findings related to light-related impacts, public safety on SE Washington Street, and general location (see Attachment 1—Appellant's Appeal). The following summary regarding Planning Commission findings and appellant responses is presented for consideration by the City Council:

- ***Light-related impacts***

The Planning Commission found that the level and quality of lighting for the proposed sign would not be compatible with other existing uses in the area (church, schools, professional offices, private residences). The proposed sign would be located in a residential zone and would be visible to residences in the immediate area, more so at nighttime.

The appellants assert that the proposed sign would have less of a light-related impact than the existing, internally illuminated sign in the same location. The brightness of the proposed sign can be dimmed and it can be programmed to be off during certain hours of the day. As originally proposed, the new sign would not display scrolling or flashing messages. Following the Planning Commission's decision to deny the new sign application, the appellants have suggested that amber-colored lights could be used instead of red lights in order to further reduce light-related impacts.

- *Public safety on SE Washington Street*

The Planning Commission found that the ability of the proposed sign to display changing messages, even if set at a slow rate of change, presents a potential threat to public safety in an area that is already busy with both pedestrian and motor-vehicle traffic. The Commission was not convinced that it could adequately condition the proposed sign so that it would not detract from public safety on SE Washington Street.

The appellants note that motorists have seen the existing manual reader-board in place for 15 years and that as originally proposed the new sign would not present flashing or scrolling messages. Furthermore, the appellants argue that this concern could be addressed with a condition of approval that limits the new sign to one unchanging message during certain periods of the day: at school start- and end-times as well as during athletic events.

- *General location*

The Planning Commission found that the proposed sign location is in a residential zone and very near the City's downtown zones, where it would not normally be permitted except as a community service use. The Commission expressed concern that approval of the proposed sign would set a precedent for similar signs as part of community service uses, thereby adding to the above-noted concerns related to lighting impacts and public safety.

The appellants suggest that the proposed sign would be an improvement to the existing sign that has been in place for 15 years. They point out that the location is the school's only frontage on a major street and therefore represents its best opportunity to communicate with the public about school events. And the appellants note that the question of what signs are allowed in residential or downtown zones is not at issue because community service use signs warrant a unique review process.

Staff would direct the City Council to review the minutes from the Planning Commission meetings of September 12 and September 26 for a full description of the Commission's grounds for denial (see Attachment 2—Minutes from the Planning Commission hearings). The Notice of Decision for CSU-06-05 is included as Attachment 3 for Council review, as are the various petitions and letters received (see Attachment 4—Correspondence Received).

### **Concurrence**

The Planning Commission voted four to one to deny the proposed electronic reader-board sign. A petition in opposition to the proposed sign was received with signatures of 36 residents of the Historic Milwaukie neighborhood district; two individual letters in opposition were also received. Individual petitions in support of the proposed sign were received from 30 residents and business owners in the Historic Milwaukie neighborhood. The original staff report included a recommendation to approve the proposed sign with conditions (see Attachment 5—Staff Report to Planning Commission for CSU-06-05 hearing).

### **Fiscal Impact**

This decision will result in no direct fiscal impact to the City.

### **Work Load Impacts**

The City Council's decision on this matter is unlikely to have any impact on staff workload.

### **Alternatives**

Approvals of Community Service Uses are subject to minor quasi-judicial review pursuant to (MMC) Section 19.1011.3. The Planning Commission voted four to one to deny approval of the proposed sign. The decision has been appealed to the City Council, which renders the final decision and has the following decision-making options:

1. Uphold the Planning Commission's decision to deny the proposed sign (see Attachment 6—Final Order Denying Appeal AP-06-02).
2. Reverse the Planning Commission's decision and approve the sign, with or without conditions (see Attachment 7—Final Order Approving Appeal AP-06-02).
3. Continue the hearing to allow for more discussion. The City must issue a final decision by December 22, 2006.

### **Attachments** (mailed to City Council only—materials available to others upon request)

1. Appellant's Appeal of Planning Commission Decision to Deny CSU-06-05
2. Minutes from the Planning Commission hearings (Sept. 12 and Sept. 26, 2006)
3. Notice of Decision for CSU-06-05 (Sept. 28, 2006)
4. Correspondence Received
  - A. Petitions and Letters Against the Proposed Sign
  - B. Petitions in Support of the Proposed Sign
5. Staff Report to Planning Commission for CSU-06-05 hearing (Sept. 12, 2006)
6. Final Order Denying Appeal AP-06-02
  - Exhibit 1 – Findings in Support of Denial of CSU-06-05
7. Final Order Approving Appeal AP-06-02 and Approving CSU-06-05
  - Exhibit 1 – Findings and Conditions in Support of Approval of CSU-06-05

October 19, 2006

To: Milwaukie City Council  
City Hall  
10722 SE Main Street  
Milwaukie, OR 97222

From: Ali Townsend, Milwaukie High School Senior  
Kelly Carlisle, Milwaukie High School Principal  
11300 SE 23<sup>rd</sup> Avenue  
Milwaukie, OR 97222

Re: Appeal of Planning Commission Decision

We are appealing the decision of the Planning Commission on September 26, 2006 regarding the proposed readerboard change at Milwaukie High School, File Number CSU-06-05.

We thank the Planning Commission for their work, which initially was in support of approving the sign and added some recommendations. We agreed to all of those recommendations. The Planning Commission made a final decision, however, to deny the new sign. They communicated their findings in the decision. These findings have caused us to give additional thought to this proposal, and we are prepared to positively address each of these concerns. We remain convinced that replacing the old readerboard with an improved one is a proposal that merits your approval.

Regarding the Notice of Decision dated September 28, 2006, these are our responses to the findings that are in support of the denial by the Planning Commission. Specifically, we respond to Findings 6.C., 6.D., 6.E., and 8.

**6.C. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses.**

*The Commission's finding was that the proposed sign would present light-related impacts that are not compatible with the surrounding residential uses.*

**Milwaukie High School's response:**

- The proposed sign would replace an existing illuminated sign in the same location. It would not bring additional, separate light-related impacts.
- The proposed sign should have minimal light-related impact because it can be dimmed at night and programmed to be turned off between 10pm and 6am. Because the current sign is operated with a photocell, it remains illuminated all night.
- The school agrees to the recommendation that the sign not have any flashing or scrolling messages.
- The school agrees to the recommendation messages will remain on the sign for at least ten seconds before changing.

- The proposed sign is not a multi-colored screen such as the ones we are familiar with on 17<sup>th</sup> and on the Morrison Bridge; it will be a one-color display.

**6. D: The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood.**

*The Commission found public benefits which they listed. They also identified the following areas of concern over negative impacts:*

- In the vicinity of the site of the proposed sign, SE Washington Street allows parking on both sides of the street and is often congested with vehicular traffic. It also presents heavy pedestrian traffic from the various nearby schools as well as from the neighborhood. The proposed sign would provide an additional distraction to passing motorists that could negatively impact public safety.*

**Milwaukie High School's response:**

- Motorists have seen a readerboard in that same location for 15 years.
  - The proposed new sign can share more information about what is happening in the school, rather than one static message.
  - The school proposes going beyond the city's recommendations: that during school start and end times, athletic events that draw large amounts of vehicles and pedestrians, the sign would illuminate one stationary message, just as is the case with the existing sign. Changing messages would occur when vehicle and pedestrian traffic are not as heavy as for the school start and end times and major athletic events.
- The site of the proposed sign is located between the downtown area and residential zones in the Historic Milwaukie neighborhood district. The proposed sign would not normally be permitted in any downtown or residential zone except as part of a community service use.*

**Milwaukie High School's response:**

- There is already a sign that serves the same purpose in the exact same location. It has been there for the past 15 years.
  - The proposed new sign would replace an older, outdated sign that has been in the same location. It is a significant improvement to what currently exists.
  - This sign is for community service use, which is allowable as stated. Downtown and residential zoning requirements are not the issue in this proposal.
  - The letters on the current sign will occasionally be blown off by the wind. The new sign would not have that problem. This is also an improvement.
  - Community use for additional public benefit could be to promote Riverfest, Farmers Market, and other downtown activities.
- Because the messages on the proposed sign would be illuminated, the sign would present what could be described as the nuisance of light-related impacts to surrounding properties.*

**Milwaukie High School's response:**

As stated before regarding light-related impacts:

- The proposed sign would replace an existing illuminated sign in the same location. It would not bring additional, separate light-related impacts.
- The proposed sign should have minimal light-related impact because it can be dimmed at night and programmed to be turned off between 10pm and 6am. Because the current sign is operated with a photocell, it remains illuminated all night.
- The school agrees to the recommendation that the sign not have any flashing or scrolling messages.
- The school agrees to the recommendation that messages will remain on the sign for at least ten seconds before changing.
- The proposed sign is not a multi-colored screen; it will be a one-color display, either red or amber. To further minimize the light-related impact, we propose the amber colored display.

**E. The location is appropriate for the type of use proposed.**

The proposed location of the sign is the same as that of the existing reader-board sign and is the school's only frontage on a major street, therefore the most logical site for a message board intended to reach as many people as possible,

*The Commission's finding: The proposed sign would present an undue distraction or nuisance to surrounding properties and passing motorists.*

**Milwaukie High School's response:**

- The proposed location is on school property, in the same location where motorists and residents have seen a sign for the past 15 years.
- The school proposes that during school start and end times, and during athletic events that draw large amounts of vehicles and pedestrians, the sign would illuminate one stationary message, just as is the case with the existing sign.
- The school proposes that, among the frequently used messages during the congested periods on SE Washington Street, motorists would be cautioned to drive carefully.

8. *The Commission's finding was that the proposed reader-board sign does not meet the standards for signs in residential zones.*

**Milwaukie High School's response:**

- We believe that the proposed sign serves the exact same purpose in the exact same location as the existing sign, which is for community service use. This is allowable use for this zoning.
- This community service use will be congruent with signs of comparable size and illumination at schools such as Clackamas High School, Oregon City High School, and Rex Putnam High School, which are also in residential areas.

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, SEPTEMBER 12, 2006

**COMMISSIONERS PRESENT**

Jeff Klein, Chair  
Dick Newman, Vice Chair  
Lisa Batey  
Teresa Bresaw  
Catherine Brinkman  
Scott Churchill

**COMMISSIONERS ABSENT**

None

**STAFF PRESENT**

Katie Mangle,  
Planning Director  
Susan Shanks,  
Associate Planner  
Brett Kolver,  
Assistant Planner  
Gary Firestone,  
Legal Council  
Shirley Richardson,  
Hearings Reporter

1.0 CALL TO ORDER

The meeting was called to order at 6:31 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA -- None

4.0 INFORMATION ITEMS -- City Council Minutes

City Council minutes can be found on the City web site at  
[www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

5.0 PUBLIC COMMENT -- None.

6.0 Public Hearings

6.1 Applicant: Kent Slack for Rowe Middle School  
Owner: North Clackamas School District  
Location: 3606 SE Lake Road  
Proposal: Allow the installation of a non-illuminated  
reader board sign  
File Number: CSO-06-04  
NDA: Lake Road

**Chair Klein** opened the hearing on Community Service Overlay Review 06-04, a Minor Quasi-Judicial hearing to consider the installation of a non-illuminated reader board sign at Rowe Middle School. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19.301, Residential Zone R-10; Section 19.321, Community Service Uses; Subsection 19.1011.3 Minor Quasi-Judicial Review; and Title 14, Sign Ordinance.

**Chair Klein** asked if there were any conflicts of interest or ex-parte contacts to declare. **Commissioner Brinkman** stated that she works for a law firm in town and they have represented the School District in the past but it was not related to this case; she does not feel this will impact her ability to vote on this issue. **Commissioner Bresaw** stated that she is a member of the Lake Road Neighborhood Association and lives a few blocks from the subject site; she does not feel this will impair her ability to vote.

**Chair Klein** asked if any member of the Planning Commission visited the site; 5 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

#### STAFF REPORT

**Susan Shanks** reviewed the staff report with the Commission. She explained that this will be the last Community Service Overlay review under the old regulation. Community Service Uses from now on will be reviewed under the new Community Service Use regulations. Kent Slack, representing Rowe Middle School, is proposing to install a non-illuminated reader board sign at Rowe Middle School along the sites Lake Road frontage.

Rowe Middle School is a community service use; these uses are allowed one free monument sign per the Sign Code. Signs larger than 16 sq. or higher than 6 feet require Commission review and approval. The proposed sign is larger and taller than what would be outright permitted.

A computer presentation was made in conjunction with the staff report showing the subject site and surrounding area.

The proposed Rowe Middle School Sign is

- Non-illuminated
- Double sided
- Perpendicular to SE Lake Road
- Sign face – 8 feet wide x 5 feet tall
- Pole support – 2 @ 6 feet tall
- Overall height 11 feet.

The school is in an R-10 zone and the proposed sign meets all the applicable R-10 development standards and CSO standards specific to schools. Staff believes that the proposed sign meets the Community Service Use Public Benefits Test. The sign is a needed communication tool. It will enable the school to directly communicate with students, parents, it's taxpayer base, the local community, etc. There were comments about visibility along SE Lake Road; for it to be a public benefit it needs to be visible.

The key issues include:

- Community service use public benefits test
- Communication tool for school
- Optimal visibility

Recommend Conditions of approval

- Reasonably visible to those traveling in both directions on SE Lake Road
- No right-of-way or vision clearance area encroachment
- Finding 5D should indicate that nothing in this finding should be construed to limit or in any way restrict the content of the proposed sign.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Batey** asked why the sign could not be located closer to the driveway where the trees are smaller and can be moved. **Ms. Shanks** stated that the applicant has not ruled out other locations; this is the proposed location.

**Commissioner Batey** asked if the sign was placed in the proposed location could the applicant later cut down the trees that were blocking the visibility of the sign. **Ms. Shanks** stated that the tree is on private property; assuming the tree is not in the right-of-way, it could be removed. The City Engineer suggested locating the sign farther from the right-of-way to consider future widening of Lake Road.

#### CORRESPONDENCE

**Chair Klein** asked if there had been any correspondence received since the mailing of the packet. **Ms. Shanks** stated there was no additional correspondence.

#### APPLICANT PRESENTATION

Speaking: Kent Slack, Rowe Middle School, 3606 SE Lake Road, Milwaukie

**Mr. Slack** stated that staff did a wonderful job with the presentation. The entrance referred to by Commissioner Batey is the bus entrance. The tree she is concerned about is large; with some simple pruning it could be rectified. The physical plant operator (landscaper) suggested the location of the sign; if it did not

seem like an impediment to him, he felt it would be okay. He is amenable to the sign in an alternate location but the Shell Street entrance is where the parents drop off and pick up their kids. As far as road widening and proposed future improvements, he spoke to the City Engineer and was told that most of the proposed improvements will be on the far side of Lake Road and that the sidewalk along the school's frontage would not be moved.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Klein** asked staff to make comments on whether the road would be widened to the south side. **Ms. Shanks** stated that Mr. Weigel, City Engineer, was the one that made the recommendation. The applicant spoke with Brenda Schleining, City Engineer, who told him not to be concerned about the improvements going any further than the sidewalk. The sidewalk is new; hopefully when they planned the sidewalk they took into consideration the future improvements to Lake Road and they are not going to dig up the sidewalk and move it five feet to the south.

**Mr. Firestone** stated that the sidewalk was installed in anticipation of the future widening of Lake Road. If it is outside the right-of-way now, it is outside of the right-of-way. If the city expands the right of way and it is not connected with development, the city will be responsible.

**Commissioner Bresaw** stated that she was on the Commission when the sidewalk was constructed and they said it potentially could be moved. **Mr. Slack** stated that Brenda had indicated that the sidewalk could be moved closer to the school if necessary. He has no problem moving the sign closer to the school.

**Chair Klein** asked Mr. Slack what he felt the difference was between the pole sign versus a monument sign. **Mr. Slack** stated that visibility was the consideration. He did not think the trees would be an impediment and he did not feel they will be a problem when pruned.

**Commissioner Churchill** noted that vandalism occurs on monument signs; however, he hasn't seen a lot of it around this community. In this situation, he could support a condition for the monument sign because of the limbs being in the way. This sign could support a monument sign with a larger base. He likes the fact that the sign is not illuminated.

**Commissioner Brinkman** stated a pole sign is more for a commercial use and a monument sign would fit better in the neighborhood for the school.

**Chair Klein** stated that if vandalism is the concern, the sign should have to be higher than six feet. He feels that a monument sign would be more appealing.

**Mr. Slack** stated that he considered the fact that there is a pole sign for the high school and used that in his considerations. **Commissioner Brinkman** stated that the sign for the high school was constructed at a different time with neighbors with different community desires. There has been a shift in attitude in the community now about pole signs and visual clutter; monument signs, which are lower scale, are more desired.

**Commissioner Churchill** stated that a monument sign would be under the trees and would easily be seen from a distance. **Mr. Slack** stated that the pole sign was preferred because it was easier for traffic coming up on the school to be able to see the sign before they get to the school. It is possible to put the sign at the northwest corner of the property; however he does not feel it is the best solution.

**Commissioner Batey** noted that there is no parking on Lake Road, which would make a monument sign easier to read. **Commissioner Brinkman** stated that the higher sign would be a distraction to the drivers. **Mr. Slack** stated that the smaller trees would also obstruct a monument sign; a taller sign would be visible from a distance. The student store is funding this sign.

TESTIMONY IN FAVOR -- None

QUESTIONS OR COMMENTS -- None

OPPOSITION TO APPLICATION -- None

ADDITIONAL COMMENTS FROM STAFF

**Ms. Shanks** noted that the current smaller trees are at the sign base level now; the smaller trees would obstruct the face now as proposed. Even though a taller sign may be visible it won't be necessarily any more legible. Brenda Schleining, City Street Engineer, is in the process of designing the street widening project; she would have the most up-to-date information. She would have more information on whether the right-of-way will get wider on the south side.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

**Commissioner Bresaw** asked if notification was given of the proposed sign application. **Ms. Shanks** stated that notification went out to everyone within a 300-foot radius from the subject site. There were two comments from the neighborhood association, Forest Frick and Paul Hawkins, in favor of the sign. **Ms. Shanks** stated that no one in the community objected to the pole sign (height).

**Chair Klein** stated that the monument sign would come closer to the shifting values of the neighborhood. He would trade the monument sign for the pole sign even though there is an issue with the square footage.

#### APPLICANT'S CLOSING COMMENTS

**Mr. Slack** stated that he wants what is best for the neighborhood and the students. He will defer to what the Commission thinks is best.

**Chair Klein** closed the public testimony portion of the hearing and opened it to discussion among the Commissioners.

**Commissioner Bresaw** stated that she does not feel the monument sign is any nicer looking than the pole sign; the neighbors did not complain about the pole sign. **Commissioner Klein** stated that he feels that the neighborhood would have chosen a monument sign if given the opportunity. He suggested talking to the neighborhood association about helping with the funding of the sign.

**Gary Firestone** stated that issues being considered are size (square footage) and height. With the existing grade of the road and the grade of the site of the sign there still needs to be a decision on how high the sign can be from the grade of the road.

**Commissioner Batey** stated that the sign is relatively low and not as troubling as high signs. Visual clutter is not an issue here. The site begs for a monument sign because of the site conditions.

**Commissioner Churchill** stated that in consideration of the scale of the sign he is in favor of a monument sign. He would suggest basing the sign height on road height. He is concerned about the inconsistency in the sign ordinance where schools are restricted to a sign face of 4 feet. He would support a monument sign with a base that does not exceed one foot above the roadbed; basically 6 feet above road base. **Ms. Mangle** noted that the code allows for a 16 sq.ft. sign outright unless there is Planning Commission approval.

**Commissioner Brinkman** stated that she is in favor of the larger monument sign because the size of the lot requires a bigger sign and because of the particular needs of the school to advertise. She would not agree to the same if it were a community organization that wanted this large of a sign.

Discussion followed on where to set the height. **Commissioner Churchill** suggested using the crown of the road perpendicular to the sign as a base height and going up from there. This would be visible from a car.

**Ms. Mangle** suggested using the curb height as the starting point of the sign. **Ms. Shanks** recommended a 7-foot height maximum from the top of the curb.

**Commissioner Newman** stated that he felt the sign base on the Wichita example was not appealing; it doesn't look any better than the proposed pole sign to him. **Mr. Churchill** stated that the base could be a concrete base, which would have a greater mass and could be more aesthetically pleasing.

**Commissioner Churchill** suggested a condition that there could be no future front sign illumination. **Ms. Mangle** stated that the code allows for external illumination, but not internal illumination.

Staff was asked to prepare findings to support a monument sign. **Gary Firestone** suggested that the motion reflect the revised findings and conditions be with regard to sign scale and content.

**Commissioner Churchill moved to approve a monument sign for Application CSO-06-04 that has a maximum height of 7.0 feet above the curb that is perpendicular to the location of sign and that findings be amended to be consistent with the scale of the monument sign. Further, recommended Finding 5D that nothing in this finding shall be construed to limit or otherwise restrict the content of the proposed sign and if in the future the applicant would like to propose illumination, it will come before the Commission for process. Commissioner Newman seconded the motion.**

**Ayes: Batey, Bresaw, Brinkman, Churchill, Newman, Klein**

**Nays: None**

**The motion carried 6-0.**

Recess was called at 7:40 p.m. and the meeting reconvened at 7:47 p.m.

6.2 Applicant: Ali Townsend for Milwaukie High School  
Owner: North Clackamas School District  
Location: 11300 SE 23<sup>rd</sup> Avenue  
Proposal: To replace an existing manual reader-board sign at Milwaukie High School with a double-sided electronic reader-board sign  
File Number: CSU-06-05  
NDA: Historic Milwaukie

**Chair Klein** opened the hearing on Community Service Use 06-05, a Minor Quasi-Judicial hearing to consider the replacement of the existing manual reader-board sign at Milwaukie High School with a double-sided electronic reader-board sign, while placing certain restrictions on its operation. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19.306, Residential Zone R-2; Section 19.321, Community Service Use; Subsection

19.1011.3 Minor Quasi Judicial Review; and from the Milwaukie Sign Ordinance Subsection 14.08.090, Conditional Community Service Use Signs, Subsection 14.12.020, Prohibited Signs; Subsection 14.16.010, Sign Districts Including Residential Zones; and Section 14.20 Signs in Public Rights-of-Way.

**Chair Klein** asked if there were any conflicts of interest or ex-parte contacts to declare. **Commissioner Churchill** noted that about three feet of his property is within a 300-foot radius of the subject site. He does not feel this will impair his ability to vote on this issue. **Commissioner Brinkman** stated that she works for a law firm that has represented the School District in the past. She does not see any bias or financial gain to her because of this hearing and will be voting on this issue.

**Chair Klein** asked if any member of the Planning Commission visited the site; 6 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

#### STAFF REPORT

**Brett Kolver** reviewed the staff report with the Commission. The high school is an approved community service use; however no former community service overlay application included a review of a sign. The sign code does allow signs for community service uses if they are limited to 16 sq.ft. in area and a maximum height of 6 feet. The proposal in this case exceeds those dimensions and that is the reason for the Planning Commission review. A computer presentation was made in conjunction with the staff report.

The proposed sign will be a little over 4-feet tall and about 10-feet wide (40 square feet) mounted on a pole with a maximum height of 25 feet above grade. It is proposed to be a double-sided reader board sign that is electronically controlled. The sign is proposed to be “on” all the time with messages changing every 10 seconds.

There is a sign currently on the site and the proposal is to locate the new sign in the same exact location of that sign. A building permit was filed in 1991 for the current sign, a manual reader board sign erected to be visible from both directions of traffic. The current sign is 4’ high by 8’ long (32 square feet) mounted on a pole with a maximum height of 17’4”. It is an internally illuminated cabinet sign that operates with light sensor (dusk to dawn). It did not receive community service review.

The key issues in this application for a sign are height and size, hours of operation, frequency of message change, level of illumination, and location.

The proposed height of the new sign would be 25 feet to the top with an area of 40 sq.ft. Staff is recommending keeping the sign no higher than the existing sign (approx. 17 feet, 4 inches) with an area of 40 sq.ft. as proposed. The banner across the top will always say Milwaukie High School; the three lines beneath the banner will be the electronic portion that will change every 10 seconds. The hours of operation proposed are “on” all the time; staff is recommending 6:00 a.m. to 10:00 p.m. An example was shown of how often the message would change for a 10-second interval sign. The Commission was shown a video provided by the applicant who gave an example of the levels of illumination at the Oregon City High School sign.

Staff recommends the following conditions of approval:

- Size limit to what was proposed – 4 feet by 10 feet (40 square feet in area)
- Maximum height limited to that of existing sign (approximately 17 feet)
- Hours of operations – 6 a.m. to 10 p.m. every day
- Maximum frequency of change – every 10 seconds
- Brightness to be reduced as needed so as not to be a nuisance (Planning Director to determine)
- Sign shall not be in public right-of-way

QUESTIONS FROM THE COMMISSIONERS -- None

CORRESPONDENCE

**Chair Klein** asked if there had been any correspondence received since the mailing of the packet. **Ms. Mangle** stated that this afternoon Mr. Randall Welch, a member of the Design and Landmarks Committee submitted comments that he does not feel that the look and feel of the sign is in line with the Downtown Framework Plan. **Mr. Welch** stated that he feels that the sign would not be appropriate in this location. **Mr. Kelver** noted that he received a call late last week from Tim Rippee, a city resident who asked about details of the hearing and indicated general support for the proposed sign.

APPLICANT PRESENTATION

Speaking: Leslie Townsend, 6581 SE Eunice Street, Milwaukie

**Ms. Townsend** stated that her daughter, Ali, took this on as a senior project. She is not present tonight, as she is playing in a soccer game. Ali Townsend has been on Student Council for several years and has had to actually manually change the sign for several years. She thought that they were going to just have to raise the money to get the new sign; as the project progressed, it was realized that more is involved (coming before the Planning Commission and securing three bids for the sign). There is one bid from \$30,000 (Ramsey Signs). It will cost less (\$15,000) if the existing pole is used; however, the sign would be smaller and would not

include "Milwaukie High School" or have the same electronic capacity. The principal and Ali Townsend decided to pursue the \$30,000 sign option.

There were no concerns from Ali Townsend or the school principal about the sign not being allowed to be on all night.

#### QUESTIONS FROM THE COMMISSIONERS

**Chair Klein** asked for clarification of the electronics on the two bids. **Ms. Townsend** stated that the existing pole would not hold a sign that has "Milwaukie High School" on the sign with three lines of electronic message on the same sign; it is a structural issue. She is still trying to pursue the other two bids for the school district.

\$300 has been raised through car washes and alumni functions. She plans on sending letters requesting funds to alumni, neighborhood association, and North Clackamas Chamber businesses. She would like to see the project done. She is also asking the ASB (Council) and Honor Society to take on the project should she not be able to complete it in her last year at Milwaukie High.

TESTIMONY IN FAVOR -- None

QUESTIONS OR COMMENTS -- None

OPPOSITION TO APPLICATION -- None

ADDITIONAL COMMENTS FROM STAFF -- None

#### QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

**Commissioner Churchill** questioned the illumination impact on the neighborhood. **Commissioner Newman** stated that he did not feel the tape truly depicted the glare of the illumination.

**Commissioner Brinkman** asked if there are code provisions regarding moving signs. **Mr. Kolver** stated that there are some restrictions in the sign code regarding revolving signs: they are required to rotate no more rapidly than once every 10 seconds. Moving signs (including electronically moving signs) are prohibited except for public service signs, though staff has recognized that deciding what is a public service message, and what is not, is unconstitutional because it regulates content. Under this current interpretation of the sign code, electronic reader board signs are allowed. The Planning Commission cannot control the content but can regulate height, brightness, frequency of change, etc.

## APPLICANT'S CLOSING COMMENTS

**Ms. Townsend** stated that the school games are finished about 9:00 p.m.

**Chair Klein** closed the public testimony portion of the hearing and opened it to discussion among the Commissioners.

**Commissioner Bresaw** stated that in general this sign is acceptable at 17 feet -- no higher.

**Chair Klein** stated that if the existing pole is used, the height of the sign face could be as proposed; he likes staff's recommendations as proposed.

**Commissioner Brinkman** stated that she couldn't support this proposal because the nature of the community doesn't support this type of sign. This sign will be in a residential area and wouldn't be appropriate. It is in the downtown area and it doesn't work with the future plans. She has concerns about traffic distraction. She does not feel that a moving sign is right for a school area; more focus should be on the driving. She does not feel the glowing sign is appropriate.

**Commissioner Churchill** stated that just because this is between a residential zone and downtown zone does not mean that this area should have it. He would like to see pole signs eliminated as much as possible -- especially an illuminated sign. **Mr. Welch** in his letter has indicated that he feels it changes the feel of the neighborhood.

**Commissioner Bresaw** noted that across the street from this sign is a church; there are no windows where people would look out and see the sign. **Commissioner Churchill** stated that there is a clear view of the sign from a residence on the north side of Washington Street.

**Commissioner Churchill** stated that there is a meeting tonight regarding parking issues in downtown; he feels this is the reason people are not here for this proposal. **Commissioner Churchill** disclosed that he talked with neighbors and they indicated that they would not be at the hearing because there was another meeting to attend. He did not discuss any details about the hearing with the neighbors.

**Commissioner Batey** stated that she doesn't know to what extent the neighborhood was informed about the proposed sign. **Commissioner Brinkman** stated that she did not assume that both sides of the issue were presented at the neighborhood association meeting. She noted that **Mr. Ed Zumwalt**, Chair of the Historic Milwaukie NDA Land Use Committee, did not have any comments on this proposal.

**Mr. Firestone** stated that the decision has to be made on the information presented to the Commission tonight.

**Commissioner Batey** asked the Planning staff who was noticed for the hearing. **Mr. Kelper** stated that notice was sent to a list of those within 300 feet of the site, three members of the land use committee and additional interested parties and neighbors.

**Chair Klein** asked if there is another area for a pole-mounted sign that would be a better or feasible location. **Mr. Kelper** stated that there is not another location on school property with the level of exposure for the sign. The residential impact of the sign along the frontage of the school or at the Lake Road entrance is much greater than on Washington Street.

**Commissioner Batey** asked if there is an option to defer a decision until the Design and Landmarks Committee (DLC) could review this proposal. **Ms. Mangle** stated that this is not in the downtown zone and not under the authority of the Design and Landmarks Committee. There could be a condition that the DLC advise the Commission or staff on a review of the sign at this location. The DLC review would be subject to the 120-day clock; the application was deemed complete on July 28<sup>th</sup>.

**Commissioner Churchill** stated that if the sign faced north and looked directly towards a commercial area, it would be acceptable. The fact that it is in between residential and downtown presents a problem.

**Commissioner Brinkman** voiced concern for the illuminated large pole sign being in this area between residential and downtown. There is a lot of residential area that backs the school field. **Commissioner Klein** noted that the field next to the proposed sign location is being used at least two evenings a week for some sort of game. The fields are lighted and the sign is next to the scoreboard and not that much of an impact. The majority of the impact is non-residential.

**Commissioner Klein** asked the City Attorney what options are available if there is no majority on the Commission. **Mr. Firestone** stated that the Commission could declare a denial because there is no majority or forward it on to City Council to reach an agreement. **Ms. Mangle** stated that the Commission could propose approval with conditions that approve the design in every way except for the matter of location, or table the hearing until the applicant can be present and bring a representative from the sign company to answer Commission questions.

**Commissioner Churchill** moved to table the hearing for application for Community Service Use 06-05 to September 26, 2006 at 6:30 p.m. to allow the applicant to provide more information. **Commissioner Brinkman** seconded the motion.

**Ayes: Batey, Bresaw, Brinkman, Churchill, Klein**

**Nays: None**

**The motion carried 6-0.**

**Ms. Mangle** stated that staff will contact land use leaders, and neighbors noticing them of this meeting.

Suggestions for more information include:

- Attendance from the applicant, principal and/or representative from the sign company
- Foot candle illumination level
- Possible placement in another area of the school
- Explanation of other options explored
- Staff take pictures of sign looking outward at Clackamas and Oregon City High Schools – pictures from the front yard of residences where the illumination will impact on 27<sup>th</sup>
- Examples of other signs of same dimensions and dimensions of the proposed sign
- Zoning boundaries

7.0 WORKSESSION ITEMS -- None.

8.0 DISCUSSION ITEMS

**Ms. Mangle** suggested opening the meeting to discussion of the sign code. **Commissioner Batey** stated that because of the recent hearings, it would be nice to have a worksession on revising the sign code. **Commissioner Brinkman** stated that there is a shift in community attitudes about pole signs and electronic signs; it is important to recognize these concerns.

**Ms. Mangle** stated that because there is no updated sign code staff is put in a difficult situation of constitutionality. One example is that billboard signs are now treated as freestanding signs thus being allowable in more uses than is desired. It is recommended that the sign code be addressed as soon as possible; the City Attorney has suggested that a policy statement be drafted that would apply to many of these types of reader board signs/changing signs.

**Ms. Mangle** stated that there are a number of issues that can be improved upon regarding the sign code; however it will take more time to address the entire sign code. Doing the entire sign code might spur on concerns around other issues that do not need to be immediately addressed. The Commission has planned to address Section 1400 and traffic studies as the next projects on the work plan list; to address the entire sign code would mean delay of those other issues.

**Ms. Mangle** noted that the sign code hearing and a worksession on Understanding Traffic Studies 101 is scheduled for the next meeting on September 26, 2006. Since the hearing tonight was continued it was the consensus of the Commission to delay the traffic studies worksession.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS / UPDATES

10.1 DLC Review of North Main Lights, Art

**Ms. Mangle** reported that in 2005 the Planning Commission approved the North Main Project. The Design and Landmarks Committee was asked to review elements of the project, which was done last April. There are two things that the DLC wanted to wait on until the project was closer to completion; lights on the site and the plaza. On July 29<sup>th</sup> the DLC reviewed the lights and approved them as proposed. The sculptures were aesthetically pleasing and the artwork is very nice. The North Main project has met all of their approval criteria in terms of design.

10.2 Matters from the Planning Director

There is a scheduled ribbon-cutting event for 3 Bridges Project on October 19<sup>th</sup> from 10:30 a.m. to Noon.

**Ms. Mangle** reported that a memo was sent to the Commissioners on the County decision on the Harmony Park Apartments. The County is acknowledging that the property, though they may be allowed to get land use approval from the County, must annex to the City before they get services and apply to Title III, Water Quality Resources regulations to the site.

11.0 NEXT MEETING -- September 27, 2006

11.1 CSO-06-04 – Ali Townsend for Milwaukie High School

11.2 Sign Code Hearing

**Commissioner Bresaw** moved to adjourn the meeting of September 12, 2006. **Commissioner Brinkman** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:24 p.m.

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, SEPTEMBER 26, 2006

**COMMISSIONERS PRESENT**

Jeff Klein, Chair  
Dick Newman, Vice Chair  
Teresa Bresaw  
Catherine Brinkman  
Scott Churchill

**COMMISSIONERS ABSENT**

Lisa Batey

**STAFF PRESENT**

Katie Mangle,  
Planning Director  
Brett Kelter  
Assistant Planner  
Ryan Marquardt,  
Assistant Planner  
Gary Firestone,  
Legal Council  
Shirley Richardson,  
Hearings Reporter

1.0 CALL TO ORDER

The meeting was called to order at 6:31 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes -- June 27, 2006 and July 11, 2006

**Commissioner Bresaw moved to approve the minutes of June 27, 2006 as presented. Commissioner Brinkman seconded the motion.**

**Ayes: Bresaw, Brinkman, Churchill, Newman, Klein**

**Nays: None**

**Abstentions: None**

**The motion carried 5-0.**

**Commissioner Brinkman moved to approve the minutes of July 11, 2006 as presented. Commissioner Bresaw seconded the motion.**

**Ayes: Bresaw, Brinkman, Churchill, Newman, Klein**

**Nays: None**

**Abstentions: None**

**The motion carried 5-0.**

4.0 INFORMATION ITEMS -- City Council Minutes

City Council minutes can be found on the City web site at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

5.0 PUBLIC COMMENT -- None.

6.0 Public Hearings

- 6.1 Applicant: Ali Townsend for Milwaukie High School  
Owner: North Clackamas School District  
Location: 11300 SE 23<sup>rd</sup> Avenue  
Proposal: To replace an existing manual reader-board sign at Milwaukie High School with a double-sided electronic reader-board sign

File Number: CSU-06-05  
NDA: Historic Milwaukie

**Chair Klein** opened the hearing on consideration of the replacement of an existing manual reader-board sign at Milwaukie High School with a double-sided electronic reader-board sign. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19.306, Residential R-2 Zone; Subsection 19.321, Community Service Use; Subsection 19.1011.3, Minor Quasi Judicial Review; Milwaukie Sign Ordinance Subsection 14.08.090, Conditional and Community Service Use Signs; Subsection 14.12.020, Prohibited Signs; Subsection 14.16.010, Sign Districts, Residential Zones and Section 14.20, Signs in Public Rights-of-Way.

**Chair Klein** asked if there were any conflicts of interest or ex-parte contacts to declare. **Commissioner Brinkman** stated that she works for a law firm in town and they have represented the School District in the past, but that is not related to this case; she does not feel this will impact her ability to vote on this issue. **Commissioner Churchill** stated that he was approached by members of the neighborhood asking about the hearing last time; he responded that the hearing was continued and invited them to come to the hearing this week and participate. **Chair Klein** stated that he talked in the hallway this evening to Ali Townsend's mom to see if Ali was able to make it tonight; she indicated that Ali has gotten permission from her coach to not start the game against Putnam High School and that she would be at the hearing.

**Chair Klein** asked if any member of the Planning Commission visited the site; 5 hands were raised. No one who visited the site spoke to anyone at the site or

noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

#### STAFF REPORT

**Brett Kveler** reported that this is a continuation of the hearing from two weeks ago. This application is to replace the existing sign at one end of the athletic field next to the scoreboard sign with a double-faced electronic sign. At the last meeting the Commission asked that staff provide:

- Zoning boundaries
- Technical information about the proposed sign (illumination, brightness and adjustability, height)
- Contextual information about the signs at Oregon City High School and Clackamas High School
- View-perspective from residences bordering the athletic fields
- More input from the neighborhood and neighbors
- Alternative locations in the area

Photos were shown of the school's other signs along the Lake Road frontage; there are no reader board signs similar to the one being proposed. An overview of the subject site was shown, including zoning designations in the area. **Commissioner Churchill** asked for clarification of the zoning boundaries.

**Mr. Kveler** reiterated the recommended conditions of approval:

- Size limit of approximately 40 square feet in area, as proposed
- Limiting the height of the proposed sign to that of the existing sign (approximately 17 feet)
- Limiting hours of operation to 16 hours a day; 6:00 a.m. to 10:00 p.m. daily
- Limit on frequency of change to no more than once every 10 seconds

There was a condition recommended on some control on the brightness of the sign; there may be some testimony on how to regulate the brightness. There was another suggestion that staff review the site to make sure the sign is not in the public right-of-way; the sign should clearly be located on school property.

QUESTIONS FROM THE COMMISSIONERS -- None.

#### CORRESPONDENCE

**Chair Klein** asked if there had been any correspondence received since the mailing of the packet. **Mr. Kveler** stated that he received one phone call from Brendan Eiswerth asking for information about the hearing; he was invited to

bring any correspondence that he has collected from neighbors and present them to the Commission.

#### APPLICANT PRESENTATION

Speaking: Ali Townsend, 6581 SE Eunice Street, Milwaukie

**Ms. Townsend** stated that she is a senior at Milwaukie High School and started this project because she saw a real need for the school to better communicate to their community, neighbors and student families. For several years she has been involved with ASB and National Honor Society and it was her responsibility to manually change the current sign. She and other students found it impossible to keep the information current and accurate. Because of the age of the sign and weather conditions, letters were continually being blown off or just fell off; this left inaccurate information and did not give the professional image they would like to give. With a new sign they will be able to keep the community up-to-date with their sports activities, events, blood drives, plays, music awards and to keep parents informed about schedule changes. They hope to bring more revenue to the school with increased attendance for some of the events.

**Ms. Townsend** said she is aware of the concerns expressed about the neighbors and their thoughts about the new sign. Last Saturday she spent time with 17 neighbors on 27<sup>th</sup> Street, presenting them with a letter of approval of the proposed reader-board sign. Everyone was supportive of the reader-board sign. She also talked with eight parents at St. John's School; they said that they would purchase the old sign, or if given to them would help with fund raising for the new sign. She has two letters of support from businesses on Washington Street. There was one neighbor on Washington Street that was against the proposal. She submitted the letters of approval to the Commission, stating that many of the approvals were from apartment residents facing the stadium.

The Planning Department has recommended that the sign remain the same height of the existing sign; she believes that Ramsey Signs can adjust the height. They are in agreement with having the sign off at 10:00 p.m. each night.

Night and day pictures were shown of the signs at Clackamas High School and Oregon City High School, including their surrounding areas both during the day and at night. Night pictures were shown of the existing Milwaukie High School sign on Washington Street, including a night picture looking down Washington Street as well as pictures from driveways and businesses on Washington Street.

## QUESTIONS FROM THE COMMISSIONERS

**Chair Klein and the commissioners** commended Ms. Townsend on the presentation; it was very well done. They thanked her for her hard work on this project.

**Commissioner Newman** asked if there was consideration of putting the sign somewhere else on the school property. **Ms. Townsend** said “no”; her consideration was only to replace the existing sign. This updated reader-board sign was the only type of sign she considered. Washington Street seems to be the best location for everyone in the community to see the sign.

Speaking: Kelly Carlisle, 12422 SE One Rosa Drive, Clackamas

**Mr. Carlisle** stated that he is the principal at Milwaukie High School and he is proud of Ms. Townsend; she has proven to be very talented at different projects at the school. She is a key communicator in the school community; blood drives under her direction have been so full they have had to turn donors away for lack of beds.

As a school in the community it is their privilege and obligation to reach out to their residents, students and parents, and passers-by to see what is happening at their school. Currently, if you walk by the sign you would see that there is a soccer game tonight; what is not displayed is that their school newspaper (*The Milwaukian*) has for the second time received the top award at the national level. These are some of the other things they would like to share with the community -- with a sign that can project more than one message at a time this would be possible. Had there been a reader board sign there might have been better attendance at the school bond meeting last night. The proposed sign will offer other ways of reaching out and letting people know what is going on.

The Clackamas High School monument sign works because of its positioning and the wide open space at that intersection that allows for visibility. A monument sign would not work at any location on their campus because of the space on Washington Street with respect to trees, lamp posts, fences, and a much tighter street space than found at other sites. Lake Road has the same difficulty because drivers are navigating the turn and not looking at the campus and sign. The school’s mission to share what is going on in the school would be facilitated by locating a sign on the Washington Street side with some height.

## QUESTIONS FROM THE COMMISSIONERS

**Commissioner Brinkman** asked if Milwaukie High School has a web site. **Mr. Carlisle** stated that they do.

**Commissioner Brinkman** asked if consideration was given for the safety of the drivers reading the reader-board sign and possibly not seeing pedestrians crossing the street. **Mr. Carlisle** stated that he talked to the principal at Clackamas High School but because they have a monument sign they did not discuss the height issues. He did ask about the impact of having constant messages; their sign shares 12 different messages in short amounts of time, possibly every 5 seconds.

He asked the principal if there were any traffic problems with the changing sign. She responded that she had no instances of traffic problems and that the people have commented it was nice to have the weather and time available to them on the sign.

Speaking: Mike Carulli, Ramsey Signs, 9160 SE 74<sup>th</sup> Avenue, Portland

**Mr. Carulli** stated the brightness of the board can be dimmed down 100%; it is very versatile. The existing reader-board sign has problems with letters falling off, maintenance, etc. The proposed sign is designed to address local issues; it is not flashy and message can be left on for long periods of time. The message can be changed and at nighttime if the board is not used it becomes black. In his 37 years of experience, they have been hassled about the structure of the poles and stoutness of signs; yet in the windstorms you hardly ever see them go down. The same thing is true with accident reports due to distracting signage. The accident reports are negligible; the issue of safety is nonexistent. The Oregon City sign was originally 25 feet and the City Council ruled to limit it to 17 feet. The proposed sign would be at the same height as the one there now. The message can scroll up or down or it can stay stationary.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Bresaw** asked if the only color available for the sign lights is red. **Mr. Carulli** stated that red and amber are the two colors that are most used. The difference between the two for brightness and readability is negligible.

**Mr. Churchill** asked if Ramsey did the Oregon City High School sign. **Mr. Carulli** stated that he did the Oregon City sign. The reason that the Oregon City sign is low is because it has visibility and there is nothing in front of it; Milwaukie has the situation with a fence and they need the height. It would be an injustice to be so low that the drivers cannot read it. They do all types of signs, pole, monument and others.

**Commissioner Churchill** asked if the sign is always on full illumination. **Mr. Carulli** stated that most of the time the illumination is set and maintained at a particular level. This is something that would be controlled by the school. The signs at Oregon City High School and Clackamas are at full illumination.

TESTIMONY IN FAVOR -- None

QUESTIONS OR COMMENTS

Speaking: Ed Zumwalt, 10888 SE 29<sup>th</sup>, Milwaukie

**Mr. Zumwalt** stated that he was really for this application when he first heard about it; the school needs the sign for a lot of reasons. This morning his phone got very busy about this. Brendan Eiswerth has been out getting signatures on a petition and Ed and his wife signed the petition against this proposal. Safety, brightness, and height were reasons for many of the signatures that were received. He pointed out to Mr. Carulli that the responsibility is on him to make this project work. There had to be a good reason why so many people signed the petition that Brendan Eiswerth took around; all of these people interested have to be listened to.

QUESTIONS FROM THE COMMISSIONERS

**Chair Klein** asked Ed why he signed the petition against the proposed sign. **Mr. Zumwalt** stated that he feels this should be discussed more. There are a lot of people involved; when a sign issue comes up there is a big response. There are safety issue and livability issues that must be addressed; people are pleased with what they are seeing in the city. **Commissioner Brinkman** stated that as the demographic of Milwaukie continues to change and the City continues to build signs, how they look goes a long way in attracting the kind of businesses you want to have. This is a big issue, because this is what people see, this is what Milwaukie becomes by the signs and architecture.

**Mr. Zumwalt** stated that what Ms. Townsend says, what Kelly says, what the community says, and what staff and the Commission say is very important; there is value on all sides.

**Chair Klein** asked if the scrolling is an issue to the Neighborhood Association. **Mr. Zumwalt** stated that the whole thing is a safety factor. There are kids coming out of St. John's school; there are little kids coming from Milwaukie Elementary. He himself does not look at the sign because he is very cautious while driving down this street. He can see where a lot of people can be distracted. He would have thought that there would be concerns from people on 27<sup>th</sup>, 28<sup>th</sup>; however, Ms. Townsend has indicated that some residents on those streets say they don't mind the illumination.

OPPOSITION TO APPLICATION

Speaking: Dion Shepard, 2136 SE Lake Road, Milwaukie

**Ms. Shepard** stated that she is opposed to the application as proposed. Her concerns are safety; she walks her dog along this street and around the school. The cars would not be able to read the sign without slowing down; Washington is a small street and kids are crossing the street all the time; she feels safety is a large concern. When you have a reader-board that is scrolling people tend to want to see the entire message; she feel this will cause a big safety concern for everyone. She likes the idea of an alternate location, perhaps by the parking lot. She would not want a sign that is so visible that it can be seen from Highway 224 or McLoughlin Blvd. She would not like to see a high sign and would appreciate it being dimmed so that the residents wouldn't have to put up with the brightness.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Brinkman** asked for comments on the sign being between the historic neighborhood district where it wouldn't be allowed and the downtown business district where it wouldn't be allowed. **Ms. Shepard** stated that she would like to see the sign moved to where the scoreboard is with landscaping to improve the aesthetics. She thinks that the apartment dwellers don't care as much about the community; they don't have the investment in the neighborhood as the residents that own property there. She feels that the value of those who own property there should have more weight than apartment (temporary) dwellers.

Speaking: Brendan Eiswerth, 11009 SE 28<sup>th</sup>, Milwaukie

**Mr. Eiswerth** stated that he currently lives at 11009 SE 28th; he is the owner of 2725 SE Washington and has lived at 2755 SE Washington. These three residences have been his residences for the past 11 years.

There are 36 signatures of property owners in the Historic Milwaukie Neighborhood on the petition in opposition to this proposal. In addition to the petition are two letters from neighbors who are concerned. He read the petition in opposition to the sign and asked the Commission to oppose the placement of the sign for the safety of the neighbors and hundreds of children from St. Johns, Milwaukie Elementary, and Milwaukie High School. The petitions were submitted as part of the record.

**Mr. Eiswerth** stated that Mr. Jeff Rends who signed the petition lives in the house that Ms. Townsend thought was a vacant property. Ann Hupp, wife of a former mayor, has a clear view of the sign in front of her house. She is not an adamant fan of the sign as it is and would not be in favor of the proposed sign.

It is currently very difficult to negotiate getting across Washington Street. He and his wife use the track to walk and it is difficult for them to cross. He read the letter he submitted in opposition to this proposal. Many outside events at the school always impact many of his neighbors. The PA should be directed to the

stands not the neighborhood. He can see the existing sign and the field from his home on 28th, as can his aunt who lives on the corner near him. He feels that notice of events from the school can be obtained from touch-tone phone messages or online.

If this sign is allowed, would it set a precedent for other illuminated signs across the street at St. Johns Church/School, around the corner at the elementary school, a couple blocks away at the Waldorf School or the American Legion. The biggest concern about the proposed sign is the aesthetic impact on the neighborhood and the legal issues that would be raised.

Since the new signal went in on 99E at Washington, there has been more traffic and he can hear every car pass his home. In the commuter's desire to get from point A to B, drivers have to drive between two schools, not to mention the elementary and Waldorf School one and three blocks respectively away from Washington Street. That is hundreds of school kids crossing a very busy street every morning and every afternoon. In the winter time with shorter days that means many kids crossing Washington when it is dark after sports practice or before and after sports events when hundreds of parents and children are crossing from St. John's parking lot and the field in the dark within 50 feet of the location of the proposed flashing sign.

There is currently a crosswalk at 26<sup>th</sup> and Washington, less than 50 feet east of the proposed sign, and another crosswalk at 23<sup>rd</sup> and Washington. There is large use of St. John's lot on the north side of Washington by Milwaukie High students. He biked down to Washington at 5:15 this afternoon to check on the location of these crosswalks and witnessed at least a dozen students crossing Washington; not a single one used the crosswalks. When it is dark out later this year those same kids will be darting across Washington attempting to avoid rush-hour traffic. He hopes that rush-hour commuters and student drivers have their eyes on the road and not on a distracting illuminated changing sign board as they negotiate Washington on a rainy winter afternoon.

**Mr. Eiswerth** stated that every person that he approached signed the petition. Three people would not sign because they don't sign petitions but gave permission to have him say that they are opposed to the proposed sign.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Brinkman** stated that the Historic Neighborhood had no comments on this issue at the first hearing before it was continued. **Mr. Eiswerth** stated that he would not have gotten a notice if it weren't forwarded to him. He suggested moving the proposed sign along the gym facing north. The sign would be facing the parking lot and those who need to see those message boards. Others

would know where the sign is and could come to that location to see what is going on.

**Chair Klein** noted that when Mr. Eiswerth moved to his residence the school and the sign was there and asked him to comment on why the sign would now be offensive to him. **Mr. Eiswerth** stated that he appreciates the school; he uses their track and the community benefits from the football games. It is a positive thing to hear kids playing and the activity in the area. But what precedent does this set if the other schools do the same thing; will this turn into Time Square in Milwaukie?

**Chair Klein** noted that the Commission takes into consideration every input with the same weight from the community regardless of whether they are renters or owners in the neighborhood. It is the ultimate goal for the entire community to make good decisions.

#### ADDITIONAL COMMENTS FROM STAFF

**Mr. Kelper** reported that the recommended conditions of approval address:

- Height (limiting to the height of current sign)
- Ability to control the brightness of the sign
- The frequency of the change to every ten seconds

Hopefully, the testimony tonight addressed some of the concerns expressed by the Commission at the last hearing. **Ms. Mangle** noted that the suggested condition indicates that the sign change no more often than every 10 seconds. Scrolling means moving constantly and the recommended condition would not allow that.

#### APPLICANT'S CLOSING COMMENTS -- None

**Chair Klein** closed the public testimony portion of the hearing and opened it to discussion among the Commissioners.

**Commissioner Newman** stated that the same company that installed the Oregon City sign is the one that is going to install the proposed sign. He was superintendent of Oregon City schools when this company was hired to install the sign at Oregon City High School. He asked staff if this is a conflict of interest. **Mr. Firestone** stated that it is not a conflict; prior dealings that are not ongoing do not create a conflict of interest because there is no current prospect for financial gain for it. If there is no issue of bias there is no reason to not participate. **Commissioner Newman** stated that he was not biased and did not feel it would interfere with his ability to vote on this issue.

**Commissioner Bresaw** stated that she does not like reader-board signs, but in this situation it will be an improvement to the community. She feels that the proposal meets the benefits test and the school deserves a better sign than it has.

**Commissioner Churchill** voiced concern that the brightness is going to be a hard thing to manage. To him it is a safety issue; is it worth the risk to go from the status quo sign to something that can be easily changed. He looked at the signs at Clackamas and Oregon City and both roads are much wider. He has a concern about putting more pedestrians at risk.

**Commissioner Brinkman** stated that it is difficult to tell a student and a school that they can't have a sign. After Ms. Townsend's presentation she was more sympathetic to the cause than she was prior; however, she has to remind herself of her major concerns. She is concerned about safety and the proximity of so many schools in one area; it is a big deal. She visited the Clackamas site and it is not comparable to the Milwaukie neighborhood in terms of density, different uses, and the surrounding codes. She is troubled about the fact that the downtown district would not permit the sign and it certainly is not appropriate in the historic neighborhood. She does not feel there is an increased benefit that would go along with the increased impact on the residents near the school. There could be a website to post upcoming events; there are plenty of ways to get the message out that don't require an electronic reader-board. If this proposal is approved it will present a significant lack of congruity in the Commission decisions. This sets precedent for other community service uses including schools and churches that need a community service use; all it takes is one and then they are all over the area.

**Commissioner Newman** stated that he is not concerned about people getting in and being able to change the sign. The controls of the sign at Oregon City High School are under lock and key; you don't want just anybody to have access to a sign that could have anything in writing. In addition, the technology is such that you had to take a course to learn how to operate the controls; there were designated people to change the sign. He does not see a concern about the illumination. There have been no accidents relating to the illuminated sign at Oregon City High School. He asked if there is a possibility of some other location on the site for the sign.

He has been around the Oregon City High School so many times and he doesn't see a concern about the illumination brightness. There were all kinds of complaints around the high school; it was not the sign but just lights around the high school that were causing problems. Beaver Creek Road is a problem spot in Clackamas County; however there has not been an accident at the high school.

**Mr. Firestone** stated that this involves expression and the Commission has to make sure there is an adequate opportunity for the entity to get their message

across. Any alternate location should be based on whether that location provides adequate communication to the general public. The school district has the right to communicate. The applicant has the burden of establishing that they meet the criteria. There is a specific set of rules, however in this instance other rules can be allowed. It is the applicant's burden to establish that the basic CSU criteria have been met.

**Chair Klein** stated that he will vote against this proposal because he does not feel this is the right sign for this location. He feels that Ms. Townsend has done a fantastic job with this project; he hopes that the school comes back with alternative ideas and goals that will help spread the message for the school.

**Commissioner Bresaw moved to approve Application CSU-06-05 to allow the replacement of the existing manual reader-board sign at Milwaukie High School with a double-sided electronic reader-board sign, while placing certain restrictions on the operation.**

**The motion died for lack of a second.**

**Commissioner Brinkman moved to deny Application CSU-06-05 to allow the replacement of the existing manual reader-board sign at Milwaukie High School with a double-sided electronic reader-board sign for the following reasons:**

- **Impacts to the neighborhood outweigh the benefit of the sign (communication to community)**
- **Safety concerns relating to the heavy pedestrian use and congested thoroughfare between two schools**
- **The location borders two districts that would not otherwise permit the presence of the sign**
- **Light impacts**
- **Safety impacts**

**Staff was directed to develop findings using the reasons for denial stated. Commissioner Churchill seconded the motion.**

**Ayes: Brinkman, Churchill, Newman, Klein**

**Nays: Bresaw**

**The motion carried 4-1.**

Recess was taken at 8:15 p.m. and the meeting reconvened at 8:27 p.m.

6.2 Applicant: City of Milwaukie  
Proposal: Amendments to Titles 14, 12, 17 and 19 of the Milwaukie  
Municipal Code  
File Number: ZA-06-02  
NDA: All Neighborhoods

**Chair Klein** opened the hearing on Zoning Amendment 06-02, consideration of Legislative amendments to Titles 14, 12, 17 and 19 of the Milwaukie Municipal Code.

**Commissioner Newman moved to initiate proposed text amendments to Titles 14, 12, 17 and 19 of the Milwaukie Municipal Code. Commissioner Bresaw seconded the motion.**

**Ayes: Bresaw, Brinkman, Churchill Newman, Klein**

**Nays: None**

**The motion carried 5-0.**

**Chair Klein** asked if there were any conflicts of interest or ex-parte contacts to declare. There were none.

#### STAFF REPORT

**Katie Mangle** reported that staff requests the Commission forward a recommendation to City Council in support of the proposed amendments to the four sections of the Milwaukie Municipal Code. The final decision will be with City Council. The key issues are:

- Do the proposed amendments meet the approval criteria
- Do the proposed amendments affirm and clarify existing policy regarding Signs, Land Use and Land Division, making the use of the Milwaukie Municipal Code more effective
- Will the proposed minor policy changes implement the purpose of the sign code to promote the “neat, clean, orderly and attractive appearance” of the City

The proposed amendments are focused on the sign code. The process and purpose of the sign code is similar to the land use code; it also has to consider First Amendment rights and protection of freedom of speech. The Milwaukie Sign Code was first drafted in 1979 and has not changed substantially, except for the following amendments:

- 1981 -- prohibited signs in the right-of-way
- 1987 -- added the enforcement section
- 1993 -- removed content based language
- 2000 -- new downtown sign district language
- 2000 -- existing non-conforming sign section changed from 7 years to 10 years

The government may impose content neutral time, place, and manner restrictions on speech as long as the restrictions leave adequate means for expression. The scope for the sign code update is focused on removing content based regulations, protecting the City against challenges, making it clearer and easier to implement and addressing minor policy changes as needed.

The minor policy changes include:

- Murals – no longer exempted from sign permits; they are subject to the requirement of wall signs. Staff will continue to explore options for permitting murals
- Internally illuminated cabinet signs -- currently “discouraged” downtown; require Commission approval. There are no criteria for approval. They will be prohibited in the downtown planning district

Staff is trying to come up with new criteria intended to provide some flexibility in the downtown zones. Another policy change is approval of Community Service and Conditional Use signs. Currently, a limited number of small signs are allowed. Staff will review small signs and larger signs will require Commission review. The proposal sets limit on sign size, makes considerations on proximity to residences, functional classification of road and scale of surrounding area.

Currently the code allows temporary banners below 40 square feet without a permit. The proposal is to separate two classes of banners; community services uses such as schools, private institutions, churches, etc. may hang temporary banner signs up to 40 square feet and non-community service uses such as restaurants, car washes, etc. may hang temporary banners up to 16 square feet or a permit required for larger banners. Banner signs are eligible to become wall signs with a permit.

Language regarding Billboard Signs has been changed to address constitutional issues in the code. Billboards have been prohibited in the City since 1979. They are now considered “freestanding signs.” The proposal is to limit freestanding signs to 250 square feet. This is a limitation on large commercially zoned property with freestanding signs up to 300 square feet. The current standard for freestanding signs on industrial property is 250 square feet.

Copies of the changes have been distributed to NDA chairs and land use chairs, several large commercial and industrial landowners, several interested parties, Metro, DLCD and TriMet, Portland Metropolitan Association of Realtors, City Engineering, community services and police departments, posted on city website and distributed at the Planning Department counter. Responding comments have been made available to the Commission in their packet.

**Ms. Mangle** shared some of the responses with the Commission. A comment was received regarding nonconforming signs...“How will the City alert sign owners of a pending deadline to bring signs into conformance?” Many businesses budget for sign replacement a year or two before purchases; how will they know that the sign criteria have changed. Staff will make an effort to send out letters and work with the property owners to make sure they understand the regulations and move into compliance. The city will provide 30-days notice to

the property owner; the city will provide additional notice to mitigate non-conforming situations.

A comment was received regarding enforcement and people putting up signs in the right-of-ways. The code allows for immediate removal of hazardous signs and requires the City to wait 30 days after providing notice. Staff proposes the amendment to allow City to immediately remove illegal signs, assess a fee of \$100 per day for illegal signs and make “notice” optional.

The amendments to Title 12 involves removing content-based language regarding sidewalk benches and Titles 17 and 19 are housekeeping amendments to reduce conflicts and correcting preferences.

The options for decision tonight are:

- Forward a recommendation support the proposal and ordinance
- Forward a recommendation supporting the proposal and ordinance with modifications
- Continue the hearing to allow for more discussions
- Do not approve the proposal

QUESTIONS FROM THE COMMISSIONERS -- None

TESTIMONY IN FAVOR

Speaking: Darrell Winand, 5331 SW Macadam Avenue, Portland

**Mr. Winand** stated that he is governmental affairs specialist for the Portland Metropolitan Association of Realtors and is speaking on behalf of the members of his association. He commended Katie Mangle, the Planning Department and Commission for undertaking something that is both critical and important and trying to draft a mutual workable sign code for the citizens, employees and those who may work here in the future. He has submitted comments for consideration of the sign code and feels Ms. Mangle has addressed them.

He asked that the Commission consider further for modifications to Section 14.04030, Page 3 of draft regarding definition for “permittee.” If a corporate assistant comes to get a sign permit, who is the permittee? As it is written the permittee would be the person getting the sign permit; it should be the owner of the sign.

Section 14.16.010, 020, etc. pages 14 and 16 regarding the table matrix; for the ease of the table there needs to be an additional row for what is and is not allowed for zones in the community. There is a concern that there is no current inventory; real estate companies budgets years in advance for the replacement of deteriorating signs under the assumption that the sign they currently have is

within standards. It would not be good to purchase a sign only to find out that it is non-conforming. He suggested that an internship be provided in the summer to have someone take an inventory of the signs that currently exist. Once it is known what the non-conforming signs are, the City can provide the business with sufficient notice to conform.

Regarding the issue of enforcement he asked where a realtor could go to ascertain what the actual setback is for a particular area where signs can be placed.

#### QUESTIONS OR COMMENTS

Speaking: Tim Salyers, 16480 SE Sterling Circle, Milwaukie

**Mr. Salyers** stated that he is here tonight speaking as a citizen. His concerns about the sign code deals with his involvement in youth baseball. Currently Milwaukie Junior Baseball Association has kids from Milwaukie area that participate in the baseball program. To help fund their play they have lowered the fees and required coaches to obtain sponsorship banners to reduce cost to the individual players. He feels this makes it a commercial sign. The Milwaukie High School has banners up on the football field all year. The 30-day requirement will become an issue; this is a community service purpose.

One of the downtown businesses is a banner producing company. They provide banners to the community and sell banners as their product. Putting a hindrance on banners can ultimately reduce income for that business. This should be considered in the anti-banner movement. Having the ability to sponsor the high school athletic programs with banner signs eliminates the need to use large wooden signs; this is an improvement to him.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Brinkman** asked if the high school would suffer a reduction in funds if the signs were hung during certain periods rather than having them hanging for long periods of time. **Mr. Salyers** stated that selling a sponsorship banner for \$275 to a business and saying you are getting year round advertising is much better than getting three months exposure.

Another area that could be addressed is that the code requires that the banner face outward; however, at the baseball field outward is toward the field and it is not seen from the road.

TESTIMONY IN OPPOSITION -- None

## ADDITIONAL COMMENTS FROM STAFF

**Ms. Mangle** addressed some of the concerns raised in testimony:

- The sign code does not prohibit signs in the setback; it prohibits signs in the right-of-way. Information is available at the City regarding right-of-way and typically right-of-way is the area behind the sidewalk.
- The “permitee” for a sign permit is not used in the code; it is used on the application. The application does indicate the signature of the person in  
  
the office filing the permit, but it also requires the signature of the property owner. All the provisions of the code require owner approval.
- The additional line on the matrix was considered but not done because staff felt it would be too confusing. The Planning Commission can decide whether to include the sign type allowed.
- If a community service use puts up a sign, the content of the sign is not regulated. The sign is use based and the advertising on the sign is not regulated on community service use property.
- The purpose of the sign code is to regulate signs, all signs visible from a right-of-way or lot under other ownership. This is stated in the purpose section and definition of sign.
- Community service use banners are addressed under the exempt section; another option to consider would be to address it under the community service use section for a different type of standard for the playing fields situation.

Discussion followed on whether the banners should be up for 6 months at a time or being a permanent fixture. The Commission concluded that 6 months for a banner was a reasonable limitation.

**Chair Klein** closed the public testimony portion of the hearing and opened it to discussion among the Commissioners.

**Mr. Winand** voiced concern for situations where the “for sale” sign has to be 60-feet back from the middle of the road. The sign would have to be placed in the back yard. This could be an issue, for realtors to get a zoning map for each property; the property owner would have to get that information before the sign could be put up. The association supports enforcement of the code -- however, he is asking for consideration in some of their situations.

**Ms. Mangle** stated that there are inconsistent right-of-way lines. The City can allow signs in the right-of-way but they need to give the public clear guidance on what they can do. The current code does not give clear guidance. **Mr. Firestone** stated that there are situations where the right-of-way cannot be determined. Right-of-ways technically are places where the entire public has the right to

travel. If someone puts a sign in the right-of-way, the City has the right to enforce removal of the sign. There were specific regulations for realtor signs however that is no longer legal. The Commission can allow the signs outright. He suggested that the Commission review this issue in the future; perhaps a provision allowing an adjoining property owner to get a right-of-way permit to place a sign in the right-of-way. This will prevent this issue from coming before the Commission for review.

**Commissioner Brinkman moved to forward a recommendation to the City Council in support of amending the Milwaukie Municipal Code Title 14, Signs, Title 12.20, Sidewalk Benches, Title 19, Zoning and Title 17, Land Division with the following changes:**

- **Allow community service use banners for 6 months**
- **Banners on community service use properties as defined in Section 19.321.2 not exceeding a total display area of 40 square feet per face per site and pennants not exceeding a length of 50 feet per site that remain in place for 6 months or less in any one calendar year.**

**Commissioner Bresaw seconded the motion.**

**Motion carried 5-0.**

7.0 WORKSESSION ITEMS -- None.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS / UPDATES

10.2 Matters from the Planning Director

11.0 NEXT MEETING -- October 10, 2006

11.1 CPA-05-02, Spring Park Master Plan

CSO-06-03, Spring Park

**Commissioner Bresaw** moved to adjourn the meeting of September 26, 2006.  
**Commissioner Brinkman** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:57 p.m.

---

Jeff Klein, Chair

---

Shirley Richardson, Hearings Reporter

September 28, 2006

File: CSU-06-05

## NOTICE OF DECISION

This is official notice of action taken by the Milwaukie Planning Commission on September 26, 2006.

**Applicant(s):** Ali Townsend for Milwaukie High School  
**Location:** 11300 SE 23<sup>rd</sup> Ave.  
**Tax Lots:** 1S1E36BC, Tax lots 5600, 5700, 5800  
**Application Type:** Community Service Use  
**Decision:** Denied  
**Review Criteria:** Milwaukie Zoning Ordinance:

- Section 19.306 – Residential (R-2) zone
- Subsection 19.321 – Community Service Use
- Subsection 19.1011.3 – Minor Quasi-Judicial Review

Milwaukie Sign Ordinance:

- Subsection 14.08.090 – Conditional and community service use signs
- Subsection 14.12.020 – Prohibited signs
- Subsection 14.16.010 – Sign districts: Residential zone

**Neighborhood:** Historic Milwaukie

The Planning Commission's decision on this matter may be appealed to the Milwaukie City Council. An appeal of this action must be filed within 15 days of the date of this notice, as shown below.

**Appeal period closes: 5:00 p.m., October 13, 2006**

Appeals to the City Council must be accompanied by the appeal fee, be submitted in the proper format, address applicable criteria, and be made on forms provided by the

Planning Department. Milwaukie Planning staff (503-786-7630) can provide information regarding forms, fees, and the appeal process.

### **Findings in Support of Denial**

1. The applicant proposes to replace the existing manual reader board sign at Milwaukie High School with an electronic reader board sign in the same location. The sign would use a double-faced illuminated pylon display to announce school activities and other relevant school information, with messages changing repeatedly throughout the day. The proposal includes the following:
  - A. The new sign will have an area of approximately 40 square feet per display surface (4 feet, 1 inch tall by 10 feet long).
  - B. The sign will be mounted on a steel pole along the school's Washington Street frontage.
  - C. The sign will be oriented so as to have a display surface visible to both eastbound and westbound traffic on Washington Street.
  - D. Two display surfaces will each present three lines of changing messages formed by electronically controlled pylon lights.
2. Public notice has been provided in accordance with the Milwaukie Municipal Code (MMC) Subsection 19.1011.3 – Minor Quasi Judicial Review. A public hearing was held September 12, 2006 as required by law. That hearing was continued to September 26, 2006.
3. The proposal is subject to the following provisions of the Zoning Ordinance and Sign Ordinance as follows:

Section 19.306	Residential (R-2) zone
Section 19.321	Community Service Use
Subsection 19.1011.3	Minor Quasi-Judicial Review
Subsection 14.08.090	Conditional and community service use signs
Subsection 14.12.020	Prohibited signs
Subsection 14.16.010	Sign districts – Residential zone
4. MMC Section 19.306 – Residential (R-2) Zone.
  - A. MMC Subsection 19.306.3.G limits the maximum height of structures in the R-2 zone to 45 feet. As proposed, the new sign would be only 25 feet high. This standard is met.
  - B. MMC Subsection 19.306.3.I requires that a minimum of 35% of lot area remain available for landscaping. A significant portion of the school site is composed of open athletic fields. The proposed sign would occupy the same foundation space as the existing reader-board sign and would not diminish the overall landscaped area. This standard is met.
5. MMC Subsection 14.08.090 limits freestanding signs for community service uses that did not include sign review at the time of Planning Commission approval. Such signs are limited to a per-display surface area of 16 square feet and an overall height

of six feet above grade. The proposed sign would exceed these dimensions and is considered a new community service use, subject to review by the Planning Commission as per MMC Subsection 19.321.6.A.

Staff research has produced no record of sign review as part of any past community service use approval by the Planning Commission for Milwaukie High School. The proposed sign would have a per-display surface area of 40 square feet and an overall height of 25 feet above grade. These dimensions exceed the maximum standards that would allow the sign to be approved outright. The Planning Commission finds that the proposed sign is subject to review as per MMC Subsection 19.321.6.A.

6. MMC Subsection 19.321.5 establishes the following criteria for allowing community service uses:

*A. The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the Community Service Use (CSU), the standards of the underlying zone are met.*

There are no requirements for setback or off-street parking for the proposed sign. As noted in Finding #4A, the maximum height of structures in the Residential R-2 zone is 45 feet. As proposed, the new sign would be only 25 feet high.

*B. Specific standards for the proposed uses as found in subsections 19.321.10 to 19.321.14 are met.*

The only relevant standards outlined for schools in MMC Subsection 19.321.10 is point J, which requires that fifteen percent (15%) of the total site is to be landscaped. As noted above in Finding #4B, a significant portion of the school site is composed of open athletic fields. The proposed sign would occupy the same foundation space as the existing reader-board sign and would not diminish the overall landscaped area.

*C. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses.*

The surrounding uses include a church, schools, professional offices, and private residences. The Planning Commission finds that the proposed sign would present light-related impacts that are not compatible with the surrounding residential uses.

*D. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood.*

The proposed sign would increase the school's capacity for communicating with the community by informing the public-at-large of upcoming events and activities. Because the new sign can be controlled electronically, it could be programmed to automatically present multiple messages instead of needing to be manually changed. With a slightly larger display surface and a more reliable illumination system, the new sign would more consistently provide information for the community along the school's most visible frontage.

However, in the vicinity of the site of the proposed sign, SE Washington Street allows parking on both sides of the street and is often congested with vehicular traffic. It also presents heavy pedestrian traffic from the various nearby schools as well as from the neighborhood. The proposed sign would provide an additional distraction to passing motorists that could negatively impact public safety.

The site of the proposed sign is located between the downtown area and residential zones in the Historic Milwaukie neighborhood district. The proposed sign would not normally be permitted in any downtown or residential zone except as part of a community service use.

Because the messages on the proposed sign would be illuminated, the sign would present what could be described as the nuisance of light-related impacts to surrounding properties.

In sum, the Planning Commission finds that the negative impacts of the proposed sign on the neighborhood are greater than the public benefits.

*E. The location is appropriate for the type of use proposed.*

The proposed new sign location is the same as that of the existing reader-board sign. SE Washington Street is the school's only frontage on a major street and therefore is the most logical site for a message board intended to reach as many people as possible. However, the Planning Commission finds that the proposed sign would present an undue distraction or nuisance to surrounding properties and passing motorists.

7. MMC Subsection 14.12.020.A prohibits moving or flashing signs, including signs that function by intermittent electrical pulsations. However, automatically changing signs such as electronic reader-boards are excepted from this prohibition. The proposed sign is an electronic reader-board. The Planning Commission finds that the proposed sign is not prohibited.
8. MMC Subsection 14.16.010 sets standards for signs in residential zones. Milwaukie High School is an approved community service use located on property that is zoned residential (R-2). In residential zones, one freestanding sign is permitted per street frontage, but such a sign is limited to 16 square feet per display surface and a maximum height of six feet above grade. Only external illumination of signs is allowed. Because the proposed sign exceeds these standards and would be internally illuminated, it presents a major modification to the school as an approved community service use and is subject to review by the Planning Commission as per Subsection 19.321.6.A. The Planning Commission finds that the proposed reader-board sign does not meet the standards for signs in residential zones.

---

Katie Mangle  
Planning Director

cc: Applicant

Tom Larsen, Building Official

Planning Commission  
Kenny Asher, CD/PW Director  
Katie Mangle, Planning Director  
Paul Shirey, Engineering Director  
Zach Weigel, Civil Engineer

Bonnie Lanz, Permit Specialist  
Ron Schumacher, Deputy Fire Marshal  
NDA: Historic Milwaukie  
Interested Persons  
File: CSU-06-05

As a resident of the Historic Milwaukie Neighborhood I am opposed to the Milwaukie High School's plan to replace it's existing sign ~~by~~ along Washington with a larger sign that has illuminated changing messages. We are concerned about the aesthetic impact this will have on our neighborhood and more importantly that this will be one more distraction for motorists driving along a heavily used street with schools on either side.

Members of the Planning Commission please oppose the placement of this sign for the safety of our neighbors and the safety of hundreds of children from St. John's, Milwaukie Elementary and Milwaukie High School. Thank You.

- |  |  |
|--|--|
| 1. NAME: <u>Brendan Eiswerth</u>                             | SIGNATURE: <u>[Signature]</u>                  |
| ADDRESS: <u>11009 SE 28th Ave 97222</u>                      |  |
| 2. NAME: <u>John Stockert</u>                                | SIGNATURE: <u>[Signature]</u>                  |
| ADDRESS: <u>2746 SE Washington St 97222</u>                  |  |
| 3. NAME: <u>Jeff Rene</u>                                    | SIGNATURE: <u>[Signature]</u>                  |
| ADDRESS: <u>2636 SE Washington 97222</u>                     |  |
| 4. NAME: <u>Ann V. Huff</u>                                  | SIGNATURE: <u>Ann Huff 2626 Washington Ave</u> |
| ADDRESS: <u>2626 Washington Ave. 97222</u>                   |  |
| 5. NAME: <u>Tracy Mandel</u>                                 | SIGNATURE: <u>[Signature]</u>                  |
| ADDRESS: <u>11009 SE 28<sup>th</sup> Ave Milwaukie 97222</u> |  |
| 6. NAME: <u>Jim Brink</u>                                    | SIGNATURE: <u>[Signature]</u>                  |
| ADDRESS: <u>1188 SE 27th Ave 97222</u>                       |  |
| 7. NAME: <u>Allison Allison</u>                              | SIGNATURE: <u>C. Allison Allison</u>           |
| ADDRESS: <u>10955 SE 28th Ave, Milwaukie, OR 97222</u>       |  |
| 8. NAME: <u>Jim Allison</u>                                  | SIGNATURE: <u>J-Allison</u>                    |
| ADDRESS: <u>10955 SE 28th Ave, Milwaukie, OR</u>             |  |
| 9. NAME: <u>Barbara Eiswerth</u>                             | SIGNATURE: <u>[Signature]</u>                  |
| ADDRESS: <u>2755 SE Washington St 97222</u>                  |  |
| 10. NAME: <u>BELINDA BIEDERMAN</u>                           | SIGNATURE: <u>[Signature]</u>                  |
| ADDRESS: <u>2755 SE Washington St 97222</u>                  |  |
| 11. NAME: <u>Matthew Bristow</u>                             | SIGNATURE: <u>Matthew A. Bristow</u>           |
| ADDRESS: <u>2802 SE Monroe</u>                               |  |
| 12. NAME: <u>Jean Baker</u>                                  | SIGNATURE: <u>[Signature]</u>                  |
| ADDRESS: <u>2607 SE Monroe St</u>                            |  |
| 13. NAME: <u>ORA A BAKER</u>                                 | SIGNATURE: <u>ORA A Baker</u>                  |
| ADDRESS: <u>2607 SE MONROE ST</u>                            |  |
| 14. NAME: <u>Matt Mosier</u>                                 | SIGNATURE: <u>Matt Mosier</u>                  |
| ADDRESS: <u>10703 SE 28th Ave</u>                            |  |

As a resident of the Historic Milwaukie Neighborhood I am opposed to the Milwaukie High School's plan to replace it's existing sign by along Washington with a larger sign that has illuminated changing messages. We are concerned about the aesthetic impact this will have on our neighborhood and more importantly that this will be one more distraction for motorists driving along a heavily used street with schools on either side.

Members of the Planning Commission please oppose the placement of this sign for the safety of our neighbors and hundreds of children from St. John's, Milwaukie Elementary and Milwaukie High School. Thank You.

15. NAME: Anneliese Hummel SIGNATURE: [Signature]  
ADDRESS: 2802 SE Monroe 97222

16. NAME: Edna M. Speakman SIGNATURE: [Signature]  
ADDRESS: 2835 S.E. Monroe St 97222

17. NAME: Linda Thompson SIGNATURE: [Signature]  
ADDRESS: 2855 SE, Monroe

18. NAME: Terrie Darling SIGNATURE: [Signature]  
ADDRESS: 10987 SE 28th Ave, Milwaukie 97222

19. NAME: Anne Paulk SIGNATURE: [Signature]  
ADDRESS: 2736 SE Monroe St, Milwaukie 97222

20. NAME: Timmy Paulk SIGNATURE: [Signature]  
ADDRESS: 2736 SE Monroe, Milw 97222

21. NAME: Alex Paulk SIGNATURE: ALEX  
ADDRESS: 2736 SE Monroe St, Milw 97222

22. NAME: Keith Faust SIGNATURE: [Signature]  
ADDRESS: 11561 SE 27th

23. NAME: Wilson Phillips SIGNATURE: [Signature]  
ADDRESS: 11028 SE 28th

24. NAME: Sharon Phillips SIGNATURE: [Signature] or  
ADDRESS: 11028 SE 28th Milw

25. NAME: MARK LUDWIGS SIGNATURE: [Signature]  
ADDRESS: 17008 SE 28th Ave

26. NAME: Alba Stone SIGNATURE: [Signature]  
ADDRESS: 11006 SE 28th Ave

27. NAME: Christie Skolasinski SIGNATURE: [Signature]  
ADDRESS: 2925 SE Washington St. Cr. 97333

28. NAME: Gerald Skolasinski SIGNATURE: [Signature]  
ADDRESS: 2925 SE WASHINGTON ST. CR 97222

As a resident of the Historic Milwaukie Neighborhood I am opposed to the Milwaukie High School's plan to replace it's existing sign by along Washington with a larger sign that has illuminated changing messages. We are concerned about the aesthetic impact this will have on our neighborhood and more importantly that this will be one more distraction for motorists driving along a heavily used street with schools on either side.

Members of the Planning Commission please oppose the placement of this sign for the safety of our neighbors and hundreds of children from St. John's, Milwaukie Elementary and Milwaukie High School. Thank You.

- X 29 NAME: E.W. ZUMWALT SIGNATURE: E.W. Zumwalt  
ADDRESS: 10888 S.E. 29th
- X 30 NAME: PAT ZUMWALT SIGNATURE: Pat Zumwalt  
ADDRESS: 10888 SE. 29th
- 31 NAME: Troy Edmond 10947 SE 29th Ave SIGNATURE: Troy Edmond  
ADDRESS:
- 32 NAME: M. McCarthy SIGNATURE: Michael P. McCarthy  
ADDRESS: 11011 SE 29th Ave
- 33 NAME: DEANA ANDERSON - TENANT SIGNATURE: Deana  
ADDRESS: 11033 SE 29th Milw. 97222
- 34 NAME: DANNY (TENANT) SIGNATURE: Danny  
ADDRESS: 11033 SE 29th Milw. 97222
- 35 NAME: LINDSEY JOHNSON SIGNATURE: Lindsey Johnson  
ADDRESS: 2725 Washington St, Milwaukie
- 36 NAME: L. Davis Clements SIGNATURE: L. Davis Clements  
ADDRESS: 2725 SE Washington St, Milwaukie OR 97222
- 37 NAME: SIGNATURE:  
ADDRESS:
- 38 NAME: SIGNATURE:  
ADDRESS:
- 39 NAME: SIGNATURE:  
ADDRESS:
- 40 NAME: SIGNATURE:  
ADDRESS:
- 41 NAME: SIGNATURE:  
ADDRESS:
- 42 NAME: SIGNATURE:  
ADDRESS:

Added  
10/15/06

CITY OF MILWAUKIE  
PLANNING DEPARTMENT

OCT 17 2006

RECEIVED

September 26, 2006

Hi Brendan,

I am unable to attend tonight's hearing on the MHS signage but I would like to submit the following comments for ~~consideration~~ consideration.

Signage should be discrete and inoffensive. Lighting should not disturb neighbors and should be turned off after hours. Letter boards may be permitted, but signage should not be electronic as these cause visual impairment and jeopardize traffic safety.

Thank you for considering these issues in the planning process.

Sincerely,

Anne Favorite  
12293 SE 40th Ave  
Milwaukee

**September 26<sup>th</sup> 2006**

**To the Planning Commission :**

**I am opposed to the Electronic two sided reader board proposed for the Milwaukie High School. Being a resident @ 2755 SE Washington, our whole neighborhood would be negatively impacted by this. I am an artist who has sat on committees throughout the country working with communities placing public art. While doing this we thoughtfully took in all of the projected surroundings considering how a sculpture would impact a community; with placement, visuals and size considerations. This doesn't seem to be happening with this young student. While I commend a conceptual design; as in the creative process for this student, it does not seem that there is enough maturity and sensibility to have a high school student make decisions impacting our small and once quiet neighborhood.**

**I am already inconvenienced by the brightness of the lights that reach my home and continue to stay on after a football game is finished. The continual flashing of the sign board would even be more obtrusive. The neighborhood is a vital part of any community and as in any project to be considered the neighborhood needs to be involved. What I find confusing is the fact that downtown Milwaukie, only a few blocks away from the high school has a zoning limit that would not permit such a sign and because this proposed sign is not within those limits it is seriously being considered.**

**Milwaukie is developing and looking into the future, but is this the way we want our city to be, just another large sign that doesn't reflect the character it is known for and as well does not take into account the surrounding neighborhood. This seems very incongruous to the quality of life Milwaukie provides for the whole community.**

**Thank you,**

**Barbara Eiswerth  
Resident of Milwaukie**

**MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD**

*Emilia*  
"I", *Emilia Clements*, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

*Emilia H. Clements* (signature)

*2725 SE Wash St.  
closest house on left  
side to school*

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Casey Peterson, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Casey E. Peterson (signature)  
11850 SE 26th Ave # 305  
Milwaukie OR 97222

**MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD**

"I", Andrew Godzyk, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Andrew Godzyk, DMD (signature)

**MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD**

"I", LAWRENCE FROLAND, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Lawrence A. Froland (signature)

**MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD**

"I", REV. TODD MOLINARI, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Rev. Todd Molinari (signature)

- Pastor, ~~St. Ignace~~ JOHN THE BAPTIST  
CATHOLIC CHURCH

**MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD**

"I", Kim Agriinson, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Kim Agriinson (signature)  
St. John's Parent

Interested in old  
one-help fundraise.

**MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD**

"I", Bridget Sanders, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Bridget Sanders (signature)

St. Johns. Parent

971.327.6902

**MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD**

*TERESA*  
"I", St. John parent, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

*Theresa Kolosy* (signature)  
503.659.3019  
St. John parent

**MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD**

"I", Julie Clark, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Julie Clark (signature)  
503. 698-4124  
St. John's parent

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Chris Barrett, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Chris Barrett

(signature)

793. 8679

st. John's parent

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I" David Sprack a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

David Sprack (signature)

503-557-8022

ST. JOHN'S PARENT

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Karen Sprecker, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Karen Sprecker (signature)

503-557-8022

St. John Parent



MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Elaine Johnson a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

11233 SE 27th #209  
Milwaukie OR 97222

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Elaine Johnson (signature)

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Cassandra Smith<sup>th</sup>, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Cassandra Smith (signature)


11275 SE 27th ave.  
Milwaukie OR. 97267  
apt. 9

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", MICHAEL MARTIN a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

 (signature)  
11275 SE 27th AVE #15  
MILWAUKIE, OR 97222

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Florence Martin, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Florence Martin (signature)  
11275 SE 27th AVE #15  
MILWAUKIE OR 97222

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Greg Schuchert, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Greg Schuchert (signature)

11775 SE 27th Ave

Apt. #13

Milwaukie, OR, 97222

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I" Shane MORRIS a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.


All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Shane Morris (signature)

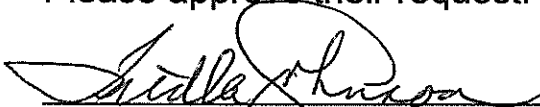
11215 SE 27 ST. apt 19  
milwaukie OR 97220

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I"  a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

 (signature)

11233 SE 27th #106

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", John Lydie, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

John Lydie (signature)

# 107 Apt.

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Cy Maxwell, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Cy Maxwell (signature)

APT A

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Norman C Krewson neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Norman C Krewson  
Please approve their request.

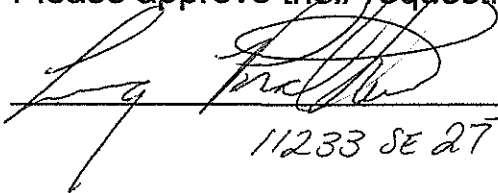
Norman C Krewson (signature) Apt 112

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", GREG PRATHER, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

 (signature)  
11233 SE 27<sup>TH</sup> #208

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Wayne Campbell, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Wayne Campbell (signature)

11275 SE 27<sup>th</sup> Ave #18

Milwaukie 97222

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", KAREN VICKERMAN a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Karen M. Vickerman (signature)

Shorewood APTS # 101

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Dennis A. Pierce, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Dennis A. Pierce (signature)

11233 SE 27<sup>th</sup> ave  
Milwaukie OR 97002

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Phenasa Montez<sup>Le2</sup> a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Phenasa M. Montez (signature) #11

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", \_\_\_\_\_, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Marsha Beowick (signature)

Apt. #110

MILWAUKIE HIGH SCHOOL  
NEW ELECTRONIC READER BOARD

"I", Judy A. Isom, a neighbor, support the installation of a new digital readout sign at Milwaukie High to replace the current static sign on Washington Street.

All other North Clackamas high schools have these simple readout signs and have found them to be both easier and safer for students and staff. Because it is a simple digital sign without graphics, I do not see any adverse affects to me or any of the other neighbors to Milwaukie High.

Please approve their request.

Judy A. Isom (signature)

11261 SE 27<sup>th</sup>

**To:** Planning Commission  
**Through:** Katie Mangle, Planning Director  
**From:** Brett Kelper, Assistant Planner  
**Date:** September 12, 2006  
**Subject:** File: CSU-06-05  
Applicant: Ali Townsend for North Clackamas School District  
Address: 11300 SE Washington St.  
NDA: Historic Milwaukie

---

### **Action Requested**

**Adopt the recommended findings and conditions in support of approval of application CSU-06-05. This action would allow the replacement of the existing manual reader-board sign at Milwaukie High School with a double-sided electronic reader-board sign, while placing certain restrictions on its operation.**

### **Key Issues**

The central question for this application is what kind of impact the proposed sign will have on various uses. How will it affect neighboring residential properties, the historic downtown area, or passing motorists? The proposed sign is different enough from the existing sign to warrant a review of the potential distractions or nuisances it may create. Several particular issues are addressed:

- 1. Height and size** – Are the proposed dimensions appropriate in scale for the location?
- 2. Hours of operation** – Will the electronic reader-board be on all the time or only during certain hours?
- 3. Frequency of message change** – How often will messages on the electronic reader-board change?
- 4. Level of illumination** – How bright are the pylons that provide the sign's illumination? From how far away will the illuminated messages be visible?
- 5. Location** – Is the proposed location the best place for this sign?

### **Project Description**

For her senior project, the applicant—a senior at Milwaukie High School—is working with the school district to replace the existing manual reader-board sign with a new electronic reader-board sign at the same location. The proposed sign

is similar to the electronic reader-board sign at Oregon City High School, with approximately 40 square feet of display surface, 30 square feet of which would contain the changing illuminated messages (see Attachment 2 – Application Packet). It would be mounted on a steel pole placing the top of the sign at 25 feet above grade. The new sign would be oriented so as to be visible to traffic moving in either direction on SE Washington Street.

The current Sign Ordinance limits freestanding signs for prior community service uses that did not include a sign review at the time of planning commission approval—the limit is an area of 16 square feet per-display surface and a maximum height of six feet.<sup>1</sup> The proposed sign exceeds these dimensions. Staff has not found any record of prior sign review by the Planning Commission as part of a past application for the high school as a community service use. The proposed sign is considered a new community service use and is subject to review by the Planning Commission. The Planning Commission has the discretion to impose suitable conditions to ensure compatibility of the sign with other nearby uses.<sup>2</sup> Such conditions may include but are not limited to consideration of the height, size, hours of use, brightness, and location.

### **Background Information**

In 1991, Milwaukie High School received approval to erect the reader-board sign that currently stands along the SE Washington Street frontage at the northern edge of its athletic fields (Building Permit # 91-223).

The existing sign is a plastic-faced cabinet sign with two display surfaces that are oriented to face traffic traveling either direction on SE Washington Street. It is internally illuminated by fluorescent bulbs and was approved with a timer set to turn it off at midnight every day. At four feet high and eight feet long, the existing reader-board

has 32 square feet per display surface or 64 square feet of total display area. Messages are changed manually. The cabinet is mounted on a steel pole that puts the top of the sign at approximately 17 feet above grade. A scoreboard sign near the existing reader-board sign is approximately 25 feet high (see Photo 1).



**Photo 1 – Looking south across SE Washington St.**

### **Analysis of Key Issues**

#### **1. Height and size**

##### ***Are the proposed dimensions appropriate in scale for the location?***

As noted above, each face of the existing reader-board sign has 32 square feet of display surface, approximately 24 square feet of which is available for messages. The existing sign is mounted so that the top is 17 feet above

<sup>1</sup> Milwaukie Municipal Code (MMC) Subsection 14.08.090

<sup>2</sup> MMC Subsections 19.321.6.A and B

grade. The proposed sign would be larger (with 40 square feet per display surface, including 30 square feet for messages) and higher at 25 feet.

As noted earlier, no records have been found that indicate that the existing sign or the sign that it replaced in 1991 were reviewed as part of a prior application for community service use. In recent discussions about changes to the City's Sign Ordinance in relation to freestanding community service use signs, the Planning staff has suggested a maximum display area of 40 square feet and maximum height of 12 feet above grade.

The dimensions of the proposed sign would allow three rows of 10-inch-high characters to be displayed. The applicant asserts that reducing the size of the sign would make the messages more difficult to read. Staff agrees that reducing the size of the display surface will limit the sign's readability and does not believe that a new, 40 square-foot sign will adversely impact passing traffic or the character of the neighborhood. The open space provided by the athletic field keeps both existing signs (the scoreboard and reader-board) from visually dominating the area. Relative to this open area, the proposed sign is not significantly larger than the existing sign (only eight square feet larger). Staff recommends that the new sign be allowed at the size as proposed of 40 square feet per display surface.

As proposed with an overall height of 25 feet, the new sign would be approximately eight feet higher than the existing reader-board sign. The photos included in this document (see Photos 1, 2, and 3) as well as those shown in Attachment 3 (Photo Sheet) allow for some estimation of how the new sign would look at 25 feet high relative to the scoreboard. There are grade differences between the two existing signs, and the photos provide a sense of comparative perspective. Despite the fact that the existing manual reader-board sign is approximately eight feet shorter than the scoreboard sign, the two appear to be at similar heights from several angles. With the new reader-board sign at 25 feet high, it would actually appear to be taller than the scoreboard sign from several vantage points.



**Photo 2 – Looking west from across SE Washington St.**

Given the proximity of the proposed sign to SE Washington Street, staff does not believe that it is necessary or beneficial to allow it to be 25 feet high. Placing the sign so much higher above grade than the existing reader-board sign would diminish the pedestrian-oriented aspects of SE Washington Street. And yet, the 12-foot height limit proposed for future freestanding community service use signs would make the proposed sign less effective because it would be harder to see by pedestrians and motorists alike. As a compromise, staff recommends that the new sign be allowed to match the height of the existing reader-board sign.

**2. Hours of operation**

***Will the electronic reader-board be on all the time or only during certain hours?***

The applicant has proposed that the new sign be in operation 24 hours a day, seven days a week. Staff believes that it is not necessary for the new sign to be on all the time to be effective and that such a schedule could present a visual nuisance to neighboring residential properties. The applicant has indicated that the new sign can be programmed to show a blank screen (or effectively be turned off) for particular periods of time. Staff recommends that approval of the sign be conditioned with the daily hours of operation limited to 6:00am to 10:00pm.

**3. Frequency of message change**

***How often will messages on the electronic reader-board change?***

Messages on the existing reader-board sign must be changed manually. Because the proposed sign would be controlled electronically, it can be programmed to have messages change at almost any interval of time. The applicant proposes to have messages change approximately every 10 seconds.

In recent discussions about changes to the Sign Ordinance, Planning staff has proposed a maximum rate of change of 10 seconds for electronic reader-boards. Staff recommends that approval of the sign be conditioned with the maximum rate of change set no higher than every 10 seconds.

**4. Level of illumination**

***How bright are the pylons that provide the sign's illumination? From how far away will the illuminated messages be visible?***

The existing sign is an internally illuminated cabinet sign. Staff has no quantitative information about the sign's level of brightness, though direct observation shows the sign to cast undiffused light on the immediate vicinity. The scoreboard sign that stands next to the reader-board sign location is also illuminated, but it is oriented to face the athletic track and field and grandstand and not SE Washington Street. The tall field lights that stand nearby are used primarily during athletic events and are oriented toward the playing fields.

The red pylon lights that form electronically controlled messages would illuminate the proposed sign. Staff is concerned about the potential visual impact of these lights, especially at night when the lights do not need to be as bright to be seen. According to the applicant, the lights can be dimmed by up to 90 percent of their maximum brightness. Staff recommends that approval be conditioned upon the adjustment of the new sign's brightness to a level deemed acceptable by the Planning Director.

## 5. Location

### *Is the proposed location the best place for this sign?*

The applicant proposes to locate the new sign in the same spot that the existing sign occupies— inside the fence at the north end of the athletic track and field, next to the scoreboard sign and near the sidewalk along the SE Washington Street frontage. The sign would be oriented so that one side faces eastbound traffic on SE Washington Street and the other side faces westbound traffic. SE Washington Street is classified as a collector street.



Photo 3 – Looking west down SE Washington St.

The zoning in the immediate area is a mix of various residential zones: R-2 at the northeast corner of SE 25<sup>th</sup> Avenue and SE Washington Street; R-5 at the southwest corner of SE 27<sup>th</sup> Avenue and SE Washington; R-1-B directly across SE Washington Street and extending west toward SE 21<sup>st</sup> Street and the downtown area. Despite the predominance of residential zoning, there are few private residences within 300 to 500 feet of the proposed sign (see Photo 4). Most of the area is used by the high school, a church, professional offices, and parking. The total number of residences that would be directly impacted by the new sign appears to be very small.

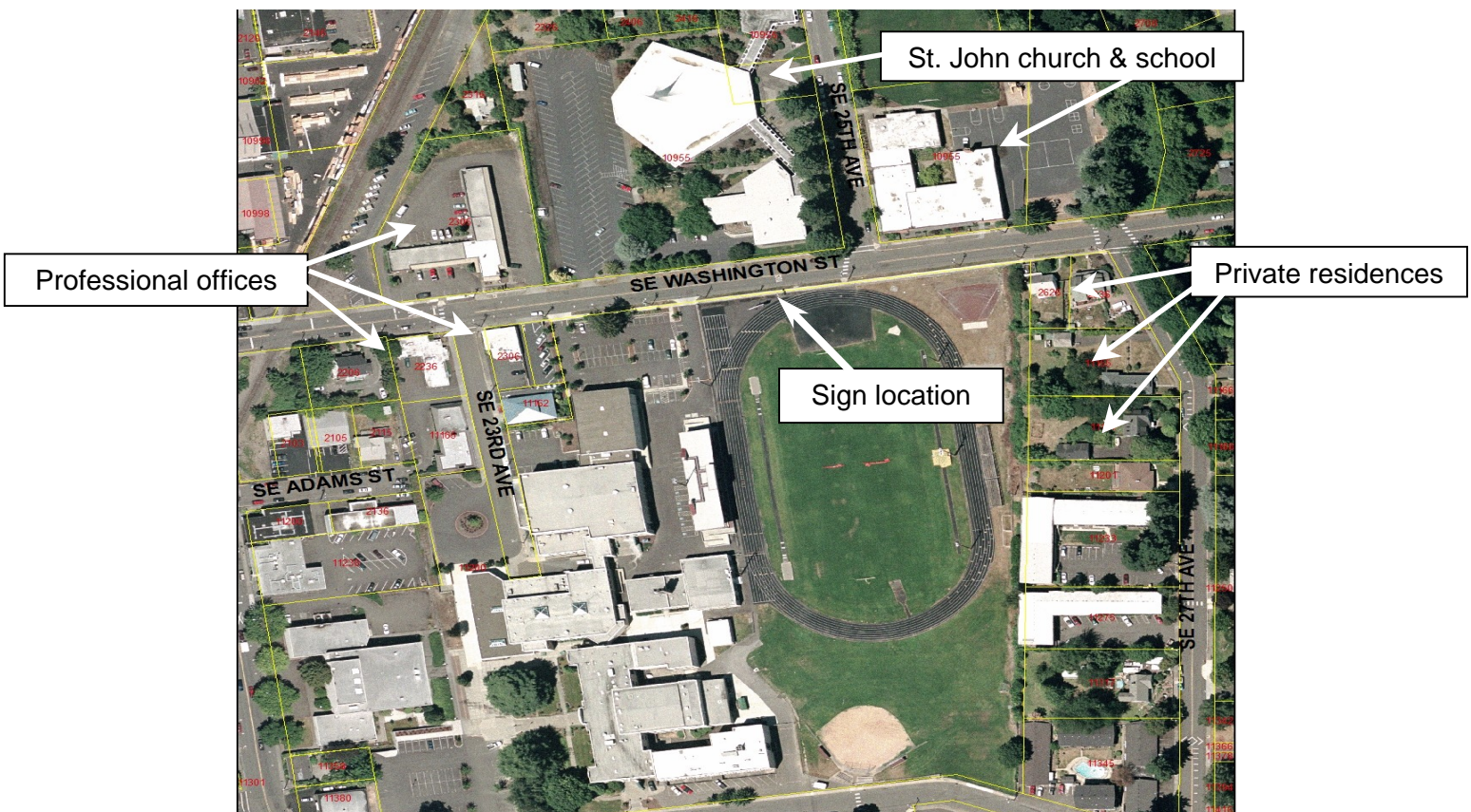


Photo 4 – Location map showing immediate area.

Milwaukie High School has no frontage on any major street besides SE Washington. In this sense, the proposed location represents the most favorable opportunity to publicize upcoming events and provide other relevant public information. While moving the sign farther away from SE Washington Street will diminish potential distractions to passing motorists, this would also reduce the sign's effectiveness. Staff agrees that the proposed location is appropriate and believes that as conditioned, the new sign will not present undue distractions or nuisances to passing motorists or nearby residences. The new sign must be located on the school grounds and not in the public right-of-way, the boundary of which is very near the proposed location.

### **Summary**

Staff believes the applicant has demonstrated compliance with applicable criteria for Community Service Uses, with the following conditions:

1. The size of the proposed sign shall be limited to approximately 4 feet by 10 feet, for a total display area of approximately 40 square feet.
2. The sign shall be limited to a height equal to that of the existing manual reader-board sign, a maximum of approximately 17 feet above grade.
3. Hours of operation for the proposed sign, during which period electronic messages can be displayed, shall be from 6:00am to 10:00pm every day.
4. The maximum frequency of change on either display surface of the proposed sign shall be every 10 seconds.
5. The applicant shall submit information regarding the brightness of the proposed sign, demonstrating to the satisfaction of the Planning Director that it will not present a visual nuisance.
6. The proposed sign shall not encroach into the public right-of-way or vision clearance areas.

### **Code Authority and Decision Making Process**

The proposal is subject to the following provisions of the Milwaukie Zoning Ordinance and Sign Ordinance as follows:

#### **a. Milwaukie Zoning Ordinance**

Section 19.306	Residential (R-2) zone
Subsection 19.321	Community Service Use
Subsection 19.1011.3	Minor Quasi-Judicial Review

#### **b. Milwaukie Sign Ordinance**

Subsection 14.08.090	Conditional and community service use signs
Subsection 14.12.020	Prohibited signs
Subsection 14.16.010	Sign districts – Residential zone
Section 14.20	Signs in public rights-of-way

This application is subject to minor quasi-judicial review, which requires the Planning Commission to consider whether the applicant has demonstrated compliance with the code sections shown above. In quasi-judicial reviews, the Commission assesses the application against review criteria and development standards and evaluates testimony and evidence received at the public hearing.

The final decision on these applications, which includes any appeals to the City Council, must be made by December 22, 2006, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

### **Comments**

Comments were received from the City's Building and Engineering Departments and the Clackamas County Fire District—these are included in Attachment 4 (Comments). The Historic Milwaukie Neighborhood District Association (NDA) was also contacted for its comments, which were received by telephone. The following points summarize all comments received:

1. Tom Larsen, Building Official – Building and electrical permits are required. Detailed plans shall be submitted with accompanying calculations showing the ability of the sign to withstand all vertical and lateral loads. See Attachment 4 (Comments) for more information.
2. Zach Weigel, Civil Engineer – SE Washington Street is a collector roadway measuring 60 feet in width, so no future right-of-way dedication is required. The proposed sign shall not be located in the public right-of-way and will be reviewed by staff at the time of sign permit application. See Attachment 4 (Comments) for more information.
3. Ron Schumacher, Deputy Fire Marshal – No comments on this proposal. See Attachment 4 (Comments) for a copy of this response.
4. Ed Zumwalt, Chair of Land Use Committee for the Historic Milwaukie NDA – The NDA has no objections to the proposal.

### **Attachments**

1. Recommended Findings in Support of Approval of CSU-06-05 and Recommended Conditions of Approval for CSU-06-05
2. Application Packet
  - a. Land Use Narrative
  - b. Development Plans and Photos
3. Photo Sheet (prepared by staff)
4. Comments (***to Planning Commission Only***)
  - a. Building Department (Tom Larsen)
  - b. Engineering Department (Zach Weigel)
  - c. Clackamas County Fire District #1 (Ron Schumacher)

## ATTACHMENT 1

### **Recommended Findings in Support of Approval of CSU-06-05**

1. The applicant proposes to replace the existing manual reader board sign at Milwaukie High School with an electronic reader board sign in the same location. The sign would use a double-faced illuminated pylon display to announce school activities and other relevant school information, with messages changing repeatedly throughout the day. The proposal includes the following:
  - A. The new sign will have an area of approximately 40 square feet per display surface (4 feet, 1 inch tall by 10 feet long).
  - B. The sign will be mounted on a steel pole along the school's Washington Street frontage. As conditioned, the top of the sign will be approximately 17 feet above grade.
  - C. The sign will be oriented so as to have a display surface visible to both eastbound and westbound traffic on Washington Street.
  - D. Two display surfaces will each present three lines of changing messages formed by electronically controlled pylon lights. As conditioned, messages will change no more often than once every 10 seconds.
  - E. As conditioned, the sign will be in operation only from 6:00am to 10:00pm every day.
  - F. The pylon lights that form the illuminated messages will be adjusted to a level of brightness deemed acceptable by the Planning Director.
2. Public notice has been provided in accordance with the Milwaukie Municipal Code (MMC) Subsection 19.1011.3 – Minor Quasi Judicial Review. A public hearing was held September 12, 2006 as required by law.
3. The proposal is subject to the following provisions of the Zoning Ordinance and Sign Ordinance as follows:

Section 19.306	Residential (R-2) zone
Section 19.321	Community Service Use
Subsection 19.1011.3	Minor Quasi-Judicial Review
Subsection 14.08.090	Conditional and community service use signs
Subsection 14.12.020	Prohibited signs
Subsection 14.16.010	Sign districts – Residential zone
Section 14.20	Signs in public rights-of-way
4. MMC Section 19.306 – Residential (R-2) Zone.
  - A. MMC Subsection 19.306.3.G limits the maximum height of structures in the R-2 zone to 45 feet. As proposed, the new sign would be only

25 feet high. As conditioned, the Planning Commission finds that the new sign will be no more than approximately 17 feet above grade. This standard is met.

- B. MMC Subsection 19.306.3.I requires that a minimum of 35% of lot area remain available for landscaping. A significant portion of the school site is composed of open athletic fields. The proposed sign will occupy the same foundation space as the existing reader-board sign and will not diminish the overall landscaped area. This standard is met.
5. MMC Subsection 14.08.090 limits freestanding signs for community service uses that did not include sign review at the time of Planning Commission approval. Such signs are limited to a per-display surface area of 16 square feet and an overall height of six feet above grade. The proposed sign would exceed these dimensions and is considered a new community service use, subject to review by the Planning Commission as per MMC Subsection 19.321.6.A.

Staff research has produced no record of sign review as part of any past community service use approval by the Planning Commission for Milwaukie High School. The proposed sign would have a per-display surface area of 40 square feet and an overall height of 25 feet above grade. These dimensions exceed the maximum standards that would allow the sign to be approved outright. The Planning Commission finds that the proposed sign is subject to review as per MMC Subsection 19.321.6.A.

6. As part of the review process for modifications to existing community service uses, MMC Subsection 19.321.6.B allows the Planning Commission to impose suitable conditions that will assure compatibility of the sign with other uses in the vicinity. Such conditions may include (but are not limited to) the following:
- Restricting the time an activity may take place and minimizing such environmental effects as glare (MMC Subsection 19.321.6.B.1).
  - Limiting or otherwise designating the number, size, location, height, and lighting of signs (MMC Subsection 19.321.6.B.7).

The Planning Commission has established conditions for the proposed sign that will assure its compatibility with other uses in the vicinity. The conditions address the height and size of the sign, hours of operation, frequency of message change, level of illumination, and location.

7. MMC Subsection 19.321.5 establishes the following criteria for allowing community service uses:
- A. *The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not*

*proposed in the Community Service Use (CSU), the standards of the underlying zone are met.*

There are no requirements for setback or off-street parking for the proposed sign. As noted in Finding #4A, the maximum height of structures in the Residential R-2 zone is 45 feet. As proposed, the new sign would be only 25 feet high; as conditioned, it will be no taller than the existing reader-board sign.

*B. Specific standards for the proposed uses as found in subsections 19.321.10 to 19.321.14 are met.*

The only relevant standards outlined for schools in MMC Subsection 19.321.10 is point J, which requires that fifteen percent (15%) of the total site is to be landscaped. As noted above in Finding #4B, a significant portion of the school site is composed of open athletic fields. The proposed sign will occupy the same foundation space as the existing reader-board sign and will not diminish the overall landscaped area. This standard is met.

*C. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses.*

The surrounding uses include a church, schools, professional offices, and private residences. As conditioned, the Planning Commission finds that the proposed sign will operate during hours that are reasonably compatible with these surrounding uses and that it will have a rate of message change and a level of illumination that are compatible with surrounding uses.

*D. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood.*

The proposed sign will increase the school's capacity for informing the public-at-large of upcoming events and activities. Because the new sign can be controlled electronically, it can be programmed to automatically present multiple messages instead of needing to be manually changed. With a slightly larger display surface and a more reliable illumination system, the new sign will more consistently provide information for the community along the school's most visible frontage. As conditioned, the new sign will not be much larger than the existing sign and no taller. The Planning Commission has conditioned the rate of message change to be at a level deemed not to present an unsafe distraction or unnecessary nuisance to passing motorists and surrounding properties.

*E. The location is appropriate for the type of use proposed.*

The proposed new sign location is the same as that of the existing reader-board sign. SE Washington Street is the school's only frontage on a major street and therefore is the most logical site for a message

board intended to reach as many people as possible. The Planning Commission finds that, as conditioned, the sign will not be located in the public right-of-way and will not present an undue distraction or nuisance to surrounding properties or passing motorists.

8. MMC Subsection 14.12.020.A prohibits moving or flashing signs, including signs that function by intermittent electrical pulsations. However, automatically changing signs such as electronic reader-boards are excepted from this prohibition. The proposed sign is an electronic reader-board. The Planning Commission finds that the proposed sign is allowed.
9. MMC Subsection 14.16.010 sets standards for signs in residential zones. Milwaukie High School is an approved community service use located on property that is zoned residential (R-2). In residential zones, one freestanding sign is permitted per street frontage, but such a sign is limited to 16 square feet per display surface and a maximum height of six feet above grade. Because the proposed sign exceeds these standards it presents a major modification to the school as an approved community service use and is subject to review by the Planning Commission as per Subsection 19.321.6.A. As conditioned, the Planning Commission finds that a maximum height equal to that of the existing reader-board sign (17 feet above grade) and a per-display surface area of approximately 40 square feet are sufficient for approval of the new reader-board sign.
10. MMC Section 14.20 restricts the placement of signs in the public right-of-way. Only signs that serve purposes of public direction and safety may be erected in the right-of-way, subject to the requirements of a right-of-way permit. The Planning Commission finds that the proposed sign does not serve the purposes of public direction and safety and therefore may not be located in the public right-of-way.
11. The proposed sign fronts SE Washington Street, a collector roadway. The existing SE Washington Street right-of-way fronting the proposed sign location is 60 feet in width. The required right-of-way width of SE Washington Street is 60 feet. As a result, the Planning Commission finds that future right-of-way dedication is not required.

#### **Recommended Conditions of Approval for CSU-06-05**

1. Final site and engineered plans shall be in substantial conformance with the plans approved by this action—except as otherwise modified by these conditions—that were stamped received July 28, 2006 by the Milwaukie Planning Department.
2. Prior to issuance of any sign permits the following shall be resolved:
  - a. The size of the proposed sign shall be limited to four feet, one inch by 10 feet, for a total display area of approximately 40 square feet.
  - b. The sign shall be limited to a maximum height equal to that of the existing manual reader-board sign, approximately 17 feet above grade.

- c. Hours of operation for the proposed sign, during which period electronic messages can be displayed, shall be from 6:00am to 10:00pm every day.
- d. The maximum frequency of change on either display surface of the proposed sign shall be every 10 seconds.
- e. The applicant shall demonstrate to the satisfaction of the Planning Director that the brightness of the proposed sign will not present a nuisance to other uses in the immediate area. The Planning Director shall determine an appropriate level of lumens, foot-candles, milliamperes, watts, or other measure of illumination for the proposed sign. The decision of the Planning Director is subject to appeal and a public hearing by the Planning Commission.
- f. The proposed sign shall not encroach into the public right-of-way or vision clearance areas.

CITY COUNCIL OF THE CITY OF MILWAUKIE

FINAL ORDER DENYING APPEAL AP-06-02 AND DENYING APPLICATION  
CSU-06-05

Based on the evidence in the record, including evidence provided at a City Council hearing, after duly noticed public hearings, the Milwaukie City Council orders as follows:

1. Appeal AP-06-02 is denied.
2. Application CSU-06-05 is denied.
3. The Findings in Support of Denial included in Exhibit 1 are adopted as findings of the City Council.

DATE OF COUNCIL ACTION: November 9, 2006

---

James Bernard, Mayor

## EXHIBIT 1

### Recommended Findings in Support of Denial of CSU-06-05

#### Findings in Support of Denial

1. The applicant proposes to replace the existing manual reader board sign at Milwaukie High School with an electronic reader board sign in the same location. The sign would use a double-faced illuminated pylon display to announce school activities and other relevant school information, with messages changing repeatedly throughout the day. The proposal includes the following:
  - A. The new sign will have an area of approximately 40 square feet per display surface (4 feet, 1 inch tall by 10 feet long).
  - B. The sign will be mounted on a steel pole along the school's SE Washington Street frontage.
  - C. The sign will be oriented so as to have a display surface visible to both eastbound and westbound traffic on SE Washington Street.
  - D. Two display surfaces will each present three lines of changing messages formed by electronically controlled pylon lights.
  - E. Messages will change approximately once every 10 seconds.
2. Public notice was provided in accordance with the Milwaukie Municipal Code (MMC) Subsection 19.1011.3 – Minor Quasi Judicial Review. The Planning Commission held a public hearing on September 12, 2006 as required by law. That hearing was continued to September 26, 2006.
3. A provision was made for appealing the Planning Commission decision on September 26, 2006, in accordance with MMC Section 19.1002 – Time limit and appeal from ruling of Planning Commission. The decision was appealed on October 13, 2006. The City Council held a public hearing on November 9, 2006, within 40 days of receiving notice of the appeal, as required by law.
4. The proposal is subject to the following provisions of the Zoning Ordinance and Sign Ordinance as follows:
 

Section 19.306	Residential (R-2) zone
Section 19.321	Community Service Use
Subsection 19.1011.3	Minor Quasi-Judicial Review
Subsection 14.08.090	Conditional and community service use signs
Subsection 14.12.020	Prohibited signs
Subsection 14.16.010	Sign districts – Residential zone
5. MMC Section 19.306 – Residential (R-2) Zone.

- A. MMC Subsection 19.306.3.G limits the maximum height of structures in the R-2 zone to 45 feet. As proposed, the new sign would be only 25 feet high. This standard is met.
  - B. MMC Subsection 19.306.3.I requires that a minimum of 35% of lot area remain available for landscaping. A significant portion of the school site is composed of open athletic fields. The proposed sign would occupy the same foundation space as the existing reader-board sign and would not diminish the overall landscaped area. This standard is met.
6. MMC Subsection 14.08.090 limits freestanding signs for community service uses that did not include sign review at the time of Planning Commission approval. Such signs are limited to a per-display surface area of 16 square feet and an overall height of six feet above grade. The proposed sign would exceed these dimensions and is considered a new community service use, subject to review by the Planning Commission as per MMC Subsection 19.321.6.A.

Staff research has produced no record of sign review as part of any past community service use approval by the Planning Commission for Milwaukie High School. The proposed sign would have a per-display surface area of 40 square feet and an overall height of 25 feet above grade. These dimensions exceed the maximum standards that would allow the sign to be approved outright. The City Council finds that the proposed sign is subject to review as per MMC Subsection 19.321.6.A.

7. MMC Subsection 19.321.5 establishes the following criteria for allowing community service uses:
- A. *The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the Community Service Use (CSU), the standards of the underlying zone are met.*

There are no requirements for setback or off-street parking for the proposed sign. As noted in Finding #4A, the maximum height of structures in the Residential R-2 zone is 45 feet. As proposed, the new sign would be only 25 feet high.

- B. *Specific standards for the proposed uses as found in subsections 19.321.10 to 19.321.14 are met.*

The only relevant standards outlined for schools in MMC Subsection 19.321.10 is point J, which requires that fifteen percent (15%) of the total site is to be landscaped. As noted above in Finding #4B, a significant portion of the school site is composed of open athletic fields. The proposed sign would occupy the same foundation space as the existing reader-board sign and would not diminish the overall landscaped area.

*C. The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses.*

The surrounding uses include a church, schools, professional offices, and private residences. The City Council finds that the proposed sign would present light-related impacts that are not compatible with the surrounding residential uses.

*D. The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood.*

The proposed sign would increase the school's capacity for communicating with the community by informing the public-at-large of upcoming events and activities. Because the new sign can be controlled electronically, it could be programmed to automatically present multiple messages instead of needing to be manually changed. With a slightly larger display surface and a more reliable illumination system, the new sign would more consistently provide information for the community along the school's most visible frontage.

However, in the vicinity of the site of the proposed sign, SE Washington Street allows parking on both sides of the street and is often congested with vehicular traffic. It also presents heavy pedestrian traffic from the various nearby schools as well as from the neighborhood. The proposed sign would provide an additional distraction to passing motorists that could negatively impact public safety.

The site of the proposed sign is located between the downtown area and residential zones in the Historic Milwaukie neighborhood district. The proposed sign would not normally be permitted in any downtown or residential zone except as part of a community service use.

Because the messages on the proposed sign would be illuminated, the sign would present what could be described as the nuisance of light-related impacts to surrounding properties.

In sum, the City Council concurs with the Planning Commission's finding that the negative impacts of the proposed sign on the neighborhood are greater than the public benefits.

*E. The location is appropriate for the type of use proposed.*

The proposed new sign location is the same as that of the existing reader-board sign. SE Washington Street is the school's only frontage on a major street and therefore is the most logical site for a message board intended to reach as many people as possible. However, the City Council concurs with the Planning Commission's finding that the proposed sign would present an undue distraction or nuisance to surrounding properties and passing motorists.

8. MMC Subsection 14.12.020.A prohibits moving or flashing signs, including signs that function by intermittent electrical pulsations. However, automatically changing signs such as electronic reader-boards are exempted from this prohibition. The proposed sign is an electronic reader-board. The City Council finds that the proposed sign is not prohibited.
9. MMC Subsection 14.16.010 sets standards for signs in residential zones. Milwaukie High School is an approved community service use located on property that is zoned residential (R-2). In residential zones, one freestanding sign is permitted per street frontage, but such a sign is limited to 16 square feet per display surface and a maximum height of six feet above grade. Only external illumination of signs is allowed. Because the proposed sign exceeds these standards and would be internally illuminated, it presents a major modification to the school as an approved community service use and is subject to review by the Planning Commission as per Subsection 19.321.6.A. The City Council finds that the proposed reader-board sign does not meet the standards for signs in residential zones.

CITY COUNCIL OF THE CITY OF MILWAUKIE

FINAL ORDER APPROVING APPEAL AP-06-02 AND APPROVING APPLICATION  
CSU-06-05

Based on the evidence in the record, including evidence provided at a City Council hearing, after duly noticed public hearings, the Milwaukie City Council orders as follows:

1. Appeal AP-06-02 is approved.
2. Application CSU-06-05 is approved.
3. The Recommended Findings and Conditions in Support of Approval included in Exhibit 1 are adopted as findings of the City Council and conditions of approval for CSU-06-05.

DATE OF COUNCIL ACTION: November 9, 2006

---

James Bernard, Mayor

## EXHIBIT 1

### Recommended Findings and Conditions in Support of Approval of CSU-06-05

#### Recommended Findings in Support of Approval

1. The applicant proposes to replace the existing manual reader board sign at Milwaukie High School with an electronic reader board sign in the same location. The sign would use a double-faced illuminated pylon display to announce school activities and other relevant school information, with messages changing repeatedly throughout the day. The proposal includes the following:
  - A. The new sign will have an area of approximately 40 square feet per display surface (4 feet, 1 inch tall by 10 feet long).
  - B. The sign will be mounted on a steel pole along the school's SE Washington Street frontage. As conditioned, the top of the sign will be approximately 17 feet above grade.
  - C. The sign will be oriented so as to have a display surface visible to both eastbound and westbound traffic on SE Washington Street.
  - D. Two display surfaces will each present three lines of changing messages formed by electronically controlled pylon lights. As conditioned, messages will change no more often than once every 10 seconds.
  - E. As conditioned, the sign will be in operation only from 6:00am to 10:00pm every day.
  - F. As conditioned, the pylon lights that form the illuminated messages will be adjusted to a level of brightness deemed acceptable by the Planning Director.
  
2. Public notice was provided in accordance with the Milwaukie Municipal Code (MMC) Subsection 19.1011.3 – Minor Quasi Judicial Review. The Planning Commission held a public hearing on September 12, 2006 as required by law. That hearing was continued to September 26, 2006.
  
3. A provision was made for appealing the Planning Commission decision on September 26, 2006, in accordance with MMC Section 19.1002 – Time limit and appeal from ruling of Planning Commission. The decision was appealed on October 13, 2006. The City Council held a public hearing on November 9, 2006 as required by law.
  
4. The proposal is subject to the following provisions of the Zoning Ordinance and Sign Ordinance as follows:
 

Section 19.306	Residential (R-2) zone
Section 19.321	Community Service Use

Subsection 19.1011.3	Minor Quasi-Judicial Review
Subsection 14.08.090	Conditional and community service use signs
Subsection 14.12.020	Prohibited signs
Subsection 14.16.010	Sign districts – Residential zone

5. MMC Section 19.306 – Residential (R-2) Zone.

- A. MMC Subsection 19.306.3.G limits the maximum height of structures in the R-2 zone to 45 feet. As proposed, the new sign would be only 25 feet high. As conditioned, the City Council finds that the new sign will be no more than approximately 17 feet above grade. This standard is met.
- B. MMC Subsection 19.306.3.I requires that a minimum of 35% of lot area remain available for landscaping. A significant portion of the school site is composed of open athletic fields. The proposed sign will occupy the same foundation space as the existing reader-board sign and will not diminish the overall landscaped area. This standard is met.

6. MMC Subsection 14.08.090 limits freestanding signs for community service uses that did not include sign review at the time of Planning Commission approval. Such signs are limited to a per-display surface area of 16 square feet and an overall height of six feet above grade. The proposed sign would exceed these dimensions and is considered a new community service use, subject to review by the Planning Commission as per MMC Subsection 19.321.6.A.

Staff research has produced no record of sign review as part of any past community service use approval by the Planning Commission for Milwaukie High School. The proposed sign would have a per-display surface area of 40 square feet and an overall height of 25 feet above grade. These dimensions exceed the maximum standards that would allow the sign to be approved outright. The City Council finds that the proposed sign is subject to review as per MMC Subsection 19.321.6.A.

7. As part of the review process for modifications to existing community service uses, MMC Subsection 19.321.6.B allows the City to impose suitable conditions that will assure compatibility of the sign with other uses in the vicinity. Such conditions may include (but are not limited to) the following:

- Restricting the time an activity may take place and minimizing such environmental effects as glare (MMC Subsection 19.321.6.B.1).
- Limiting or otherwise designating the number, size, location, height, and lighting of signs (MMC Subsection 19.321.6.B.7).

The City Council has established conditions for the proposed sign that will assure its compatibility with other uses in the vicinity. The conditions address the height and size of the sign, hours of operation, frequency of message change, level of illumination, and location.

8. MMC Subsection 19.321.5 establishes the following criteria for allowing community service uses:
- A. *The building setback, height limitation, and off-street parking and similar requirements governing the size and location of development in the underlying zone are met. Where a specific standard is not proposed in the Community Service Use (CSU), the standards of the underlying zone are met.*

There are no requirements for setback or off-street parking for the proposed sign. As noted in Finding #4A, the maximum height of structures in the Residential R-2 zone is 45 feet. As proposed, the new sign would be only 25 feet high; as conditioned, it will be no taller than the existing reader-board sign.

- B. *Specific standards for the proposed uses as found in subsections 19.321.10 to 19.321.14 are met.*

The only relevant standards outlined for schools in MMC Subsection 19.321.10 is point J, which requires that fifteen percent (15%) of the total site is to be landscaped. As noted above in Finding #4B, a significant portion of the school site is composed of open athletic fields. The proposed sign will occupy the same foundation space as the existing reader-board sign and will not diminish the overall landscaped area. This standard is met.

- C. *The hours and levels of operation of the proposed use are reasonably compatible with surrounding uses.*

The surrounding uses include a church, schools, professional offices, and private residences. As conditioned, the City Council finds that the proposed sign will operate during hours and with a level of illumination that are reasonably compatible with these surrounding uses. In addition, the City Council finds that the proposed sign will have a rate of message change that does not negatively impact public safety.

- D. *The public benefits of the proposed use are greater than the negative impacts, if any, on the neighborhood.*

The proposed sign will increase the school's capacity for informing the public-at-large of upcoming events and activities. Because the new sign can be controlled electronically, it can be programmed to automatically present multiple messages instead of needing to be manually changed. With a slightly larger display surface and a more reliable illumination system, the new sign will more consistently provide information for the community along the school's most visible frontage. As conditioned, the new sign will not be much larger than the existing sign and no taller. The City Council has conditioned the rate of message change to be at a level deemed not to present an unsafe distraction or unnecessary nuisance to passing motorists and surrounding properties.

*E. The location is appropriate for the type of use proposed.*

The proposed new sign location is the same as that of the existing reader-board sign. SE Washington Street is the school's only frontage on a major street and therefore is the most logical site for a message board intended to reach as many people as possible. The City Council finds that, as conditioned, the sign will not be located in the public right-of-way and will not present an undue distraction or nuisance to surrounding properties or passing motorists.

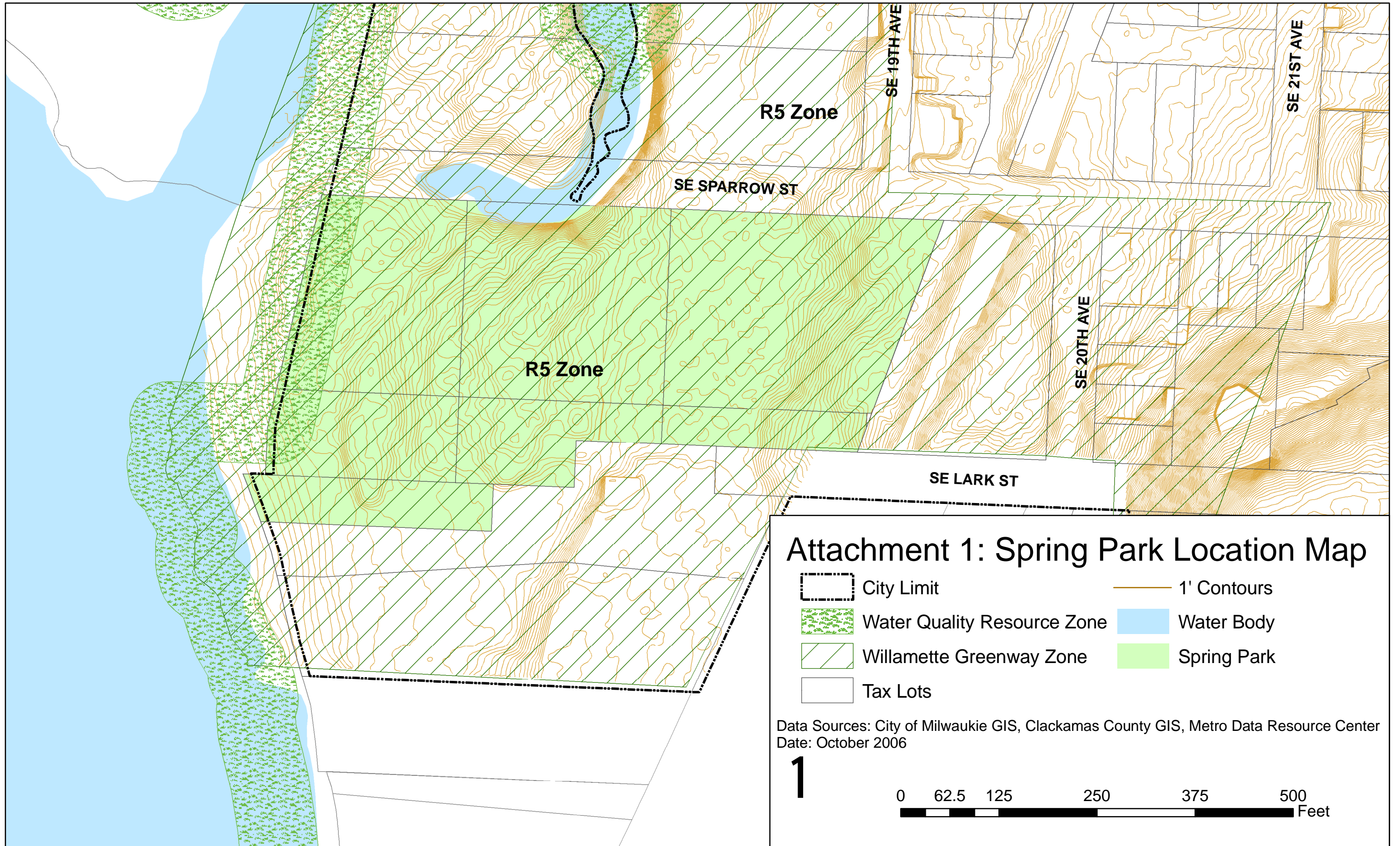
9. MMC Subsection 14.12.020.A prohibits moving or flashing signs, including signs that function by intermittent electrical pulsations. However, automatically changing signs such as electronic reader-boards are exempted from this prohibition. The proposed sign is an electronic reader-board. The City Council finds that the proposed sign is allowed.
10. MMC Subsection 14.16.010 sets standards for signs in residential zones. Milwaukie High School is an approved community service use located on property that is zoned residential (R-2). In residential zones, one freestanding sign is permitted per street frontage, but such a sign is limited to 16 square feet per display surface and a maximum height of six feet above grade. Because the proposed sign exceeds these standards it presents a major modification to the school as an approved community service use and is subject to review by the Planning Commission as per Subsection 19.321.6.A. As conditioned, the City Council finds that a maximum height equal to that of the existing reader-board sign (approximately 17 feet above grade) and a per-display surface area of approximately 40 square feet are sufficient for approval of the new reader-board sign.

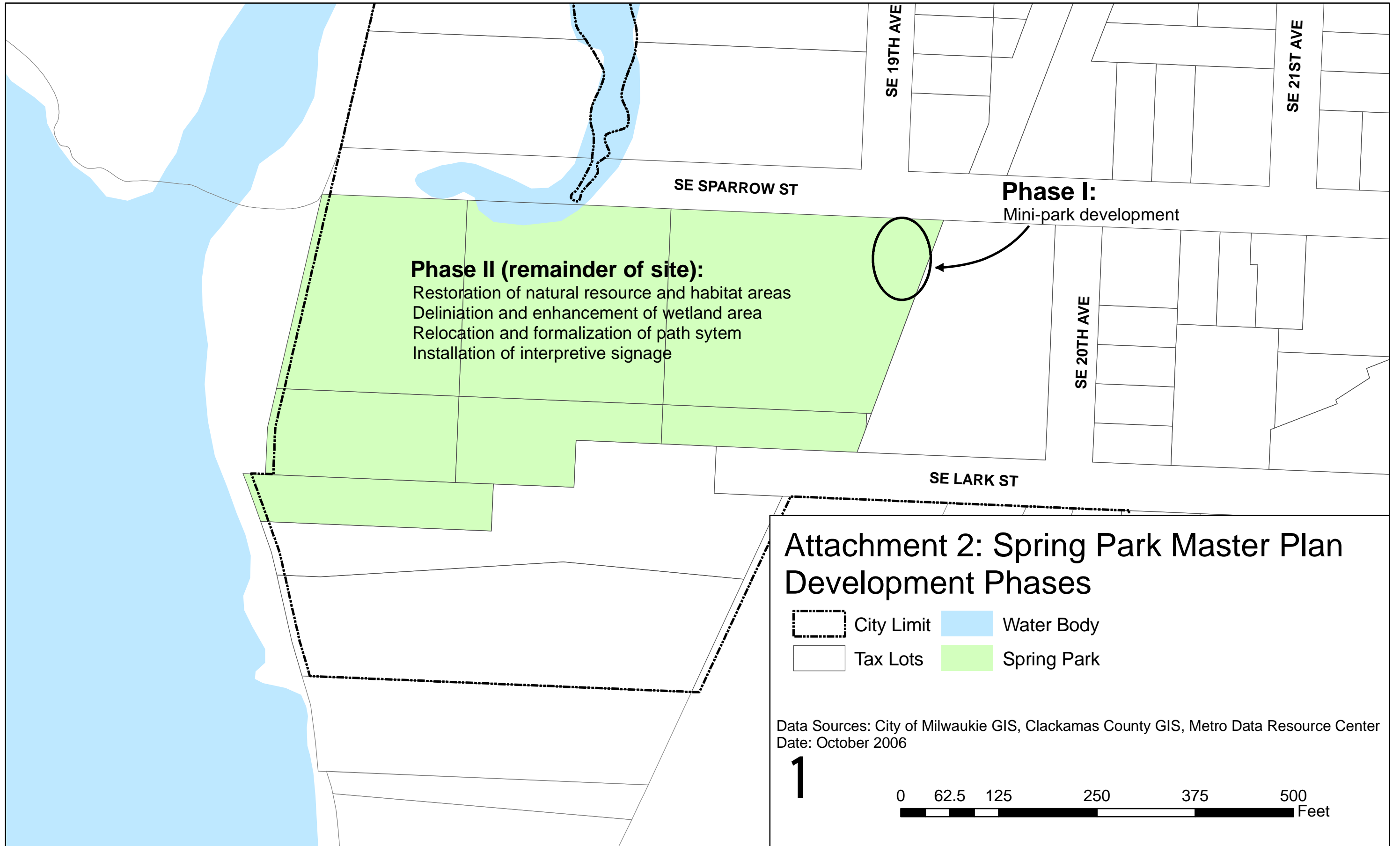
**Recommended Conditions in Support of Approval**

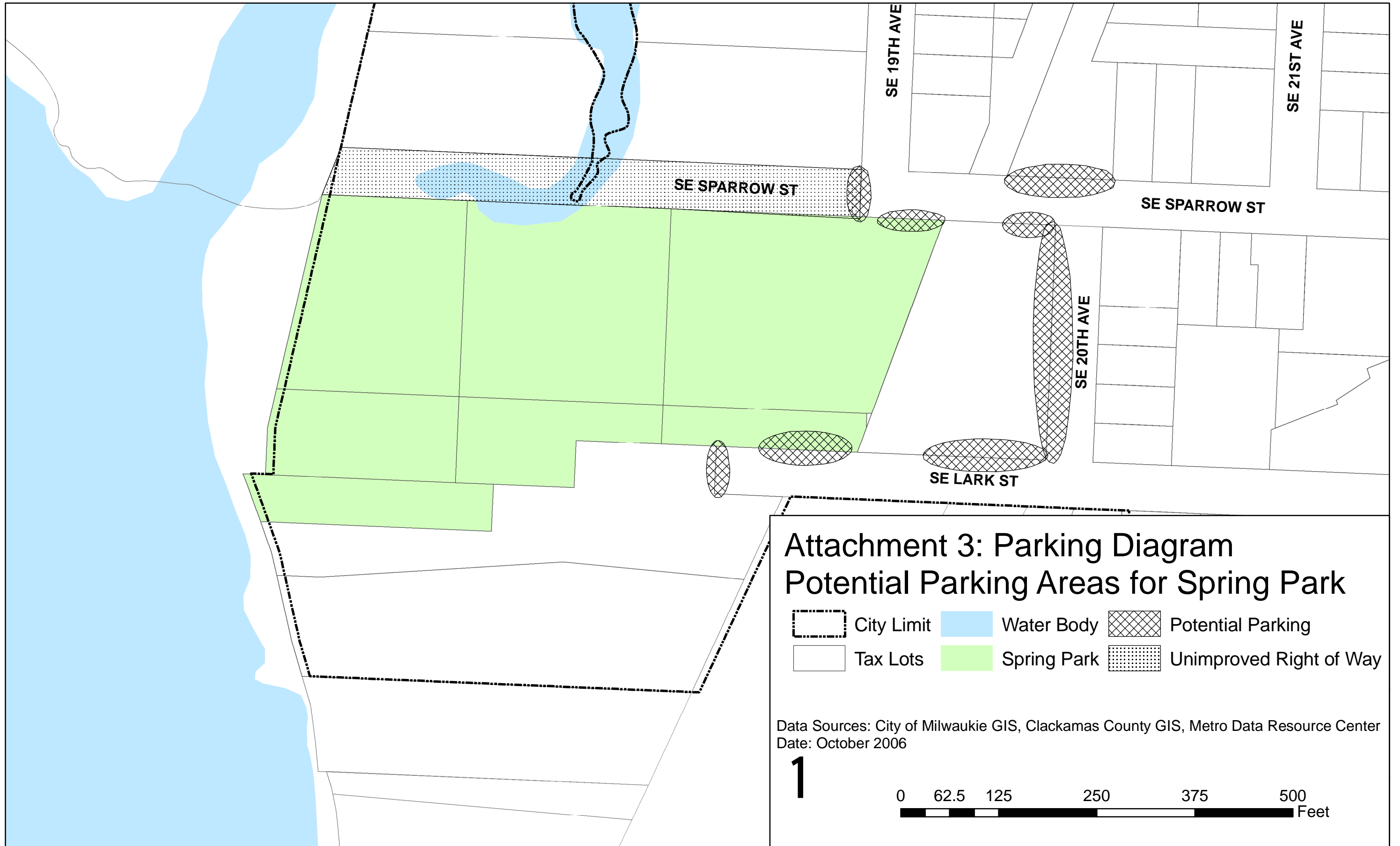
1. Final site and engineered plans shall be in substantial conformance with the plans approved by this action—except as otherwise modified by these conditions—that were stamped received July 28, 2006 by the Milwaukie Planning Department.
2. The size of the proposed sign shall be limited to four feet, one inch by 10 feet, for a total display area of approximately 40 square feet.
3. The sign shall be limited to a maximum height equal to that of the existing manual reader-board sign, approximately 17 feet above grade.
4. Hours of operation for the proposed sign, during which period electronic messages can be displayed, shall be from 6:00am to 10:00pm every day.
5. The maximum frequency of change on either display surface of the proposed sign shall be every 10 seconds.
6. The Planning Director shall determine an appropriate level of lumens, foot-candles, milliamperes, watts, or other measure of illumination for the proposed sign so that any light or visual impact on the surrounding

neighborhood is at an acceptable level. The Planning Director's determination shall be based on actual observation of the sign in place. The sign may be installed and operated prior to the issuance of the required sign permit to allow the necessary observation by the Planning Director. The decision of the Planning Director setting the illumination level is subject to appeal and a public hearing by the Planning Commission.

7. The proposed sign shall not encroach into the public right-of-way or vision clearance areas.









# SPRING PARK

North-east Entry Area

Scale: 1" = 20'

Gary Michael July 31, 2001

# Attachment 5

## Natural Resource Restoration and Protection Guidelines

### Removal of Invasive and Exotic Species

- Invasive woody trees, shrubs, and vines (such as holly, ivy, and scotch broom) will either be pulled out at the roots or cut at the base.
- Invasive species may be sprayed with herbicide biannually. See Herbicide Application section below for more detail.
- Invasive species found on the site, but not specifically mentioned in this document, will be removed using the most appropriate method available.
- Plants that can safely remain after removal will be left to decay in place. Plants that have the potential to reroot will be physically removed from the site.

### Control of Invasive Grasses

- Invasive grasses and weeds will be removed to allow new plantings to compete.
- Weed eaters, scythes, and machetes will be used to cut grasses and weeds.
- Plant materials will be removed when necessary and left as mulch where appropriate.
- Mulch and weed cloth will be used sparingly due to their cost.

### Herbicide Application

- Herbicide will be applied only where necessary and, then, in a responsible and conservative manner. Applications will take place during periods of low wind and dry weather conditions.
- All application activities will be performed by certified and registered applicators according to State and federal regulations.
- Invasive woody trees and shrubs will be cut and herbicide will be applied to the stumps. Identified target species of vines, forbs, and grasses will be given foliar applications.
- Targeted invasive species include, but are not limited to, the following: thistle, ivy, holly, blackberries, morning glory, reed canary grass, purple loosetrife, japanese knotweed, english hawthorn, cherry laurel, and scotch broom.

### Removal of Trees and Vegetation that are Dead or Diseased

- Plants, trees, and shrubs that appear to be diseased or dead will be inspected to determine whether they pose a safety problem or whether their continued presence will cause disease to spread to other plants, trees, or shrubs.
- The City will cut only those native trees that present a real danger to adjacent property owners, park users, or the local habitat.
- Trees that can safely remain after cutting will be left on the site for animal, insect, and plant habitat.
- Trees that require removal will be chipped or cut and recycled at a yard debris facility.

### Thinning of Existing Trees and Vegetation

- Plant materials will remain on the site for animal, insect, and plant habitat wherever possible.



To: Mayor and City Council

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

From: Susan P. Shanks, Associate Planner

Subject: Adoption of the Spring Park Master Plan (CPA-05-02)

Date: October 27, 2006 for November 9, 2006 Hearing

#### Action Requested

Adopt by ordinance the *Spring Park Master Plan* (Exhibit C of Attachment 1) as an ancillary document to the Milwaukie Comprehensive Plan.

#### Background

The Spring Park property is owned by the City of Milwaukie. It is located in the Island Station neighborhood along the Willamette River. The Spring Park property is largely undeveloped but has been used for years by Milwaukie residents to access the Willamette River and Elk Rock Island.

#### ***Master Plan Adoption Process***

The Spring Park property is zoned Residential R-5 on the City's Zoning Map. Since the City does not have a "Parks" or "Open Space" zone, the City employs the following two-step process to designate and develop publicly owned parks.

Step 1—Master Plan Adoption. Master plan adoption, a legislative action, is the process by which a publicly owned property is formally identified as a park. A master plan provides the conceptual framework for future development and investment and is the first step toward implementing the community's vision for specific park improvements. Park development, which occurs in the second step, cannot occur until the City has adopted a master plan.

Step 2—Master Plan Implementation. Master plan implementation occurs after master plan adoption and requires minor quasi-judicial review by the Planning

Commission. Development plans submitted during this step must conform to the adopted master plan.

The requested action only relates to Step 1 of this two-step process, namely the adoption of the *Spring Park Master Plan*. In order to adopt the proposed master plan, the City must demonstrate that the plan conforms to the City's existing adopted policies and meets all relevant approval criteria contained in the Milwaukie Comprehensive Plan and the Milwaukie Municipal Code. Exhibits A and B of the attached Ordinance demonstrate that the proposed master plan conforms to the City's adopted policies and meets all relevant approval criteria.

### ***Master Plan Development Process***

In 1987, the City identified the Spring Park property as a significant natural resource. In 1995, the City adopted the *Elk Rock Island Natural Area Management Plan* as an ancillary document to the Comprehensive Plan. The *Spring Park Master Plan* is intended to augment the *Elk Rock Island Natural Area Management Plan* by providing more specific development and management guidelines for the Spring Park property.

The master planning process for the Spring Park property began in 2003. Many public meetings were held wherein a number of public needs were identified. The two main needs that were identified are as follows:

- **Island Station residents need a neighborhood park for children and their families.** The Island Station neighborhood is deficient in developed park area. It is the only neighborhood in Milwaukie without a developed park. Residents must cross SE McLoughlin Blvd. to access a park with children's play equipment.
- **Natural resource areas within the Spring Park property need to be better managed and protected.** Neglect over many years has resulted in the accumulation of debris and the proliferation of invasive species. Lack of a formal path system has resulted in the creation of various informal paths. Use of these paths by people over time has caused extensive damage to the property's habitat areas, plant communities, and wetland areas. Whether intentional or not, people have trampled native plants, compacted soil, and changed the property's water flow and absorption patterns. Existing regulations and policies do not adequately protect the property's natural resource areas.

In addition, residents with properties adjacent to Spring Park identified parking as an issue. Parking areas near the Spring Park property currently consist of a limited amount of soft shoulder parking in the public right of way. City staff does not anticipate that the proposed improvements, as outlined in the *Spring Park Master Plan*, will create additional parking demand. However, because parking is a longstanding issue for residents adjacent to the Spring Park property, the master plan identifies a number of potential parking areas for review and possible installation during each proposed development phase. The two proposed development phases are summarized in the next section.

### ***Master Plan Summary***

The proposed *Spring Park Master Plan* includes two distinct development phases that are meant to address the various issues and needs that were identified by residents and staff during the master planning process. The two phases are as follows:

#### Phase I

- Development of a minipark in the property's northeast corner, which includes the installation of a path, signage, play equipment, and park furniture.
- Installation of a bicycle rack and parking spaces immediately adjacent to the minipark development.

#### Phase II

- Restoration and protection of natural resource and habitat areas.
- Delineation and enhancement of the wetland area.
- Relocation and formalization of the site's path system.
- Installation of interpretive signage.
- Installation of additional parking spaces if determined to be feasible and appropriate.

### ***Key Issues for Adoption of Spring Park Master Plan***

Key Issue #1 – Does the proposed *Spring Park Master Plan* meet the relevant approval criteria for a Comprehensive Plan amendment?

Comprehensive Plan Amendments are subject to approval criteria found in the Comprehensive Plan and the Milwaukie Municipal Code. As demonstrated by Exhibit B (Comprehensive Plan and Zoning Compliance Report) of the attached Ordinance, the proposed amendment meets all applicable approval criteria.

Key Issue #2 – Does the proposed *Spring Park Master Plan* further the goals, objectives, and policies of the Comprehensive Plan?

The proposed Comprehensive Plan amendment furthers the goals, objectives, and policies of the Comprehensive Plan in the following ways:

- It implements a key element of the *Elk Rock Island Natural Area Management Plan*, which is a Comprehensive Plan ancillary document, through the adoption of a master plan specific to the Spring Park property.
- It furthers the Open Spaces, Scenic Areas, and Natural Resources Element of Chapter 3 of the Comprehensive Plan through the conservation of open space and the protection and enhancement of the property's natural resources. Existing regulations and policies do not adequately protect the property's natural resource areas.
- It furthers the Recreational Needs Element of Chapter 4 of the Comprehensive Plan by maximizing the passive and active recreational value of the Spring Park property through the development of a much

needed minipark and through the restoration and enhancement of the remainder of the site as a natural preserve.

Key Issue #3 – Is there a public need for the proposed *Spring Park Master Plan* and is this need best satisfied by the proposal?

Milwaukie residents need a master plan in order to proceed with the development, restoration, and protection of the Spring Park property. The proposed *Spring Park Master Plan* is the best plan to adopt for the following reasons:

- The proposed plan has strong support from the community.
- The master planning process identified a number of public needs and issues, and the proposed plan was specifically designed to address these needs and issues.
- The proposed plan calls for the development of a minipark in a neighborhood with no developed park lands; provides a long term plan for protection and enhancement of the property's natural resource areas; and lays the groundwork for future parking solutions, if such solutions are warranted.

#### Concurrence

The Planning Commission unanimously recommends adoption of the *Spring Park Master Plan*. The following departments, districts, boards, and associations concur with the Planning Commission's recommendation: Milwaukie Community Development Department; Milwaukie Community Services Department; Milwaukie Police Department; Milwaukie Park and Recreation Board; Clackamas County Fire District #1; North Clackamas Parks and Recreation District Advisory Board; and the Island Station Neighborhood District Association.

#### Fiscal Impact

The requested action is for the adoption of the *Spring Park Master Plan*. Master plan adoption will have no fiscal impact.

Master plan adoption is separate from, yet related to, master plan implementation. The current requested action is limited to master plan adoption. Master plan implementation will occur at a later date, will require separate land use review by the Planning Commission, and is not anticipated to have any fiscal impact.

#### Work Load Impacts

Upon adoption of a new Comprehensive Plan amendment, the Community Development Department's administrative staff updates all copies of the Comprehensive Plan. Workload impact is negligible and is limited to the Community Development Department.

### Alternatives

Amendments to the Comprehensive Plan are legislative actions pursuant to Milwaukie Municipal Code (MMC) Section 19.1011.5. Legislative actions are exempt from processing time limits pursuant to MMC Section 19.1002. The Planning Commission initiated the proposal to amend the Comprehensive Plan, and they recommend adoption of the proposed amendment. The City Council renders the final decision on legislative actions. The City Council has the following decision-making options:

1. Approve the amendment.
2. Approve the amendment with modifications.
3. Continue the hearing to allow for more discussion.
4. Deny the amendment and return it to Planning Commission for further discussion.

### Attachments

1. Ordinance:
  - Exhibit A – Findings in Support of Adoption
  - Exhibit B – Comprehensive Plan and Zoning Compliance Report
  - Exhibit C – Spring Park Master Plan
2. Draft minutes from Planning Commission hearing on October 10, 2006.

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE CITY OF MILWAUKIE COMPREHENSIVE PLAN BY ADOPTING THE SPRING PARK MASTER PLAN AS AN ANCILLARY DOCUMENT (CPA-05-02).**

**WHEREAS**, the City of Milwaukie desires to review, amend, and revise its Comprehensive Plan on a regular basis; and

**WHEREAS**, the *Spring Park Master Plan* has been reviewed by the Island Station Neighborhood District Association, Milwaukie Park and Recreation Board, North Clackamas Parks and Recreations District, and other affected agencies; and

**WHEREAS**, the *Spring Park Master Plan* has been referred to the Department of Land Conservation and Development in accordance with Oregon Revised Statutes, and;

**WHEREAS**, the *Spring Park Master Plan* has been reviewed and recommended for adoption by the Planning Commission at a duly advertised Public Hearing on October 10, 2006, and;

**WHEREAS**, the City Council held a duly advertised Public Hearing on November 9, 2006;

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

**SECTION 1. FINDINGS.** Findings of fact in support of the proposed amendment are adopted as part of this ordinance and attached as Exhibits A (Findings) and B (Approval Criteria Compliance Report).

**SECTION 2. COMPREHENSIVE PLAN ANCILLARY DOCUMENT.** The *Spring Park Master Plan* is adopted as an Ancillary Document to the Comprehensive Plan as shown in Exhibit C.

Read the first time on November 9, 2006, and moved to a second reading by \_\_\_\_\_ vote of the City Council.

Read the second time and adopted by the City Council on November 9, 2006.

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

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

ATTEST:

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

---

Pat DuVal, City Recorder

---

City Attorney

## **Exhibit A**

### **Findings**

1. Land Use Application CPA-05-02 has been processed and public notice has been provided in accordance with MMC Sections 19.901 (Initiation of Amendment), 19.902 (Amendment Procedure), and 19.1011.3 (Legislative Actions).
2. The proposed Comprehensive Plan amendment meets the approval criteria found in Policy 7 of Objective 1 of Chapter 2 of the Comprehensive Plan and in Milwaukie Municipal Code Section 19.905. The proposed amendment is consistent with applicable provisions of the Milwaukie Municipal Code, Milwaukie Comprehensive Plan, Metro Functional Plan, and Statewide Planning Goals. See Exhibit B for more detail.
3. The proposed Comprehensive Plan amendment furthers the goals, objectives, and policies of the Comprehensive Plan.
  - a. It implements a key element of the Elk Rock Island Natural Area Management Plan, which is a Comprehensive Plan ancillary document, through the adoption of a master plan specific to the Spring Park property.
  - b. It furthers the Open Spaces, Scenic Areas, and Natural Resources Element of Chapter 3 of the Comprehensive Plan through the conservation of open space and the protection and enhancement of the property's natural resources.
  - c. It furthers the Recreational Needs Element of Chapter 4 of the Comprehensive Plan by maximizing the passive and active recreational value of the Spring Park property, an existing publicly owned park.
4. The proposed Comprehensive Plan amendment is the result of extensive public involvement, reflects the desires of the community, and best satisfies the identified public need. Island Station residents, City staff, and others have worked many years to bring this vision for the Spring Park property to fruition.

# Exhibit B

## Approval Criteria Compliance Report

**Approval Criteria for Comprehensive Plan amendments are contained in the Milwaukie Comprehensive Plan and the Milwaukie Municipal Code. This report documents how the proposed amendment, the *Spring Park Master Plan*, conforms to all applicable approval criteria.**

### **Comprehensive Plan**

---

The Milwaukie Comprehensive Plan (MCP) Chapter 2, Plan Review and Amendment Process, Objective 1.7, states:

**All Plan amendments will be evaluated based on the following criteria:**

**A. Conformance with the Comprehensive Plan, its goals, policies, and spirit.**

1. MCP Chapter 1, Citizen Involvement

Citizen involvement was instrumental in developing the Spring Park Master Plan (the Plan). The City's Community Services Department worked closely with Island Station Neighborhood District Association, Friends of Elk Rock Island Natural Area, and other interested parties. The Plan was distributed to all Neighborhood District Associations in the city for review and comment prior to the first public hearing. The public was properly notified of all public hearings pursuant to Milwaukie Municipal Code (MMC) Section 19.1011.5.

2. MCP Chapter 3, Environmental and Natural Resources

- a. Natural Hazards Element. Spring Park is located within the 100-year floodplain. All development will comply with MMC Title 18, the City's flood hazard regulations.
- b. Historic Resources Element. The Clackamas Indians originally inhabited the Milwaukie area. No specific archaeological sites are currently identified in the Spring Park area. If any are discovered in the course of the park's development, appropriate measures will be taken.
- c. Open Spaces, Scenic Areas, and Natural Resources Element. The Plan will serve to conserve Spring Park as open space and preserve and enhance it as a natural resource area.

3. MCP Chapter 4, Land Use

- a. Recreational Needs Element. Phase I of the Plan includes the development of a much-needed minipark for families in the Island Station neighborhood. Phase II identifies the remainder of the site as a natural preserve. Restoration and protection of this area will provide Milwaukie residents with improved opportunities for environmental education, passive recreation, and access to the Willamette River.

- b. Willamette Greenway Element. The Plan will protect, conserve, enhance, and maintain the natural, scenic, historical, and recreational qualities of the Willamette River through the following actions: adoption of Natural Resource Restoration and Protection Guidelines (Attachment 5 of the Plan); formal classification of the majority of the park as a natural preserve; and installation of a new path system to provide improved access to the Willamette River that minimizes adverse impacts to the park's natural resource and habitat areas.
  - c. Neighborhood Element, Neighborhood Area 1. The Plan will conserve Spring Park as open space and provide the community with active (Phase I) and passive (Phase II) recreational opportunities.
4. MCP Appendix 2, Natural Resources Property List
- Spring Park is listed as Site 23. Its natural resource value is listed as riparian, habitat, and scenic. Phase II of the Plan will protect this site's riparian, habitat, and scenic value through the following actions: delineation and enhancement of the existing wetland area; relocation of the existing path outside of the wetland area; installation of interpretive signage educating users about the fragility of the natural resource area; planting of native species; removal of invasive and exotic species; and removal of hazardous and/or diseased vegetation.
5. MCP Ancillary Document, Elk Rock Island Natural Area Management Plan
- The Plan implements a key element of the Elk Rock Island Natural Area Management Plan, namely the adoption of a master plan for Spring Park that guides its development and protects it as a natural resource area.

**B. Public need for the change.**

The Milwaukie Comprehensive Plan does not currently contain a master plan for Spring Park. The adoption of the Plan will provide specific direction for the development of this park and enable the community to move forward with its plans to: 1) install a play area for children; 2) restore, protect, and enhance the site's natural resource areas; and 3) provide for improved environmental education and passive recreation opportunities.

**C. Public need is best satisfied by this particular change.**

The Plan was specifically designed to address the public needs identified above. It will also improve public safety, address longstanding parking issues, and make the park more accessible to those with limited mobility. Having an adopted plan also strengthens the ability of the City and the Island Station neighborhood to obtain funding and to leverage resources from public and private sources.

**D. The change will not adversely affect the health, safety, and welfare of the community.**

The proposed changes will not adversely affect the health, safety, and welfare of the community. As indicated above, the proposed improvements will improve access for those with limited mobility and improve public safety throughout the site.

Phase I minipark development includes the installation of a universally accessible path from the entrance of the park to the minipark area. Public safety around the park's main entrance will be improved through increased visibility and positive use. Visibility will be increased through the removal of the existing berm at the site's main entrance on SE Sparrow Street and by keeping this entrance clear of vegetation over three feet in height. Positive use will be increased through the installation of a play area and park furniture that will draw additional users to the site, specifically families with young children. Phase II development will include the installation of a formal path system through the park that will keep users out of hazardous and sensitive areas and off private property.

Improvements to Spring Park may draw more park users. There are currently no formal parking areas, on- or off-street, around the park's main entrance. Parking will be evaluated and may be installed during both development phases to alleviate existing parking problems in the area that are associated with Spring Park.

**E. The change is in conformance with applicable Statewide Planning Goals.**

The Plan conforms to the following applicable Statewide Planning Goals.

Goal 1: Citizen Involvement. See response A.1 above.

Goal 2: Land Use Planning. See response A.3 above.

Goal 5: Open Spaces, Scenic and Historic Spaces, and Natural Resources. See responses A.2.b & c above.

Goal 7: Areas Subject to Natural Disasters and Hazards. See response A.2.a above.

Goal 8: Recreational Needs. See responses A.3.a & c above.

Goal 15: Willamette River Greenway. See response A.3.b above.

**F. The change is consistent with Metro Growth Management Functional Plan and applicable regional policies.**

The Plan is consistent with the Metro Growth Management Functional Plan. Staff has complied with all applicable Metro noticing requirements and functional plan analysis requirements.

## **Milwaukie Municipal Code**

---

The Milwaukie Municipal Code (MMC) Section 19.905, Approval criteria for all amendments, states:

**For all proposals, the applicant shall have the burden of proof regarding the following criteria:**

- A. The proposed amendment must conform to applicable comprehensive plan (MCP) goals, policies and objectives and be consistent with the provisions of city ordinances (MMC), Metro urban growth management functional plan and applicable regional policies.**

MMC: Prior to the proposed Spring Park Phase I and Phase II development, the City will submit the appropriate land use applications and building permit applications, showing compliance with all applicable City regulations.

Phase I required applications may include, but are not limited to, the following: Community Service Use and Willamette Greenway Review.

Phase II required applications may include, but are not limited to, the following: Community Service Use, Willamette Greenway Review, Water Quality Resource Review, and a Zoning Map Amendment (for the addition of a protected water quality feature—i.e., wetland—to the water quality resource map).

MCP: See Comprehensive Plan Compliance Report.

Metro: See Section F of Comprehensive Plan Compliance Report.

- B. The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The planning commission and city council shall use its discretion to weigh these factors in determining the intent of the proposed zone.**

Not applicable. The site is zoned R-5 with a Comprehensive Plan designation of Public. The City uses its community service use regulations to site park uses, as it does not have a parks or open space zone. The City will seek approval of Spring Park as a community service use; consequently, no zone change is requested or required.

- C. The proposed amendment will meet or can be determined to reasonably meet applicable regional, state or federal regulations.**

The proposed improvements outlined in Phase I and II of the Plan will meet all applicable regional, State, and federal regulations. Any work performed in the floodplain will comply with City flood hazard regulations and all applicable FEMA regulations. Delineation and enhancement of the site's wetland area will comply with all applicable requirements of the Department of State Lands and the Army Corps of Engineers. The proposed path system through the site will not be

formalized until the wetland delineation process has been completed. If the proposed path system encroaches onto State land or any mapped water quality resource areas, it will comply with all applicable requirements of the Department of State Lands and the Army Corps of Engineers.

**D. The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.**

The Plan provides for minimal intensification of use on the site in the form of a minipark for local families. No public facilities, such as water or sewer, are proposed or required. The proposed park improvements will not restrict delivery of public services to any existing or future development in the area.

**E. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact analysis may be required subject to the provisions of Chapter 19.1400.**

Spring Park fronts three local streets: SE Sparrow Street to the north, SE 20<sup>th</sup> Avenue to the east, and SE Lark Street to the south. Based on the park's size, classification, and nature of proposed improvements, the City Engineering Department has determined that the proposed improvements, as outlined in the Plan, do not trigger a traffic impact study. This determination was made by applying the "threshold scoring" system contained in the Transportation Design Manual. Since the proposed improvements do not score over 100 points, a traffic impact study is not required. Staff will, however, evaluate the need for a traffic impact study at the time of each land use application for both phases of development, as outlined in the Plan.

Phases I and II of the Plan may include improvements within the public right-of-way. All improvements within the public right-of-way (such as street, parking, and pedestrian improvements) will be constructed in accordance with the Milwaukie Municipal Code, Transportation Design Manual, and standards for construction.

Required public improvements, if any, will be determined at the time of each land use application for both phases of development, as outlined in the Plan. Off-street parking is not required as part of the Plan. However, if off-street parking is provided, parking areas will be designed and constructed in accordance with the Off-Street Parking and Loading section of the Milwaukie Municipal Code.

# **Exhibit C**

## **SPRING PARK MASTER PLAN**

### **SITE DESCRIPTION**

Spring Park is a 6.87-acre site composed of multiple tax lots (Tax Assessor Map 1S 1E 35DD, Tax lots 5900, 6100, 6200, 6300, 6400, 6500, and 6601) that are owned by the City of Milwaukie (City). The site is in Residential Zone R-5 and has a Comprehensive Plan designation of Public. It is located south of SE Sparrow Street, west of the Union Pacific railroad tracks, and east of the Willamette River in the Island Station neighborhood. Private property borders the site along its eastern and southern edges. See the Spring Park Location Map for more detail (Attachment 1).

Spring Park is largely undeveloped and is currently maintained by the North Clackamas Parks and Recreation District (NCPRD) as a natural area. A large unmapped wetland is located in its center, and the remainder of the site is composed of riparian forest and grasslands. The site is an important habitat resource for birds and plant life, and portions of it are composed of geologically significant bedrock. Due to its proximity to the Willamette River, the entire site is within the Willamette Greenway Zone and portions of it contain mapped water quality resource areas.

The primary entrance to Spring Park is located on the northeast side of the site at the intersection of SE 19<sup>th</sup> Avenue and SE Sparrow Street. There is also a little-used path on SE Lark Street near the southeast corner of the site. Spring Park is primarily used to access the Willamette River and the seasonally accessible land bridge to Elk Rock Island. Elk Rock Island is owned by the City of Portland, located in Clackamas County, and only accessible by land from Milwaukie.

### **HISTORY**

The City purchased Spring Park in 1971. In 1980, the City vacated a section of SE Lark Street located on the south side of Spring Park. A portion of this vacated area (0.25 acres) was traded to a property owner to the south for property along the Willamette River (0.36 acres).

In 1989, a group of interested citizens and park staff from Milwaukie, Portland, and Clackamas County drafted a management plan for Spring Park, Elk Rock, and Elk Rock Island, entitled the Elk Rock Island Natural Area Management Plan. The City adopted this plan in 1995. This plan identified important issues related to natural resource protection, public use, and provision of public safety services. One of its recommendations was that the City develop a master plan for Spring Park to guide its management and development. The Spring Park Master Plan is intended to augment, not replace, the Elk Rock Island Natural Area Management Plan.

Since the adoption of the 1995 management plan, Island Station residents have urged the City to develop a master plan for Spring Park that would include wetland delineation and enhancement and development of a neighborhood park in the northeast corner of the site. Volunteers have worked for several years to remove invasive plants in the northeast corner of the site and along the path that leads to the Willamette River. The thinning of this underbrush and the removal of obstructions and debris have increased visibility and safety throughout the site.

## **MASTER PLANNING PROCESS**

In summer 2003, the City convened a public meeting to discuss a neighborhood park design concept for the northeast corner of the site, which was developed by Island Station resident Gary Michael. All in attendance approved of the neighborhood park design and, at the urging of City staff, agreed to expand the scope of the master plan to include the entire 6.87-acre site. In order to expedite the neighborhood park development process, however, it was suggested that the master plan be divided into two phases. See Spring Park Master Plan Development Phases map (Attachment 2) for more detail.

### **Phase I:**

- Development of a neighborhood park in the site's northeast corner
- Installation of parking spaces immediately adjacent to the neighborhood park development

### **Phase II:**

- Restoration and protection of natural resource and habitat areas
- Delineation and enhancement of the wetland area
- Relocation and formalization of the site's path system
- Installation of interpretive signage
- Installation of additional parking spaces

A draft master plan was circulated in spring 2004, and a meeting was held in June 2004 to discuss it. Notices were sent to property owners adjacent to Spring Park and to the Island Station Neighborhood District Association (NDA). At that meeting, public safety and parking concerns were raised. It was decided that these two areas of concern needed to be addressed and included in the final master plan.

To address public safety concerns, the Milwaukie Chief of Police met with Island Station residents to discuss public safety concerns, and City staff from Milwaukie and Portland and the chiefs from the Milwaukie Police Department (MPD) and the Clackamas County Fire District #1 (CCFD1) met to discuss emergency response service improvements to Spring Park and Elk Rock Island. The outcomes of these various meetings are contained in the Public Safety section of each development phase.

To address parking concerns, neighborhood association members and City staff visited the site and compiled a list of 14 potential parking areas near Spring Park, which was later reduced to 8 potential parking areas. See the Parking Diagram (Attachment 3) for more detail. A public meeting was held in January 2005, wherein it was decided that the potential parking areas identified in the Parking Diagram should be evaluated and implemented concurrently with Phase I and Phase II development.

## **PHASE I—MINIPARK DEVELOPMENT**

### **Park Classification**

Pursuant to the park classification system in the Recreational Needs Element of Chapter 4 of the Milwaukie Comprehensive Plan, the proposed park development meets the definition for a Minipark, Playlot, or Totlot due to its location, targeted population, and size (greater than 2,500 square feet but less than 1 acre). The entire site is greater than 1 acre; however, only a small portion of the site will be developed as a minipark for use by the local neighborhood. Since the larger portion of the site will remain mostly undeveloped and serve a completely different recreational purpose, it will receive a different park classification.

### **Development Proposal**

Refer to the Minipark Concept Plan (Attachment 4) for a graphic rendering of the proposed development.

### ***Equipment***

Proposed equipment and structures include the following:

<b>Quantity</b>	<b>Item</b>
1	Play structure for children aged 7 and younger
2	Picnic tables
2	Benches
1	Bike rack
1	Welcome sign
1	Display shelter
1	Garbage receptacle

An existing asphalt area (approximately 140 square feet) will be removed prior to the installation of the play equipment and surrounding fall zones.

### ***Landscaping***

A native plant landscape will be planted around the perimeter of the minipark area. The entrance on SE Sparrow Street will be kept clear of vegetation over 3 feet in height to ensure adequate visibility of the minipark from the street. It is anticipated that installation of the proposed park equipment and structures will not necessitate the removal of any trees. Removal of any species that are exotic or invasive or of any trees or vegetation that are dead or dying will follow the practices outlined in the Natural Resource Restoration and Protection Guidelines (Attachment 5).

### ***Park Entrance***

The berm constructed at the SE Sparrow Street entrance to impede bicyclists from riding into Spring Park will be removed to provide improved visual and physical access to the minipark area. In place of the berm, signage and bollards may be installed to prevent the entry of those on motorcycles, scooters, or bicycles, as these types of activities are prohibited in Spring Park due to the fragility of the plant and wildlife habitat areas.

### ***Signage***

A welcome sign will be installed at the Spring Park main entrance to welcome users to the site area and to identify the site as being owned by the City and jointly maintained by the City and NCPRD. This sign may also mention that Spring Park serves as a gateway to Elk Rock Island and that the Island Station NDA was instrumental in enhancing facilities at Spring Park. City of Milwaukie park rules will be posted on this sign or on a separate sign close to the entrance. All park signage will be located outside of the public right-of-way.

### ***Kiosk***

An interpretive kiosk may be installed within the minipark area. It may include a description of the natural environments found in Spring Park and Elk Rock Island and a list of prohibited activities.

### ***Path***

A fairly level path will lead from the SE Sparrow Street entrance to the minipark area. The path will be constructed of permeable material and to federal ADA standards. A split-rail fence may be installed along SE Sparrow Street in order to guide park users to the designated pathway. Any fencing will be located outside of the public right-of-way.

### ***Fencing***

The 1995 management plan calls for fencing along the site's northeastern boundary to keep minipark users away from the railroad tracks that run parallel to the site's eastern boundary. Upon further evaluation by City staff and residents, it was determined that fencing in this location is neither feasible nor necessary. A steep berm that exists between the proposed minipark location and the railroad tracks acts as a natural barrier. Native plants that are thorny or otherwise repellant will be installed at the base of the berm to further discourage park users from playing near the railroad.

### ***Utilities***

No public utilities are currently proposed, but access to water and sewer may be necessary or desirable in the future.

### **Maintenance**

Spring Park is listed in the intergovernmental agreement between the City and NCPRD as an NCPRD-maintained park. NCPRD currently provides maintenance of a sign and regular removal of waste from a garbage can, both of which are located at the SE Sparrow Street entrance. The City intends to continue to work with and coordinate the efforts of NCPRD staff, Island Station NDA, and Friends of Elk Rock Island to ensure adequate maintenance of the minipark. The Adopt-a-Park program will be utilized to the greatest extent possible.

## **Parking**

The Planning Department has determined that the Milwaukie Municipal Code does not require installation of parking spaces for minipark development. Moreover, additional vehicular traffic is not expected as a result of the proposed minipark development, since it is intended for local neighborhood use as a walk-to park. However, parking in this area, and for Spring Park in particular, has been problematic for residents with property in and around the Spring Park main entrance.

The streets of the Island Station neighborhood are generally narrow with no curbs or sidewalks. Due to these conditions and emergency vehicle access issues, the City has installed “No Parking” signs along SE Sparrow Street and SE 19<sup>th</sup> Avenue within 500 feet of the Spring Park main entrance. Park users frequently park in these areas anyway, resulting in numerous parking violations and towings. Also, even park users who park legally occasionally contribute to the parking problem by obstructing the private driveways of Spring Park neighbors.

In an effort to avoid additional parking violations and to minimize the impact on Spring Park neighbors, parking spaces may be installed in two or more areas near the entrance to Spring Park, concurrent with Phase I development. Location and installation of additional parking spaces may occur as part of Phase II.

Potential parking areas identified by the neighborhood and City staff are shown in the Parking Diagram. The following will be taken into consideration when evaluating which potential parking areas are most appropriate for development during Phase I.

- Cost
- Proximity to minipark entrance
- Location of existing street pavement and right-of-way boundaries
- Location of Spring Park property lines
- On-site versus off-site (i.e. street) parking construction requirements
- Emergency access to and through the area
- Topography and drainage

Any parking constructed on the site will be designated for park use only. Parking that is constructed in the public right-of-way—i.e., street parking—will not be designated for park use only. Street parking will be designed and installed in accordance with the Milwaukie Municipal Code, Transportation Design Manual, and standards for construction.

## **Public Safety**

Minipark development will increase public safety in this part of Spring Park through increased visibility and positive use. Visibility will be increased through the removal of the existing berm at the site’s main entrance on SE Sparrow Street and by keeping this entrance clear of shrub vegetation over 3 feet in height and tree limbs below 8 feet in height. Positive use will be increased through the installation of a play area and park furniture that will draw additional users to the site, specifically families with young children.

**Funding**

The City will work with NCPRD, the Island Station NDA, the City of Portland Parks Department, and other interested parties to identify funding for Phase I. Potential funding sources include, but are not limited to: Metro Local Share Bond Measure funds (assuming passage of the measure in November 2007), Oregon Parks and Recreation Department grants, and City of Milwaukie neighborhood grants.

The Island Station NDA and other interested parties will commit volunteer labor toward the installation of equipment, site preparation, and other tasks as identified. City staff and contract crews will be used as needed to complete various portions of the project.

## **PHASE II—HABITAT RESTORATION AND PRESERVATION**

### **Park Classification**

Pursuant to the park classification system in the Recreational Needs Element of Chapter 4 of the Milwaukie Comprehensive Plan, the proposed park development for the portion of the site not included in Phase I of the Spring Park Master Plan meets the definition for a Natural Preserve due to its natural character, proposed use, and targeted population. Natural preserves are meant to provide environmental education and passive recreation opportunities for the entire community.

### **Development Proposal**

Phase II of the Spring Park Master Plan is composed of four distinct elements: restoration and protection of natural resource and habitat areas, delineation and enhancement of the unmapped wetland area, relocation and formalization of the park's path system, and installation of interpretive signage.

### ***Natural Resource Restoration and Protection***

Most of the restoration and protection activities will take place in and around the large unmapped wetland area as described below. Additional restoration and protection activities will take place as staffing and funding allows. Any such activities will follow the Natural Resource Restoration and Protection Guidelines.

### ***Wetland Delineation and Enhancement***

The area to the west and south of the entrance to Spring Park contains an unmapped wetland. In order to correctly identify the extent of the wetland boundary and corresponding enhancement efforts, Phase II will include a formal delineation of the wetland boundary by a licensed professional, which will comply with all applicable State and federal regulations pertaining to wetland delineation and enhancement activities.

Because the area has not been maintained for many years, invasive and exotic species have proliferated in the wetland area. In order to return this area to a more natural wetland habitat, staff from the Cities of Milwaukie and Portland, with assistance from volunteers, will continue to hold work parties in this area to remove invasive and exotic species. Work party activities will enhance the native plant diversity and protect the health and safety of abutting property owners and park users. The following activities are proposed in and around the wetland area and will follow the Natural Resource Restoration and Protection Guidelines.

1. Identification and removal of exotic and invasive plant species. These species include, but are not limited to: thistle, ivy, holly, blackberries, morning glory, reed canary grass, purple loosestrife, japanese knotweed, english hawthorn, cherry laurel, and scotch broom. Removal efforts will be directed to invasive eradication. Invasive species may be sprayed with herbicide or may be removed manually or with power equipment.
2. Removal of existing trees and vegetation that are dead or diseased where such trees and vegetation could potentially harm adjacent property owners, park users, or native plant health and habitat.

## Spring Park Master Plan

3. Thinning of existing trees and vegetation to enhance native plant health and habitat.
4. Planting of appropriate native species. These plantings will be selected to best protect the local wildlife habitat and the wetland area as a natural aquatic resource.
5. Protection of wetland area from unauthorized human activities. Native shrubs that are thorny or otherwise repellent to park users will be installed along the perimeter of the wetland area to encourage park users to use the designated path system and to discourage them from entering the wetland area.

### ***Path Relocation and Formalization***

The existing path through Spring Park was never formally designed or constructed. It was created over time by park users walking through the site en route to Elk Rock Island and/or the Willamette River. Unfortunately, sections of this informal path encroach upon the large wetland area in the middle of the site, decreasing the wetland's utility as a natural habitat and biofiltration system.

In order to minimize the impact of the path system on the wetland area and neighboring properties, the following steps will be taken.

1. All existing informal paths will be closed and replanted to the degree practicable. Barricades and signs will caution park users against using these areas.
2. A new path system will be installed that is clearly marked with signs directing park users through the site. The new path system will be located outside of the wetland boundary as determined by the wetland delineation survey and will be constructed of permeable materials.
3. Fencing and native shrubs will be installed to define the new path system and to prevent park users from wandering into the wetland area. Fencing and native shrubs will also be installed—through a cooperative effort between the City and adjacent property owners—to prevent park users from trespassing onto private property to the south. Fencing will be selected based on its appropriateness for use in a natural resource area and may include split-rail and/or cedar fencing.

### ***Interpretive Sign Installation***

There is no signage in Spring Park, with the exception of a large sign near the main entrance. Neighbors and advocates for Spring Park and Elk Rock Island want clear and consistent signage that conveys to park users the sensitive nature of the plant and wildlife habitat within Spring Park. Rather than emphasize prohibited activities, it is felt that signs should educate visitors about the sensitive natural environment and the damage caused by certain activities. With this in mind, the following signage will be installed in Spring Park during Phase II development.

1. An interpretive kiosk may be installed near the entrance to the path that leads to the Willamette River and Elk Rock Island. It may include a description of the natural environments found in Spring Park and Elk Rock Island and a list of prohibited activities. A reference may be made to the application of City of Portland park rules on Elk Rock Island and City of Milwaukie park rules in Spring Park.

## Spring Park Master Plan

2. Smaller interpretive signs will be installed along the formal path describing the natural habitat and encouraging users to stay on the path. All park signage will be located outside of the public right-of-way.

### **Maintenance**

Spring Park is listed in the intergovernmental agreement between the City and NCPRD as an NCPRD-maintained park. NCPRD currently provides maintenance of a sign and regular removal of waste from a garbage can, both of which are located at the SE Sparrow Street entrance. The City intends to continue to work with and coordinate the efforts of NCPRD staff, Island Station NDA, and Friends of Elk Rock Island to ensure adequate maintenance of Spring Park. The Adopt-a-Park program will be utilized to the greatest extent possible, and, given the park's unique connection to Elk Rock Island, the City will partner with the City of Portland whenever feasible.

### **Parking**

The Planning Department has determined that the Milwaukie Municipal Code does not require the installation of parking spaces for Phase II development. The definition of Natural Preserve in the Milwaukie Comprehensive Plan states that travel to such parks is primarily by foot or bike, with limited provisions for vehicle parking. However, parking for Spring Park has been problematic for residents with property in and around the Spring Park main entrance, especially during the summer months, and it is anticipated that enhancement of Spring Park facilities may compound the problem by attracting more park users.

As previously stated, parking spaces may be installed as part of Phase I development, and the need for additional parking will be evaluated at the time of Phase II development. Additional restrictions on on-street parking will also be considered at the time of Phase II development. Any new on-street parking will be designed and installed in accordance with the Milwaukie Municipal Code, Transportation Design Manual, and standards for construction.

The following will be taken into consideration when evaluating which potential parking areas identified in the Parking Diagram are most appropriate for development during Phase II.

- Cost
- Location of existing street pavement and right-of-way boundaries
- Location of Spring Park property lines
- Emergency access to and through the area
- Topography and drainage

### **Public Safety**

As previously stated, Spring Park is owned by the City and maintained by NCPRD per an intergovernmental agreement. Elk Rock Island, however, is owned by the City of Portland and is located in unincorporated Clackamas County. Elk Rock Island is maintained by the City of Portland.

Police, fire, and safety response to both Spring Park and Elk Rock Island have been inconsistent in the past, which has caused great concern for neighbors. It is anticipated that enhancement of

## Spring Park Master Plan

Spring Park facilities may increase the use of the site and Elk Rock Island, thereby increasing the need for speedy and consistent emergency response to both areas. It is hoped that, by fostering positive use of the site through the development of a minipark, vandalism and inappropriate uses of Spring Park and Elk Rock Island will decrease during daylight hours. However, since both areas have been historically misused and vandalized, advocates and neighbors strongly feel that an effective and coordinated response plan is needed.

In November 2003, staff from the Cities of Milwaukie and Portland and the chiefs from the MPD and the CCFD1 met to discuss current and future emergency response services to Spring Park and Elk Rock Island. The following is a summary of the proposed work plan for improving emergency response services to Spring Park and Elk Rock Island.

### ***Fire***

CCFD1 has jurisdiction over both Spring Park and Elk Rock Island. CCFD1 is the provider of fire services for the City under a contract signed in 1997. CCFD1 provides fire services to Elk Rock Island under another agreement that obligates their response to areas of unincorporated Clackamas County. CCFD1 is able to respond to Spring Park by land and to Elk Rock Island by land and water. Fire response to Spring Park and Elk Rock Island is currently adequate. Until such time as it becomes necessary, no action will be taken to modify the existing fire response services to Spring Park and Elk Rock Island.

### ***Police***

The MPD has jurisdiction in Spring Park. The City adopted park rules in 2004 that are enforceable by staff from MPD, Milwaukie Code Enforcement, and NCPRD. These rules will be posted on a sign toward the entrance of the park during Phase I development.

MPD and the City of Portland are both able and willing to respond to disturbances on Elk Rock Island. However, due to the island's location, MPD is usually able to respond more quickly than the City of Portland. The City will work with the City of Portland's parks and police departments to install both short- and long-term strategies for responding to disturbances.

In the short term, the City will discuss with the City of Portland the feasibility of granting MPD "Agent in Charge" status. This could potentially increase the City's ability to respond to incidents on the Island as well as strengthen their authority to cite offenders into court. The City may also consider adopting Portland's park rules to be applied solely to Elk Rock Island.

In the long term, the City will pursue incorporation of Elk Rock Island for the sole purpose of law enforcement. This will strengthen the ability of MPD to respond to incidents on Elk Rock Island and to cite offenders into court.

### **Funding**

The City will work with NCPRD, the Island Station NDA, the City of Portland Parks Department, and other interested parties to identify funding for Phase II. If the Metro Local Share Bond Measure passes in November 2007, these funds may be used to complete the wetland delineation and begin the natural area restoration and path relocation work. The City will also solicit funding assistance from the City of Portland for some of the path relocation work and construction and installation of interpretive signage.

## Spring Park Master Plan

The City will solicit the Portland Bureau of Environmental Services Watershed Revegetation Program for wetland enhancement design ideas and installation work. This "Revegetation Program" initiates and installs biologically complex environmental restoration projects in Portland and in surrounding watershed areas. A similar design and installation project was recently completed by this program at the ODS campus site near the mouth of Johnson Creek in Milwaukie.

As with many City projects, volunteers will play a large role in the completion of Phase II of Spring Park development. Neighborhood residents, interested parties, and local biologists and wetland enthusiasts will contribute ideas and labor toward the completion of this project in cooperation with City staff and crews.

### **ATTACHMENTS**

1. Spring Park Location Map
2. Spring Park Master Plan Development Phases
3. Parking Diagram: Potential Parking Areas for Spring Park
4. Phase I: Minipark Concept Plan
5. Natural Resource Restoration and Protection Guidelines

CITY OF MILWAUKIE  
PLANNING COMMISSION MINUTES  
TUESDAY, OCTOBER 10, 2006

COMMISSIONERS PRESENT

Jeff Klein, Chair  
Lisa Batey  
Teresa Bresaw  
Catherine Brinkman  
Scott Churchill

COMMISSIONERS ABSENT

Dick Newman

STAFF PRESENT

Katie Mangle,  
Planning Director  
Susan Shanks,  
Associate Planner  
Ryan Marquardt,  
Assistant Planner  
Zach Weigel,  
City Engineer  
JoAnn Herrigel,  
Community Serv. Dir.  
Gary Firestone,  
Legal Counsel  
Shirley Richardson,  
Hearings Reporter

1.0 CALL TO ORDER

The meeting was called to order at 6:32 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA

3.1 Planning Commission Minutes -- August 8, 2006

**Commissioner Churchill moved to approve the minutes of August 8, 2006 as presented. Commissioner Brinkman seconded the motion.**

**Ayes: Bresaw, Brinkman, Churchill, Klein**

**Nays: None**

**Abstentions: Batey**

**The motion carried 4-0 with one abstention; Commissioner Batey was not at that meeting.**

4.0 INFORMATION ITEMS -- City Council Minutes

City Council minutes can be found on the City web site at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92

5.0 PUBLIC COMMENT -- None.

6.0 Public Hearings

6.1 Applicant: JoAnn Herrigel  
Owner: City of Milwaukie  
Location: SE 19<sup>th</sup> & Sparrow Street  
Proposal: Adopt the Spring Park Master Plan as an ancillary document to the Milwaukie Comprehensive Plan to guide development in Spring Park  
File Numbers: CPA-05-02  
NDA: Island Station

**Commissioner Brinkman moved to initiate the hearing for the adoption Spring Park Master Plan per Comprehensive Plan Amendment 05-02. Commissioner Churchill seconded the motion.**  
**Ayes: Batey, Bresaw, Brinkman, Churchill, Klein**  
**Nays: None**  
**The motion carried 5-0.**

**Chair Klein** opened the hearing on Comprehensive Plan Amendment 05-02 a legislative hearing to consider a recommendation to City Council for the adoption of the Spring Park Master Plan.

**Chair Klein** asked if there were any conflicts of interest or ex-parte contacts to declare. **Commissioner Batey** stated that she has been actively involved in working on this project for several years and feels this will affect her ability to vote on this issue. **Chair Klein** excused Commissioner Batey from this hearing; she left the podium and sat in the audience.

#### STAFF REPORT

**Susan Shanks** reported that this is a review of land use application Comprehensive Plan Amendment 05-02 which was submitted to the City by JoAnn Herrigel, Community Services Director, in collaboration with the Island Station Neighborhood District Association.

This proposal is to adopt the Spring Park Master Plan as an ancillary document to the Comprehensive Plan. The intention of the Spring Park Master Plan is to guide future development and management of Spring Park.

Spring Park is located in Milwaukie. It is approximately 6.87 acres in size in the southwest corner of the City with parts of the park bordering the Willamette River. It was purchased in 1971 as an undeveloped natural area and remains an

93

94

underdeveloped area on the Willamette River. In the 1980's the city undertook a natural resources inventory at which time Spring Park was identified as a significant natural resource.

96

97

98

The site is covered by the Willamette Greenway because of its proximity to the river and has some mapped and unmapped water quality resource areas within its boundaries. It is currently zoned R-5 on the zoning map and on the Comprehensive Land Use Map is designated for public use.

99

100

101

102

103

104

105

106

107

108

This property currently provides the only land access to Elk Rock Island, which is in the City of Portland and Clackamas County. Spring Park is owned by the city; that is why the City of Milwaukie is initiating and considering the Spring Park Master Plan. The park is maintained by the North Clackamas Parks & Recreation District; the maintenance is minimal because the park is undeveloped.

109

110

111

112

113

114

An aerial photo was shown of the subject site and surrounding area. Another map was displayed of Spring Park showing the designated R-5 zoning, the Willamette Greenway Overlay Zone, and the water quality resource buffer zone. There are some unmapped water quality areas in the center of the park that are currently not covered by legislation because they are unmapped.

115

116

117

118

119

The reason for the plan is to engage the community, identify community needs to address issues, and create a plan that meets those needs that creates a vision for the park for future development. The Master Plan will implement the community's vision for this park.

120

121

122

123

124

125

126

127

128

129

130

131

132

Master planning background started in the 1980's when the City of Portland, City of Milwaukie, Clackamas Parks District, Portland Parks District, a number of interested parties, Friends of Elk Rock Island, and a number of people got together to work on a plan back then called The Elk Rock Island Natural Area Management Plan (Management Plan). The Management Plan was developed by the City of Portland and adopted by the City of Milwaukie; it included Elk Rock Island, Elk Rock and Spring Park. In 1995 the City adopted the Management Plan, which called for the adoption of a Master Plan specific to Spring Park. In 2003 there was the first public meeting, which started the master planning process. There has been a lot of time and effort put into developing the Master Plan and working in the park for future more environmentally appropriate development. Historical pictures of people working in the park were shown.

133

134

The Master Planning Process brought out and identified the needs and issues for the community:

135

136

137

138

- Mini-park for local families
- Wetland delineation and trail relocation
- Restoration and protection of natural areas

139

140

- Long standing parking issues related to Spring Park; identify areas for relocation of parking spaces.

141

142

- Funding is needed. The community has put in time and work into the development of the park to this point; now there is a need for money and other resources for a play structure and consultant work.

143

144

145

146

147

148

149

150

151

152

153

The Master Plan intention was to satisfy the needs and address the issues that came out of the master planning process. The highlights of the Master Plan include the division of the development of Spring Park into two development phases. The first phase focuses on the mini-park development for the neighborhood's use in the northeast corner of the park. The second phase is the restoration of the remainder of the site as a natural preserve; delineating the wetlands, relocating the trail, etc.

154

155

156

157

158

159

Included in the Spring Park Master Plan is a proposed Concept Plan for the mini-park. This was approved by the neighborhood association as a conceptual plan to include a small play structure, benches, picnic tables, etc. Included in the Spring Park Master Plan are some potential parking areas as well as restoration and protection guidelines. Details of the proposed improvements were pointed out on a map.

160

161

162

163

164

165

166

The Master Plan will implement the vision of the community. It provides a framework for the land use and permitting process, provides leverage resources and funding from public and private sources as the Master Plan is in place to show how the park is proposed, to bolster community pride and involvement and continues to focus on volunteer efforts.

167

#### Key Issues

168

- Does the proposed Spring Park Master Plan meet relevant approval criteria for a Comprehensive Plan Amendment?

169

170

171

The proposed Plan does conform to existing adopted policy and furthers the goals of the 1995 Management Plan specific for Spring Park?

172

173

174

- Does the proposed Spring Park Master Plan further the goals, objectives, and policies of the Comprehensive Plan?

175

176

177

178

179

180

181

182

Chapter 2 of the Comprehensive Plan calls for protection and conservation of open spaces and natural resources. This Plan would identify this site as a significant resource designated for public use and provide more protection to the natural resource area in addition to providing the community for more passive and educational opportunities through development of phase II of the plan.

183

- Is there a public need for the proposed Spring Park Master Plan and is this need best satisfied by the proposal

184

185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230

The Master Planning Process came out of the community; part of the process was about identifying the real needs of the community and the issues that existed regarding Spring Park. The needs identified were physical improvements, mini-park development, more visual and physical access to the site to those with limited mobility and to increase public safety, to protect and restore the natural resource areas and a need to address the existing parking issues.

Because of the years of involvement by the community this particular plan meets the needs articulated by the community. It serves as an implementation tool for funding, providing direction and development.

The recommended findings are:

1. CPA-05-02 has been legally processed and noticed
2. The Master Plan meets all approval criteria
3. The Master Plan is the result of extensive public involvement and reflects the desires of the community Island Station residents, city staff, and others who have worked many years to bring this vision of Spring Park to fruition. It is ripe for adoption.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Churchill** asked if the City of Portland has any input on this proposal. **Ms. Shanks** stated that the Plan was sent out far and wide for input. They received comments from Clackamas County Parks and Recreation District, the Department of State Lands, and all the affected city departments, but didn't hear anything specifically from Portland or Metro. JoAnn Herrigel has been in touch with the City of Portland and Clackamas County Parks and Recreation District over the years with regards to the intentions of the Spring Park improvements and the Master Plan. There has been ongoing dialogue but no formal comments have been submitted.

**Commissioner Churchill** asked if there are any plans for formally maintaining Elk Rock Island. **Ms. Shanks** stated that at the City of Portland there are a number of planners whose sole job is to plan for and manage Elk Rock Island. Spring Park provides the only land access to Elk Rock Island. Part of the parking problems experienced by the community is caused by those who come to visit Elk Rock Island--because they have to park at Spring Park. Some issues are generated from this.

#### APPLICANT PRESENTATION

Speaking: JoAnn Herrigel, Community Services Director, City of Milwaukie

**Ms. Herrigel** thanked everyone for all the help over the years and over the past few months. The staff report was well done. This project is another in a long line

231

232

of testaments that the community has a complete inability to take "no" for an answer. If they want something, they strive to get it done.

233

234

235

236

237

238

239

240

241

242

243

244

245

246

247

248

249

250

This neighborhood has been working on this since the City purchased the property in 1970. Carolyn Tomei and Gary Micheals have been very active and interested in moving this proposal forward. The Management Plan was the result of the City of Portland working with the City of Milwaukie as volunteers as well as staff, police and fire personnel. Gary Michaels developed the Pocket Park Concept Plan being shown this evening.

After learning that a master plan is needed for the development of the entire park, the two-phased concept was created. The draft Master Plan was distributed to the Park Districts and the neighborhoods. This was discussed throughout the neighborhood and concerns were expressed about crime and parking. This park is surrounded by people who have lived there for years have seen how this undeveloped park has performed. It is hoped that with the Master Plan the positive activities at the entrance to the park will decrease the un-welcome activity that takes place in the park and on the island.

251

252

253

254

255

Well into the master plan, the neighborhood association requested a design for the pocket park. An email was sent out for a consultant to do a pocket park design on a pro bono basis and Pat Landow and his firm stepped up to do the work. Volunteers have done all of the work that has been done to date.

256

257

258

259

The remaining issues for this proposal is managing to have adequate signage, parking enforcement in the area and in the park and consideration to be sensitive to the abutters to this site.

260

QUESTIONS FROM THE COMMISSIONERS -- None.

261

262

TESTIMONY IN FAVOR

263

264

265

266

267

**Ms. Shanks** reported that staff received two letters in support of this application; one letter from Mr. Chaimoff in support and he is no longer here. The letter was put into the record.

268

Speaking: Gary Shepherd, 3115 SE Salmon Street, Portland 97214

269

270

271

272

273

274

275

276

**Mr. Shepherd** stated that he is here tonight on behalf of Mr. Arnell. Mr. Arnell is appreciative of all the work staff and the community has done. He cares a lot about the park; he assists with park security and allows emergency personnel to cross his property to access the park and he paid for utility power lines to be moved out of the park.

277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322

Mr. Arnell's main concern with the proposal is the suggestion in the plan and in Attachment 4 to locate parking areas west of the Union Pacific Railroad Trestle. He indicated that maps were maps attached to his submission that will be entered into the record. Mr. Arnell's property was pointed out on the map.

Lark Street is the access to Mr. Arnell's property as well as neighbors to the south; for large portions of Lark Street the only improvements are those that have been done by the residents along S.E. 18<sup>th</sup> Avenue. The railroad trestle crosses over Lark Street. There is a large segment of unimproved Lark Street that is adjacent to a private road. The proposed parking spaces on the west end of Lark Street are west of the trestle in areas that are unimproved. SE 18<sup>th</sup> Avenue is a private street; if the parking is as proposed, the street is 15-18 feet wide. People who cannot find parking will park on 18<sup>th</sup> Street (a private Street) or back out under the 14-foot wide trestle, creating a safety hazard to everyone. The parking under the trestle will impede traffic and obstruct the access for emergency vehicles.

The proposed area constitutes a 600-700 foot dead end roadway; a one-way access from Sparrow along 20<sup>th</sup> through Lark (about 600 feet wide). It is a very secluded portion of the City of Milwaukie. There are not a lot of people who go down there besides the residents. If parking is encouraged here it will be creating risks that should be avoided. The only way you can see into the parking lot is from the parking lot itself; it will encourage the types of activities that will not be good for the neighborhood. Mr. Arnell himself has been subject to burglaries and trespass. This will create a situation where it will be easier to do this. He has witnessed paint-ballers and Aryan Nation in the park; a very unsafe situation. He would like to see this parking area excluded from the Master Plan.

The topographical map shows a steep drop on Lark Street. To propose parking here will put the parking on a steep hill and will make the creation of this parking option un-viable in the later stage. If this is included now, it will force the city to expend a substantial amount of time, money and resources in studying a parking proposal that is going to fail when put up against criteria (cost, existing street emergency access, topography, safety and the desire to reduce the negative and destructive aspects of people using Elk Rock Park). He asked that references to Attachment 4 to the parking areas west of the railroad trestle be removed from further study and consideration by the city as this process continues.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Brinkman** asked if there were no assigned parking, would this encourage random unwanted parking. **Mr. Shepherd** stated that his client has put private property signs up to discourage parking by his home.

Speaking: Lisa Batey, 11912 SE 19<sup>th</sup> Avenue, Milwaukie

323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368

**Ms. Batey** stated that she is the Chair for the Island Station Neighborhood Association. She thanked Susan Shanks for the great presentation.

In regards to the public need, there are people in the audience (Carolyn Tomei, Charles Bird, and Gary Michael) that have been working on Spring Park and Elk Rock Island for many years. One of the reasons why the neighborhood has so long been looking for a small play area is that there are no sidewalks and the kids ride their bikes on the street. Lately there are kids 5 and 6 years old out in the street trying to learn how to skateboard. This park will answer some of the needs of the neighborhood as a play area for the kids who too often are playing in the street.

On the parking issue there is a parking problem because of the people who are coming to the park to go to Elk Rock Island, not Spring Park. There have been two years of discussions trying to work out the parking issues. The map displayed is the result of special meetings, numerous walk-throughs with staff and members of the neighborhood. Time will prove that the parking proposed may be too costly. The intent of the map was to identify possible parking; not all options will be used. There are three new spaces that do not exist now; this process is adding three spaces that don't exist now.

The City of Portland's naturalist, Mark Wilson, has been very active on Elk Rock Island. Charles Spurs, head of Friends of Elk Rock Island, has also done a lot of work the past couple of years. This is a testament to the neighborhood, even though the city of Portland had the money and the ability to do things there was not much interest. When the neighborhood started showing interest (work parties, etc.), Portland came to the plate and brought in gravel from Ross Island for the path work. Portland has done a lot of work on Elk Rock Island to delineate the paths that they want people to use to try and protect the natural area and deter some of the bad activity. This summer there were rent-a-cops on Friday and Saturdays and it had an impact; as a result, there have been less drinking parties.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Churchill** asked for comments on the issue of no bicycles and no dog's off-leash. **Ms. Batey** stated that both issues of no bicycles and dogs off-leash are to protect the plant life. There is unique plant life in Spring Park and Elk Rock Island; there have been over 500 plants planted over the last three years; most of them native plants. There have been problems with bicycle riding down the hills of the park; they realize there is a need for a bike rack on the top. Paintball has currently been a large problem for the neighbors.

She encouraged the Commissioners to go out to Elk Rock in March and April and see the area that was sprayed for ivy. It is amazing what has come back as there are trillium and lilies; it is unbelievable what comes back when the ivy is gone.

369

370

371

372

373

374

375

376

377

378

379

380

381

382

383

384

385

386

387

388

389

390

391

392

393

394

395

396

397

398

399

400

401

402

403

404

405

406

407

408

409

410

411

412

413

414

**Commissioner Bresaw** asked if Ms. Batey had a percentage of people in favor, indifferent and against this proposal. **Ms. Batey** stated that the people who come to the meeting are overwhelmingly for the proposal and there have only been one person who voted against it; however, this is not everyone in the neighborhood.

Speaking: Charles Bird, 12312 SE River Road, Milwaukie

**Mr. Bird** stated that part of his property is on Sparrow. He is not close enough to the park to see the problems being expressed tonight. He has taken family members down to the park; that is how it is important to him. He has helped by volunteering to work as well as encouraging neighbors and volunteer groups to come down and help out.

He is excited that the plan is in front of the Commission and can be put into play; part of his frustration is that there has been a lot of interest by the neighborhood, but there is no process to have it addressed by the City. This puts a structure into place to address the problems of the park and its elements. He suggested to address parking in such a way that neighbors can control the parking; limits on hours, parking tags, closing the park at certain hours, handicapped parking and addressing enforcement issues.

He is encouraged that there is one spot for handicapped access. He is in favor of the plan. Some of the groups volunteering as well as neighbors include The Willamette River Keepers, Clackamas County Youth Core, Friends of Elk Rock Island, Rowing Team, Boy Scouts and a host of others. There have been tremendous strides in the work completed by volunteers and it is important to focus on these good behaviors. There has been a big improvement in accessibility in recent times. There is still camping and remnants of activities in the park from parties; there is a way to go. In the meantime, he is hearing more feedback from people that are not afraid to go into the park even though there are still negative activities there. He is very much in favor of the Master Plan. There are remaining issues to clear up with the neighbors but he is anxious to get the Master Plan into place.

QUESTIONS FROM THE COMMISSIONERS -- None.

Speaking: Carolyn Tomei, Island Station Neighborhood

**Ms. Tomei** stated that she has resided in the Island Station neighborhood for over 40 years. She raised her children in this neighborhood and now her grandchildren visit here. She was a resident here when the city purchased the property at 19<sup>th</sup> and Sparrow and when they tore down the home that was there. There was jungle there and there was a path through Spring Park to Elk Rock Island; Spring Park was never used as a park at that time it was only a pathway to Elk Rock Island. She brought with her an invitation that she picked up twenty years ago which was

415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460

an invitation to a kegger party on the island which said “get ready to park on Elk Rock, don’t mind the nature walk for the price at the end of the trail is well worth it. The invitation indicates that the party was \$3/head, 3 kegs and 14 gallons of hard alcohol. There was a map to the island; the young people who came to the party were from Washington County.

Through the years, the residents would hear these parties going on in the middle of the night and called the police. The Milwaukie police would say that this was not their property it belongs to the City of Portland. When they called the City of Portland they were not coming down to do anything at 4:00 Saturday morning. She contacted the City of Portland and got involved with the Parks Department and they formed the Friends of Elk Rock Island and Spring Park. She stated that she has drawers of files and presented a list of over 50 members of the group that came to a meeting in 1988 that were actively involved. She also had an article from The Review talking about the Friends groups and the citizens protecting the island. There is also a memo from Bill Adams, Community Development Director, regarding Elk Rock Island and Spring Park Process for Adoption of Management Plan, dated 1988.

**Ms. Tomei** stated that she has been hearing “no” for 20 years and she is getting impatient. She has been waiting for this day for a very long time and she hopes that the Commission recommends approval. There weren’t only bicycles that were in the park; there were mountain bikes that were riding through the park. There were also motorcycles and horses that would ride through the park and Elk Rock Island.

Her children and now her grandchildren have to cross McLoughlin to get to the closest playground, which is Milwaukie Elementary School. There are new people coming into the neighborhood and their children need a place to play. The tot park is an important feature of the pocket park; it is important because the children need the play area. If there is activity going on, it may deter those going to Elk Rock Island for parties. Family activities may deter those entering the park with alcohol. The parking issue is for people going to Elk Rock Island; not people who are going to Spring Park.

**Ms. Tomei** stated that Lisa and Charles have done a wonderful job in picking up the responsibilities of the park activities; she had to step back and they have done a good job taking over. Don McCarty has done a fantastic job of cutting down the ivy from all the trees on both Spring Park and Elk Rock Island as well as the Scotch Broom. People at Willamette View Manner have also gotten involved in the protection of this park area; they too would like to make it a nice place for the neighborhood and the residents.

461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506

#### QUESTIONS FROM THE COMMISISONERS

**Commissioner Churchill** asked for comments regarding the parking on Lark Street. **Ms. Tomei** stated that she understands the residents concerns. The City of Portland needs to take some responsibility regarding parking in the community and they recognize that. The issue of people going to a Portland park and parking in the Milwaukie community; they need to be working on that, and she feels they will. She feels the important thing is to get through the pocket park to get some neighborhood involvement; then in the second phase Portland would be involved to take on part of the parking issues.

The City of Portland has been much more forthcoming than the City of Milwaukie. They immediately responded in 1987; it has been 19 years and Milwaukie is just now getting involved. It was a long time coming.

**Commissioner Churchill** asked for comments about the two zones west of the trestle being used for parking. **Ms. Tomei** stated that she has no comments; she knows this is one of the places looked at for potential parking. This is part of phase two and before this gets to phase two Portland needs to be involved with the parking problems.

#### QUESTIONS OR COMMENTS ABOUT THE APPLICATION -- None

#### TESTIMONY IN OPPOSITION

Bill Holt was called and he responded that he wanted to testify for the mini-park.

Speaking: Janet Larson, 2008 SE Sparrow, Milwaukie

**Ms. Larson** pointed out her property on the site map. She asked why parking spots are being proposed in front of neighborhood residence if this is to be a walk-to park for the neighborhood. It has been her experience that the people who are parking to go into the park are breaking into cars, throwing trash, committing burglaries, etc.

#### ADDITIONAL COMMENTS FROM STAFF

**Susan Shanks** reported that the right-of-way on Lark Street is 60 feet wide; more than what seems like is there. As Mr. Shepherd has testified, it is possible that upon further evaluation those areas may not be deemed appropriate. The areas pointed out are the most likely areas for parking, but they may not be developed. If parking is on the dead end street, there will probably be a turn around. There is a secondary entrance at the southeast corner of Spring Park. Some of the parking east and west of the trestle and on 20<sup>th</sup> Street may not work once the site is

507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552

reviewed in more detail. The Master Plan looks to the future as what could be possible. These things will be evaluated in the second phase.

In terms of the fact that the larger section of the park being a natural preserve and the smaller mini-park being considered a walk-to park, parking is not required for either of these parks per the Comprehensive Plan or the Municipal Code. However, parking is a problem and people will always come to it. This is a place people want to see. The plan recognizes that parking is an issue.

In terms of the development of parking areas, parking will have to be developed to city standards. The streets are narrow and the installation of parking will improve accessibility as well as provide designated parking for those driving and parking. It will only be done if it is done right.

QUESTIONS FROM THE COMMISSIONERS -- None

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY  
-- None

APPLICANT'S CLOSING COMMENTS

**Ms. Herrigel** stated that the public input process for this park was interesting in that they held several meetings but often different people came. In response to the comment why provide parking for a walk-to park Ms. Harringel said they were trying to avoid parking for this park; it is not easy to do. There were several people who expressed concern that there is a need for parking for those visiting the park. They came up with potential areas for parking for visitors to the park. There was enough concern about parking that they put it in.

QUESTIONS FROM THE COMMISSIONERS

**Chair Klein** asked if the potential parking is actually designated parking. **Ms. Herrigel** stated that these are areas that could be developed in the future and created as official on-street parking spaces; they are not that way now. The right of way is not developed to the full width for parking areas. This map is showing where parking can be installed. There is signage in that area now that says there is no parking because the right-of-way width is not wide enough to have parking as well as two travel lanes.

**Gary Firestone** noted a section of the Master Plan...page 5, upper corner page 19, third paragraph, "in an effort to avoid additional parking, parking spaces will be installed...installation of additional parking spaces in Phase 2." It may be more appropriate to change to "may be installed."

553

554

555

556

557

558

559

560

561

562

563

564

565

566

567

568

569

570

571

572

573

574

575

576

577

578

579

580

581

582

583

584

585

586

587

588

589

590

591

592

593

594

595

596

597

598

**Ms. Mangle** stated that the City attorney suggested that the Commission consider replacing “will” with “may” on page 5 of 19, third paragraph, “...in an effort to avoid additional parking violations and minimize impact on Spring Park neighbors, parking spaces may be installed in two or more areas near Spring Park during phase one. Location and installation of additional parking spaces will occur as part of phase two.”

**Chair Klein** closed the public testimony portion of the hearing and opened it to discussion among the Commissioners.

**Commissioner Bresaw** stated that she is in favor of the proposal. She is in agreement with changing the wording in the master plan to reflect “may” regarding the installation of the parking spaces. Parking is very difficult in that area and this is something that can be figured out later.

**Commissioner Brinkman** stated it is important to recognize the greater community use of the park and not just the people who are within walking distance; however, the entire impact will fall on the neighborhood. She is in favor of changing language to “may” so there is room for further discussion down the line.

**Commissioner Churchill** stated that one important issue is to get people out of their vehicles and walking or bicycling. He sympathizes with the appropriateness to deter motorcycling and keep in mind the sensitivity of the vegetation. He would like to see options kept open as much as possible for as much parking in all access points on the site. He hopes there is a means for bicycle parking or some means of bicycle access onto the site too.

**Chair Klein** stated that he is encouraged by Portland’s willingness over the years; it shows some enthusiasm as they move forward in the progression for some development of parking areas. He would hope to minimize parking at that location; if they can get by with three parking spaces it would be to the benefit of the neighborhood. He believes that the idea behind this park is for it to be a walk-to park.

**Commissioner Brinkman** stated that she believes that if there are assigned parking areas there will be less of the soft-shoulder parking that is creating the problems that are there now; in the long run it will be better for the neighborhood.

It was the consensus of the Commission that the change from “will” to “may be made to the Master Plan language on page 5.

**Commissioner Brinkman** moved to recommend to City Council the adoption of the Spring Park Master Plan File CPA-05-02 with the change to page 5, third paragraph: “...in an effort to avoid additional parking violations and

599

600

601

602

603

604

605

606

607

608

609

610

611

612

613

614

615

616

617

618

619

620

621

622

623

624

625

626

627

628

629

630

631

632

633

634

635

636

637

638

639

640

641

642

643

644

**minimize impact on Spring Park neighbors, parking spaces may be installed in two or more areas near the Spring Park during phase one. Location and installation of additional parking spaces will occur as part of phase two.”**

**Commissioner Bresaw seconded the motion.**

**Ayes: Bresaw, Brinkman, Churchill, Klein**

**Nays: None**

**Motion carried 4-0.**

Recess was taken at 8:03 p.m. and the meeting reconvened at 8:15 p.m.

6.2 Applicant: JoAnn Herrigel for Island Station NDA  
Owner: City of Milwaukie  
Location: SE 19<sup>th</sup> & Sparrow Street  
Proposal: Develop a mini-park in the upland area in the northeast corner of Spring Park  
File Numbers: CSO-06-03 & WG-06-03  
NDA: Island Station

**Chair Klein** opened the public hearing on Community Service Overview 06-03 and Willamette Greenway Overlay 06-03, a Minor Quasi-Judicial hearing to consider approval of the development of a mini-park in the northeast corner of Spring Park. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19.303, Residential Zone R-5; Section 19.320, Willamette Greenway Zone; Section 19.321, Community Service Overlay Zone; Section 19.600, Conditional Uses; Section 19.1011.3 Minor Quasi-Judicial Review and Section 19.1400, Transportation Planning Design Standards and Procedures.

**Chair Klein** asked if there were any conflicts of interest or ex-parte contacts to declare. **Commissioner Batey** stated that she has been actively involved in working on this project for several years and feels this will affect her ability to vote on this issue. **Chair Klein** excused Commissioner Batey from this hearing; she left the podium and sat in the audience.

**Commissioner Brinkman** stated that in the past the law firm she works for has been involved with actions with the City of Milwaukie. She does not feel this will affect her ability to vote on this issue.

**Chair Klein** asked if any member of the Planning Commission visited the site; 3 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690

## STAFF REPORT

**Ryan Marquardt** introduced Zack Weigel, Civil Engineer with the City of Milwaukie who is here tonight to answer engineering questions that may come up regarding this application.

**Mr. Marquardt** reviewed the staff report with the Commission. He made a presentation of the subject site and surrounding area. The overview of the proposal is to construct a mini-park in the northeast corner of Spring Park which includes a play structure, landscaping, and a parking area. This application is for more specific development guided by the Master Plan done by Island Station NDA.

Site photos were shown of the north corner of the site, existing entrance on Sparrow, an example looking west over the site, and the existing park entrance on SE Sparrow Street.

There are a few park improvements at the park; picnic bench, regular bench, and a trash can. Sparrow Street is a narrow roadway next to the park. Vegetation blocks the views to and from the park. The site is relatively flat and doesn't have a lot of vegetation with a concrete pad near the bench.

The proposed site improvements include an existing mound at the site with some pavers and tree plantings on the mound, paving of the path to Elk Rock Island, space for a park bench, picnic bench and trash can, a circular area for the small play structure and parking proposed near the entrance of Spring Park in the right-of-way of Sparrow Street (three parking stalls).

The landscaping plans include keeping the existing 40-inch diameter Cedar tree on the site, trees on the mound, and landscaping on the eastern and southern area of the site. Pictures were shown of the proposed play structure and the mound landscaping proposed with tree plantings and pavers.

The conditions of approval submitted with the application do not tie the applicant to what is shown tonight on the site plan. The final document must include the path, picnic table and landscaping elements.

### Key Issues

- Does the development of the mini-park meet the community service overlay public benefit test?

A map was shown that pointed out areas, parks and schools that have play equipment; Island Station is the only residential NDA that does not have some sort of park or play area with play equipment. This project will provide a neighborhood park for the Island Station neighborhood.

691

692

693

694

695

696

The existing Cedar tree is being kept; non-native trees are being moved and there will be new plantings that are native to the area. The signage and clearance of vegetation will better mark the site entrance and allow sight into the park for monitoring activity in the park.

697

698

699

700

701

702

703

704

705

706

707

This project was initiated and brought forth by Island Station NDA residents; this constitutes a public benefit. The improvements are being made in an existing city-owned park; no property is being taken off the tax roles and there is a Comprehensive Plan policy that calls for utilizing existing parks. The placement of the play structure will bring more family-type oriented uses into the park which will decrease inappropriate activity in Spring Park. There are currently parking problems on the site and the applicant is proposing parking improvements to alleviate that. The Elk Rock Island Management Plan, the Spring Park Plan and several policies within the Comprehensive Plan for land use and Willamette Greenway use are supportive of the placing of the mini-park.

708

709

710

711

712

713

714

Spring Park is a unique undeveloped natural area. Development of this park will disturb some ground area and increase impervious areas on the site. Even though this is designated as a walk-to park it may generate increased traffic along with the increased use of Spring Park. This may create a disturbance to the residents surrounding the park. There have been problems with vandalism and the repair and maintenance of the park facilities could be a burden financially for upkeep.

715

716

Staff believes that the benefits of the mini-park outweigh the adverse impacts.

717

718

719

- Does the proposed parking at the entrance adequately meet the needs of Spring Park and address the concerns of Island Station residents?

720

721

722

723

724

725

726

727

728

Visitors to Spring Park and Elk Rock Island cause parking problems; the improved right-of-ways are narrow and there have been problems in the past where residents have had their driveways blocked by visitors. Staff does not believe the development of this mini-park will generate more trips. The applicant proposes to develop additional parking spaces near the park entrance to alleviate the problems. The site plan shows parking in the right-of-way; anything proposed (on-street/off-street parking) will be subject to the Off-Street Parking Standards in the Development Zoning Code.

729

730

731

732

733

The proposed conditions of approval call for three parking spaces near the entrance and in the future more parking spaces could be added. Staff feels that the proposed parking does meet the needs of Spring Park and Island Station neighborhood areas.

734

735

736

- Does the proposed mini-park negatively impact the natural resources of Spring Park?

737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782

Both the Elk Rock Island Management Plan and proposed Spring Park Plan call for development of the upland area in the northeast corner for a mini-park. The proposed mini-park development is not in proximity to the riparian area, the Willamette River; it is upland near existing development and roads, and does not impact the natural areas and natural eco systems on the site.

Staff feels that the proposal meets the code criteria for Community Service Overlay in MMC Chapter 19.321, the development standards for the residential zone R-5 per MMC Chapter 19.303 and the Community Service Overlay development standards of MMC Subsection 19.321.10 for facilities not covered by other CSO development standards and meets the standards of the Willamette Greenway zone per MMC Chapter 19.320 and the minimum requirements of MMC Chapter 19.600, Conditional Uses, required for all uses within the Willamette Greenway.

The hours and levels of operation of the proposed use can be adjusted to be reasonably compatible with surrounding uses. The standard operating hours for City of Milwaukie parks is dawn until dusk; that is what is proposed for this park. Staff feels this is sufficient to be compatible with the surrounding uses of the area. Staff believes that the potential benefits to the public outweigh the potential adverse impacts of the use.

Decision Process options are:

1. Approve the applications and adopt the recommended findings and conditions in support of approval
2. Adopt additional findings and conditions in support of approval to comply with the Milwaukie Municipal Code
3. Deny the applications upon finding that they do not meet approval criteria

Staff recommends the Planning Commission approve the Community Service Overlay and Willamette Greenway Review and adopt the recommended findings and conditions of approval.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Churchill** asked for comments on future improvements to the Park; would they come back to the Planning Commission for review and approval. **Mr. Marquardt** stated that the Planning Commission would approve the CSO based on the site plans submitted tonight. The conditions of approval will preserve the basic features of the site. There are things in the proposal that may change, as these are not the final development plans. Unless there was a drastic change it wouldn't come back to the Planning Commission; it would be under staff-level review. Approval of the development of the park is conditioned on the adoption of the Spring Park Master Plan.

783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828

**Ms. Mangle** stated that at the next stage is the building permits review and the applicant must submit plans that substantially conform with the plans in the application. The conditions of approval list specific elements that need to be in the plans. If the applicant makes small changes, they can ask for a Minor Modification to a CSU. If the changes are big, they may require Planning Commission approval.

#### CORRESPONDENCE

**Chair Klein** asked if there had been any correspondence received since the mailing of the packet. **Mr. Marquardt** said there was no additional correspondence.

#### APPLICANT PRESENTATION

Speaking: JoAnn Herrigel, Community Services Director, City of Milwaukie

**Ms. Herrigel** introduced Pat Landau who did the final design for the mini-park and is available to answer questions. The design was thoughtful and sensitive to the environment; there are wetlands on the site and it's a very natural setting. Mr. Landau brought with him an urban design that lends itself to saving the trees that are important and removing those that were non-native. Centennial Dogwood trees are being preserved to maintain the character of the area.

The design allows flexibility with materials; in many cases it calls for recycled materials. Staff will work with the engineering and planning staff to design appropriate parking. If the parking is to be in the right-of-way it is required that it be parallel parking; there will be no backing up into traffic. The ADA accessibility is important to the neighbors and will be provided for by the park. The mound is intended to provide an opportunity to see the river and an opportunity for an additional informal play area for the children. They would like to follow the proposed design as close as possible; minor modifications may be made but she is not looking for a lot of changes.

#### QUESTIONS FROM THE COMMISSIONERS

**Commissioner Bresaw** asked if the shrubbery along the entrance will be short enough to see over. **Ms. Herrigel** stated that the idea of the placement of the plantings would be such that you can see into the park and there is adequate space under the canopy for walking the natural area. The concept of the ring was to keep people from going over towards the railroad; the plantings would be such that you can see inside the park but will also provide a natural barrier.

829

830 **Commissioner Churchill** asked if a chain-link fence will be put up in the future.  
831 **Ms. Herrigel** stated that they did not feel a fence would be very effective. It is  
832 possible that it may be required in the future. The railroad has been contacted but  
833 they have not responded that it would be required.

834

835 **Commissioner Churchill** asked if permeable asphalt has been considered in high  
836 erosion areas. **Ms. Herrigel** stated that there is always a possibility that  
837 permeable asphalt could be considered at a later time.

838

839 TESTIMONY IN FAVOR

840

841 Speaking: Lisa Batey, 11912 SE 19<sup>th</sup> Avenue, Milwaukie

842

843 **Ms. Batey** stated that the landscaping plan is a definite enhancement to what is  
844 there now. She is impressed with Mr. Landau's landscaping design. There was a  
845 lot of thought that went into the planning of this space. She thinks it is a great  
846 plan and she hopes the Commission approves it.

847

848 QUESTIONS FROM THE COMMISSIONERS -- None.

849

850 Speaking: Carolyn Tomei, 11907 SE 19<sup>th</sup> Avenue, Milwaukie

851

852 **Ms. Tomei** stated that she is the Chair of the Island Station Neighborhood  
853 Association and she is in support of this proposal. The neighborhood really needs  
854 this park and she hopes that it is approved.

855

856 QUESTIONS FROM THE COMMISSIONERS

857

858 **Commissioner Brinkman** asked for the status of funding for this projeject. **Ms.**  
859 **Tomei** stated that the neighborhood will be looking at grants.

860

861 Charles Bird was called; he had left.

862

863 QUESTIONS OR COMMENTS -- None.

864

865 TESTIMONY IN OPPOSITION

866

867 Speaking: Bill Holtz, 2001 SE Sparrow, Milwaukie

868

869 **Mr. Holtz** says that everyone is parking in front of his house now. He does not  
870 feel that three parking spaces will help the neighborhood. On most Saturdays or  
871 Sundays, even if the weather isn't good, there are 7-8 cars parked there; some are  
872 on the railroad property. He has been attending the neighborhood meetings and  
873 he has been the one "no" vote. The parking spaces continually change; first there  
874 was to be 8, then none, then five, and now three.

875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920

This is a walk-through park, not a pocket park. People who park in front of his house drag out fishing poles; they are not sitting in the park fishing. He feels something needs to be done with the parking now; this will enable people working on the park to have a place to put their trucks.

**Mr. Holtz** stated that he has resided there for 20 years and he and his dog were the only ones who walked that area so there was no problem with parking. They have done a nice job with the park. The better the park gets, the more people seem to come. There needs to be some parking. There were "no parking" signs put up a long time ago. He brought in pictures of the park for Commission review.

**Mr. Holtz** stated that Ms. Batey and Ms. Tomei live at the north end of 19<sup>th</sup> so the parking does not affect them at all.

#### QUESTIONS FROM THE COMMISISONERS

**Commissioner Brinkman** asked Mr. Holtz how many parking spaces he would like to see. Mr. Holtz stated that there should be at least five; in the summer time there won't ever be enough. Most of the people who park in front of his house, ask first. He is not against them parking there; there should be places for them to park at the Park. He feels that scattering the parking around the park would be a good idea. Some people get out of the car with canes; there should be five spaces including a handicap space. He voiced concern that there are no restrooms proposed for the park.

Speaking: Janet Lawson, 2008 SE Sparrow, Milwaukie

**Ms. Lawson** stated that at the neighborhood meetings there were many concerns raised about vandalism, trash, noise, break-ins in front of their homes, and parking issues did not get addressed. Residents did bring up concerns about parking; there needs to be parking at the park, not in front of the resident's homes. The police do not patrol the park; they drive by and see cars parked in the neighborhood, thinking that these are resident's cars. There is no access to the park so the police can patrol the park; they are not going to get out of their cars and walk in the park. There needs to be more parking down by the park so the police know when people are in the park.

QUESTIONS FROM THE COMMISSIONER -- None

921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966

#### ADDITIONAL COMMENTS FROM STAFF

**Mr. Marquardt** stated that the conditions of approval could be modified in terms of increasing the number of parking spaces if the Commission wishes to change the required parking. If the Commission wishes to increase the number of spaces and/or require an ADA parking space, that option is open.

**Ms. Mangle** stated that there is a requirement that 10% of the total parking spaces meet ADA standards. No parking spaces are required for this use. A provision of an ADA space is voluntary and a good idea.

#### QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

**Commissioner Churchill** asked Ms. Batey if there is support for this plan from adjacent properties. **Ms. Batey** stated that none of the people who have been active in developing this plan live in the immediate adjacent area. There is one neighbor here tonight that lives adjacent to the park that has been very active in coming to the work parties and attending meetings. He is a new resident in the area, having moved here a year ago.

There are five houses owned by one family. Most of the parking is next to the fence along residential property and along the fence next to the trestle. Most of the people involved in the planning do not live adjacent to the site.

Currently there is no visibility into the park. She pointed out on the site map where some of the vegetation will be placed. The parking issue has to be revisited; it would be nice to have parking to the side and keep open visibility into the park. The intent was to have visibility of the play structure from the roadway.

**Commissioner Churchill** asked if property notification was given to the neighbors by staff. **Ms. Mangle** stated that a lot of this planning happened before the Planning Department was involved.

#### APPLICANT'S CLOSING COMMENTS

Speaking: JoAnn Herrigel, City of Milwaukie, Community Services Director

**Ms. Herrigel** stated that there have been more arguments made than heard tonight on the parking issue. There are three parking spots proposed close to the park. The design is intending to avoid putting a line of parking all along the entrance of the park. It is more inviting to go to a park if there is an entranceway as opposed to having to go in-between cars to get there.

Five cars could be proposed, but it was not felt that it would go with the design of the park. There is right-of-way for parking along the railroad; it is close to the

967  
968 park, and not too far away. Staff may be able to negotiate a lease for use of that  
969 property for parking; it is on the map for potential parking. Staff has tried to  
970 scatter the parking; the three in the plan are the only ones being considered at this  
971 time.

972  
973 Notices did go out for the planning meetings and sometimes they were returned;  
974 she is not sure that they penetrated all the neighbors and abutting residents. They  
975 did the best they could.

976  
977 QUESTIONS FROM THE COMMISSIONERS -- None.  
978

979 **Chair Klein** closed the public testimony portion of the hearing and opened it to  
980 discussion among the Commissioners.

981  
982 **Commissioner Bresaw** stated that she is in favor of the proposal. It does meet  
983 the public benefits test. The park is there and she feels this playground is needed.  
984 The parking issues can be worked out later.

985  
986 **Commissioner Churchill** stated that he feels it is an improvement to the current  
987 site. If you put too much parking in the front it will result in a visual barrier to the  
988 park for the police and the residents. He agrees with pushing all the parking as  
989 close to the trestle as possible.

990  
991 **Commissioner Brinkman** stated that this proposal meets the public benefits test.  
992 There needs to be more parking. She would support the addition of two extra  
993 spaces, no matter where they are located. The more this property is improved the  
994 more popular it will get and the demand will increase. It is important to respect  
995 those that don't want parking, but the reality is that there is going to be parking.  
996 There needs to be a way to accommodate some of the people who are being  
997 burdened with having parking in front of their homes.

998  
999 **Chair Klein** stated that they live by a park and at no time are there more than  
1000 three cars outside the park. The people who will be using the park will be  
1001 walking to the park; the people who will be using Elk Rock will be using the  
1002 available parking. The three proposed parking spaces will not be able to handle  
1003 the amount of traffic into Elk Rock; however there are adequate alternatives in  
1004 some of the other areas to address the inadequacy. There are some parking and  
1005 right-of-way issues that will need to be considered. He is in support of this  
1006 proposal.

1007  
1008 **Commissioner Churchill** voiced concern about how the parking will be planned  
1009 in the future. **Mr. Firestone** stated that the way the Master Plan is set up,  
1010 parking is largely a phase two issue. Phase one has limited impacts on parking. If  
1011 public improvement requirements are imposed they will need to be tied to impacts  
1012 of phase one and not phase two.

- 1013  
1014           **Commissioner Bresaw moved to approve Community Service Overlay 06-03**  
1015           **and Willamette Greenway Review 06-03 and adopt the recommended**  
1016           **findings and conditions in support of approval authorizing the development**  
1017           **of a mini-park in the northeast corner of Spring Park. Commissioner**  
1018           **Brinkman seconded the motion.**  
1019           **Ayes: Batey, Bresaw, Churchill, Klein**  
1020           **Nays: None**  
1021           **Motion carried 4-0.**  
1022  
1023           Commissioner Batey returned to the podium.  
1024  
1025  
1026       7.0    WORKSESSION ITEMS -- None.  
1027  
1028  
1029       8.0    DISCUSSION ITEMS -- None.  
1030  
1031  
1032       9.0    OLD BUSINESS -- None.  
1033  
1034  
1035       10.0   OTHER BUSINESS / UPDATES  
1036  
1037           **Chair Klein** announced that there will be an "grand opening ceremony" at  
1038           Lewelling Neighborhood Park on October 21<sup>st</sup> from 10:00 a.m. to noon on  
1039           Willow and Stanley Streets. He invited all to attend.  
1040  
1041       10.1   Matters from the Planning Director  
1042  
1043           **Ms. Mangle** stated that there are no hearings planned for the rest of the year.  
1044           There will be work sessions to address several issues that need to be discussed.  
1045  
1046           **Commissioner Churchill** stated that he would like to have discussions at a  
1047           worksession on the education of light rail. **Ms. Mangle** stated that this would be  
1048           a possible work session issue.  
1049  
1050           **Commissioner Brinkman** asked for clarification regarding acknowledging any  
1051           site visits during public hearings. **Mr. Firestone** stated that the opening phase  
1052           could be changed to add clarity to the question, "Has anyone visited the site in  
1053           connection with this application."  
1054  
1055           **Commissioner Bresaw** asked for an update on the Southgate Park and Ride  
1056           issue. **Mr. Firestone** stated that oral arguments will be in November. The issue  
1057           is at LUBA; he feels the decision should get affirmed. In speaking with the  
1058           attorney for the opponents, he felt they had a good position.

1059  
1060  
1061  
1062  
1063  
1064  
1065  
1066  
1067  
1068  
1069  
1070  
1071  
1072  
1073  
1074  
1075  
1076  
1077  
1078  
1079  
1080  
1081  
1082  
1083  
1084  
1085

**Chair Klein** asked if there was still funding for the project. **Ms. Mangle** stated that some of the funding was diverted to some other projects. It was a high priority at that time when Tri-Met had the funding. Tri-Met is dedicated to solving the transit problems in the region so she feels funding will be there if there is a way. Kenny Asher will be working with Tri-Met, Metro and the community to solve some of the outstanding transit issues in Milwaukie.

11.0 NEXT MEETING -- October 24, 2006

11.1 Transportation Planning 101

**Commissioner Bresaw** moved to adjourn the meeting of October 10, 2006. **Commissioner Batey** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:42 p.m.

\_\_\_\_\_  
Jeff Klein, Chair

\_\_\_\_\_  
Shirley Richardson, Hearings Reporter

North Clackamas Parks and Recreation District  
**MILWAUKIE CENTER/COMMUNITY ADVISORY BOARD**  
Minutes of August 11, 2006

**MEMBERS PRESENT:** Katie Rudolf, Joy Estes, Molly Hanthorn, Joan Staley, Carolyn Mills, Eleanor Johnson, Jim McCready, Kathi Schroeder, Ben Horner-Johnson.

**MEMBERS EXCUSED:** Chuck Peterson, Jane Hanno, Ben Tabler, Kim Buchholz.

**UNEXCUSED:** Joan Rowe

**STAFF PRESENT:** Joan Young, Cheryl Nally

**GUESTS:** Dollie Hammond

**CALL TO ORDER:** Joan Staley called the meeting to order at 9:30 am. Molly moved and Kathi seconded approval of the minutes. The motion was passed unanimously.

**CORRESPONDENCE:** None

**DISCUSSION ITEM:** Rose Hunt, the Facility Use Coordinator, described her position with the Parks and Recreation District and reported on the usage of the Center and of the twenty-three parks in the District.

**BOARD/COMMITTEE REPORTS**

Executive Report: None

NCPRD Board: Molly reported that the trail at the Stone Creek Golf Course was dedicated. The District Advisory Board will be seeking new board members once Happy Valley and City of Milwaukie agree upon a new board structure. A temporary employee for marketing has been hired. Discussion was held concerning the sewage treatment service facilities and a document describing the plan is available to the public. The Director reported on the drainage problem at Alder Creek Middle School artificial turf field. It will be solved by the contractor. Paving at the Center will be done over Labor Day. A dedication of the Ella V Osterman Park will be held on August 23 from noon until 2 pm at The Eagle Landing development off Causey Avenue. The owners of Clackamas Town Center have indicated a desire to partner with the Center and have offered to provide a drinking fountain at the ballfields.

NC Sculpture Steering Committee: Katie reported that the committee met on July 19 to review the eight submissions from the artists. Four finalists were selected and one was chosen. The board will visit the studio of the artist to discuss the final details.

NCPark Stewardship Committee: Clea Ann, the Volunteer Coordinator, is looking

for new volunteers. Dan Zinzer reported on the horse arena in the park. Walkways will be made after the seed is put down. Meetings will be held the last Wednesday of the month.

Nutrition/Transportation: Meals on Wheels will offer a booth at the " Fall Into Art" festival and volunteers are needed. An Ice Cream Social is being held on August 11 sponsored by the Heights at Columbia Knoll and all proceeds will go to the Nutrition Program. An End of the Summer Barbecue will be held on September 13. It will take the place of the regular noon meal. A preliminary request has been made to the Meyer Memorial Trust to help with the cost of the new oven. A report was given on the status of the grant to cover costs of the new bus that is to be delivered the first of the year. Joan is writing a grant to cover some of the cost.

### **OTHER REPORTS**

Friends of the Milwaukie Center: Eleanor will head the Bridge Tournament to be held on October 14. There is a need for Bingo volunteers. The Entertainment Books will be available in September.

Governor's Commission: The 25th year of the Commission was celebrated. Joan Staley reported that there are copies of the End of Life guides available for distribution.

Center Report: Joan reported that the Center will be closed the first week of September and painting and paving will be done. Fall classes are planned. Cheryl reported that staff changes have been made and a social services staff meeting is held twice a month to coordinate efforts.

### **INFORMATION/ANNOUNCEMENTS**

Joan reminded the board of the meeting at the City Hall on August 22 at 7:30 am to review the queries that have been sent out to the Neighborhood groups concerning a name change for the Center. Joan also reported that Congress looks at the Older American Act every five years and that this years look could mean a reduced dollar amount to the Center.

### **AGENDA FOR THE NEXT MEETING**

The meeting will be held at the Aquatic Park and Jan Wirtz will be reporting on Recreation & Education programs.

### **ADJOURN**

The meeting was adjourned at 10:45 am.

Carolyn Mills, secretary

North Clackamas Parks and Recreation District  
**MILWAUKIE CENTER/COMMUNITY ADVISORY BOARD**  
Minutes of September 8, 2006  
(held at North Clackamas Aquatic Park)

**MEMBERS PRESENT:** Jane Hanno, Eleanor Johnson, Molly Hanthorn, Ben Horner-Johnson, Kathi Schroeder, Ben Tabler, Katie Rudfelt, Carolyn Mills, Kim Buchholz, Joan Staley

**MEMBERS EXCUSED:** Jim McCready, Chuck Peterson, Joy Estes

**MEMBERS UNEXCUSED:** Joan Rowe

**STAFF PRESENT:** Joan Young, Cheryl Nally, Jan Wirtz

**GUESTS:** Greg Chaimov

**CALL TO ORDER:** Joan Staley called the meeting to order at 9:30 am. Molly moved and Ben seconded approval of the minutes with two corrections by Katie and one by Joan Staley. The corrections state, "the committee met twice to review the eight submissions" and "one was chosen August 7" and "The 25th year of the Commission will be celebrated in October."

**CORRESPONDENCE:** Joan Young reported that an e-mail about the name change of the Center was received for City of Milwaukie staff. The City Council will be considering the name change on October 19.

**DISCUSSION ITEM:** Jan Wirtz shared a slide presentation with the board that described the many functions of the North Clackamas Parks and Recreation District Recreation Services, including all the activities and classes. Jan answered questions from the board members and asked for an evaluation of the slide presentation.

#### **BOARD/COMMITTEE REPORTS**

**Executive Report:** No meeting

**NCPRD Board:** none

**NC Stewardship Committee:** Eleanor reported that a discussion of dogs in the park was held and a small committee was formed to resolve the problem. Rose Hunt and Joe Loomis discussed the parking and the multiple usage of the park and Center.

**Nutrition/Transportation:** No meeting, but Ben reported that Save-A-Lot, a new grocery store, will donate \$5.00 to MOW for every person who attends their Preview Party on September 19. Save-A-Lot will also partner with the Center in the future to support the Nutrition Program. Ben reminded the board that there will be a food booth at the Fall

Into Art celebration with the donations to support MOW.

## OTHER REPORTS

Friends of the Milwaukie Center: Eleanor reported that the Lumberjack Breakfast will be held September 30 from 8-11am. Registration for the Bridge Tournament is half full.

Governor's Commission: There was no meeting in August. There will be a planning meeting for the celebration of the 25th year of the Commission on September 22. A legislative forum will be held on October 3 from 2:30-4:30 at the Milwaukie Center.

CENTER REPORT: Joan Young reported that during the week of closure the paving was almost completed and the hardwood floors have been refinished. Some interior painting was done also. The outside painting was postponed until the paving is completed. The fall Healthy Living Guide has been published. N.W. Primary Care has partnered in the publishing. On September 13 there will be a forum concerning end of life needs and a "So Long to Summer" barbecue during the regular noon meal. Classes will begin the last week of September. Toby Forsberg has been hired part-time to help with advertising.

## INFORMATION/ANNOUNCEMENTS

Ben Horner-Johnson reported that on October 1 a benefit will be held for "Independent Living Resources". It will be held at the Eastbank Esplanade and in the Gresham city park.

Joan announced there will be no November C/CAB meeting.

## AGENDA FOR THE NEXT MEETING

Social Services staff report and the annual report.

## ADJOURN:

The meeting was adjourned at 10:55 am.

Carolyn Mills, secretary

North Clackamas Parks and Recreation District  
**MILWAUKIE CENTER DIVISION**  
Monthly Report for September, 2006

Programs and Services:

During the week of September 5 - 8, the Milwaukie Center was closed to the public but bustling and busy inside and out. Parking lots were refurbished, wood floors were refinished, painting happened throughout the facility, and staff cleaned and organized. During the remainder of the month, the exterior of the Center was repainted.

North Clackamas Rotary Club gave about 50 hours of service to the Center this month working in the Emergency Firewood Program, cutting, splitting and stacking several cords of seasoned wood that is destined for the heating use this winter of older and disabled members of our community.

Although death is a natural part of life, many do not want to talk about it. Ann Kister from Providence Hospice provided suggestions on how to approach conversations about end-of-life care before a crisis arrives in the September "Creating a Loving Legacy" workshop.

Fall classes started the last week of September at the Milwaukie Center with over 250 registrations for over three dozen Art, Computer, Dance, Fitness, Scrapbooking, Spanish and Writing classes.

The Nutrition Program held a favorite event, the "So Long to Summer" BBQ on September 13, with over 125 people in attendance. Burger flipping dignitaries, Commissioner Larry Sowa, Representative Dave Hunt, NCPRD Director Dan Zinzer and past Director Charlie Cieccko did yeomen's jobs cooking the burgers to perfection and serving the meal.

The 39er's Travel group continues to mount great local excursions with the annual Mystery Trip that took folks to the Portland Toy Museum, lunch a-top Portland Grill, a Moonstruck Chocolate factory tour, and a walk through the lush and fragrant Elk Rock gardens. On another trip, a large contingency enjoyed "Senior Day" at the Oregon Zoo to visit the animals and support the Milwaukie Center Singers who performed at the zoo that day.

Fund-raisers:

The Milwaukie Center Nutrition Program depends upon donations and fund-raising to make "ends meet" financially. Two events in September supported the program:

- At the first annual Fall into Art Festival, the event benefactor was Milwaukie Center's Meals on Wheels services. The event donations totaled over \$925 and the Nutrition Program food booth grossed \$480.
- Between 600 and 700 people attended the grand opening of the new Save-a-Lot store in Milwaukie, from which Save-a-Lot will donate \$2,000 for our help in getting the word out about their store.

The annual Lumberjack Breakfast, co-sponsored by Friends of the Milwaukie Center and Milwaukie Rotary Club, provided a hearty all-you-can-eat pancake, sausage and egg meal for over 300 hungry community folks. Many thanks to major sponsors, Willamette View, Inc. and Clackamas Community Federal Credit Union.





# Park & Recreation Board

## PARB

August 22, 2006

7:30 am to 9 am

Regular Meeting

### MINUTES

**Attendees:** Kate MacCready, Sherri Dow, Ray Harris, Sonny Newson, Mart Hughes, Bob Cooper

**Absent:** Rob Gabrish, Sonny Newson

**Staff:** JoAnn Herrigel, Joan Young

**Guests:** Joan Staley, Kathi Schroeder, Fran Whitehill, Katie Rudfelt, Molly Jo Hanthorn

#### Minutes

Harris moved to approve the June minutes. Dow seconded and the motion passed 5-0.

#### Renaming of Milwaukie Center

Young asked what the status was of the C/CAB's request to change the name of the Milwaukie Center. Herrigel responded that she had asked the neighborhood district associations (NDAs) to vote on both names forwarded by the C/CAB and that most NDAs that had voted responded that neither name was acceptable and that the name should remain as it was. She asked Young and members of the C/CAB in attendance what they would like staff to do. They indicated that they'd like staff to take the recommended names and the input received from the NDAs to the Council. Herrigel responded that she would take it to Council.

MacCready: Why are we doing this again?

Young: The Center is more and more a regional facility. It is not financially supported by the City of Milwaukie and hasn't been for years.

Hughes: We should move the proposal forward to Council but does the PARB have a recommendation?

Harris: Whether I like it or not, North Clackamas/Milwaukie Center is a better name. The largest numbers of participants are not from Milwaukie.

Harris motioned to recommend that Council approve the alternate name proposed by the C/CAB (North Clackamas/Milwaukie Center). After some discussion on amendments and counter motions – the group approved the motion 3-2 (Cooper and Hughes voting no.)

After further discussion about whether the proposed names required additional input and time, the group encouraged Herrigel to take the name proposals and the PARB recommendation to Council on September 19.

#### IGA Review

Herrigel said that the remaining sections of the IGA that needed review were the list of parks operated and maintained by the District and the maintenance standards for these parks. She proposed that she draft language for these sections and bring the full document, as amended, back to PARB at their next meeting. Young asked if staff was considering discussing any of the proposed changes with District staff. Herrigel agreed that this would be wise and said she'd make sure to begin discussions with Dan Zinzer.

### **City Update:**

**Stewardship Committee:** Herrigel reported that Eric Shawn had been elected Chair of this group and Herrigel is the Vice Chair. She said she'd share the minutes of the meetings with the PARB.

**Lewelling Community Park:** Herrigel said the park was substantially complete and that she planned to have an opening event in early October. A fence and some bollards need to be installed before the construction fence is removed.

**Riverfront RFP:** The proposals for the Riverfront design are due on September 1<sup>st</sup>. Herrigel and three others will review them and recommend one candidate to Council by September 19.

**Kronberg Park:** A meeting is planned for September 23<sup>rd</sup> (7 pm at City Hall) to discuss a master plan for Kronberg Park.

**Kellogg Lake Dam project:** A meeting had been held on September 10 with the neighbors of Kellogg Lake and other interested parties. The meeting was filmed and is airing on channel 30 and 23. A tour of similar sites will be coordinated for neighbors and interested parties for late Sept or early Oct.

**Scott Park:** The library parking lot is being expanded toward Scott Park. A new sidewalk will be installed along the southern edge of the park and an irrigation system will be installed for the lawn.

### **District Update:**

- Happy Valley will consider change to DAB membership at their September 24<sup>th</sup> meeting and recruitment for the two open positions would begin after that.
- Dan Zinzer took neighbors of NCP on a tour of the project site and had a good response.
- Seeding of the fields at NCP will be on or before Sept 15
- Milwaukie Center is closed labor Day week (only lot between fields and Rose Garden will be open)
- Sept 16+17 – fall into the Arts. There will be a shuttle from the church.
- Fields at View Acres and another school will open in the spring
- Fieffer project has slowed down – there is a tentative agreement on the ½ acre
- Stringfield Park – Sept 20<sup>th</sup> is the final meeting

### **Other:**

Dow asked if someone could come to a PARB meeting to do an update on the expansion of the OIT facility. Herrigel and Young said they'd work on that.

MacCready reported that the committee has chosen an artist for the sculpture at North Clackamas Park. 8 people applied. By the September meeting an agreement should be signed.

Harris reported that he'd heard that the dam at Kellogg Creek had been dynamited...Herrigel stated that was not the case.

Harris motioned to adjourn. Dow seconded and the motion passed, 5-0.



# Park & Recreation Board

## PARB

September 26, 2006

7:30 am to 9 am

Regular Meeting

### MINUTES

**Attendees:** Kate MacCready, Sherri Dow, Ray Harris, Mart Hughes, Bob Cooper

**Absent:** Sonny Newson

**Staff:** JoAnn Herrigel, Joan Young

#### Minutes

Harris motioned to approve the minutes. Young asked that the minutes reflect the names of the Milwaukie Center Board members that had attended the August meeting. Dow seconded the motion with these changes and the motion passed (5-0.)

#### IGA Text Change

Herrigel noted that she had provided the Park Board with a draft of the revised IGA that integrated all of their comments to date. She said that the sections that remain in need of input were the list of parks maintained and operated by the District and the maintenance standards. Herrigel reviewed the list of parks in the current IGA and the proposed list which adds some new parks and removes some parks which are no longer owned by the City. One question Herrigel raised was whether the group wanted to insert a section on natural areas.

Hughes said he felt that natural areas was an important issue and asked that this discussion and that regarding the maintenance standards be tabled until the next meeting. (Hughes needed to leave early and felt that he couldn't give this issue adequate attention in the time allocated.)

#### District Updates:

- The Economic Development person at the county has left and the County will hire someone to work under Dan Zinzer. Dan will continue to act as the head of NCPRD.
- Formal ballfield sprinkler turned on last Tuesday and grass is growing well.
- Aldercreek middle school field with artificial turf is opening Oct 2 at 6 pm
- Soccer fields at View Acres will open in October as well
- Final negotiations for parking at Pfeiffer are taking place and District will revamp the soccer fields
- 3<sup>rd</sup> public meeting on the Stringfield property was held resulting in three concepts
- Herrigel and Young reported on the Council's decision not to rename the Milwaukie Center

#### City Update:

- David Evans and Associates has been hired to design the Riverfront Park. A kickoff meeting will be held on November 11 with the Riverfront Board.
- Opening of the Three Bridges project is October 19<sup>th</sup>
- Spring Park Master Plan and Community Service Overlay will be reviewed by Planning Commission at the Oct 10 meeting

- Scott Churchill has agreed to work with the concept plans developed at the last Kronberg meeting to formulate one concept.
- Trolley Trail open house is Oct 18 from 6 to 8 at Oak Grove Elementary

**Other:**

- MacCready reported that Devin Laurence had been selected as the artist for the sculpture at North Clackamas Park. He will be doing a “wave” sculpture. Installation will take place in 2007.

MacCready motioned to adjourn and Cooper seconded. Motion passed 5-0.

Riverfront Board Meeting  
Minutes  
June 13, 2006

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

Minutes: Klein and Wall recommended changes. Minutes were approved as amended 6-0.

Herrigel updated the group on the following projects:

Tri Met Park and Ride

- Planning Commission approved the Proposed Park and Ride at the former Southgate Theater
- The decision was appealed to City Council
- Council appealed the decision to the Land Use Board of Appeals (LUBA)
- It will be at least a year before the project gets going

North Main

- Project should be ready for occupancy by December 2006
- Street modification beginning now and completed later in summer

Texaco lot

- A committee will be formed of four Metro reps and four City reps to guide the RFP and development
- Anyone interested should contact Pat DuVal or a Council member

McLoughlin Project

- Project nearing completion
- Opening event to be on June 28<sup>th</sup> at 10 am at DeSmet Plaza

Klien Point

- Application for Klein Point design and in water work study was not funded by Nature in the Neighborhoods
- Herrigel met with metro staff about this and apparently no studies were funded

Kellogg Lake

- City applying for MTIP funds for preliminary engineering and design for removal of dam at Kellogg Lake and replacement of bridge at 99E
- Project would enhance fish passage and pedestrian and bike movement north and south AND potentially install underpass for east west pedestrian passage across McLoughlin

Comments:

Darling- Match will have to come from budget and City already low on funds for streets. Money should be used for streets.

Green – The creek restoration would allow for an underpass.

Darling – need more information on benefit of dam removal

Wall – simply draining the lake and creating a mud flat is unappealing – but if there is revegetation- supportive

After some discussion, Gary motioned that Herrigel draft a letter of support for the MTIP application for moving forward with the Kellogg Creek restoration and design. Motioned seconded by Wall and passed 6-0.

#### Treatment Plant Consolidation

- The CAC appointed by Council will receive a report on 4 options from their technical advisory group on June 19<sup>th</sup>
- A final proposal to the County Commissioners is expected by September

#### Concept Plan Next Steps

The group discussed comments they've received on the Concept Plan from the community. Klein said it has received very positive comments at the Community booth at the Farmers Market for the past few weeks. Stacey noted that the 17<sup>th</sup> Ave walk on Memorial Day weekend also generated several positive comments from the attendees.

Herrigel and Green said they had been discussing how the RFP should be crafted and the schedule for issuing it. Herrigel noted that the City had budgeted \$80,000 for the design but that Green was not sure that would be enough, based on the scope of work.

Stacey suggested that the Oregon Marine Board might be approached to provide engineering assistance. He said that the OMB might cover the marine aspects of the plan.

Green said he thought the City staff might cover the permitting aspects of the project to bring the cost down. He said that from his recent research on the riverfront projects it may not be hard to spend up to \$3,000,000 on the construction of the project (and design is typically 10% of the construction).

Darling said we should build on the momentum of the project and bring in folks that might help us financially.

Green said that although we were shooting for applying for state funds in April of 2007 we may not make that deadline. He noted that we might be able to apply for constructing a first phase of the project potentially. He also said he'd like to pull the Oregon Solutions folks back together to check in with them soon. He added that we might be able to craft the RFP so that we give the designers a fixed point to get to with the money we have. He didn't think we needed a great deal of public input and that will lower the cost of the consultant.

Darling said she had a huge problem with any big changes that the design might propose without public input. Green responded that the Riverfront Board would work closely with the consultant and would make sure that they followed the concept very closely.

Stacey requested that Herrigel ask the OMB if they would work with a designer that we hire.

Darling suggested we ask Scott Churchill from Historic Milwaukie to help since he is an architect and has good ideas on scale.

Darling asked if the Riverfront Board would be involved in the selection of the contractor. The group discussed various options, including, the whole Board participating and only a few reps participating. Green said he would not participate since he knew many of the potential consultants. Wall also declined to participate. Darling, Klein and Stacey all said they'd be interested. Green suggested that a business representative might be on the selection team or perhaps someone from an NDA.

Herrigel said she'd get back to the group with a clearer process and schedule by their next meeting.

Darling noted that the RFP should highlight the things that we're not willing to be creative on. Green concurred saying that the RFP should include the concept plan and maybe even the staff report that stated the elements of the plan that the Board and the Council had agreed upon.

Darling suggested that we have someone at the community booth at the Riverfest to field questions about the concept plan.

Ed Zumwalt said that Frank, from Oregon Rowing had said he'd like to discuss some options for storage of boats and use of the Riverfront with the group. The group asked Zumwalt to invite Frank to the August meeting.

Darling noted that she would be attending the June 20<sup>th</sup> Council meeting to discuss her concerns regarding the MTIP application (for the Kellogg Project?) and asked if anyone had a problem with that. The group said they would prefer that she speak on her own behalf and not on the Board's.

Wall motioned to adjourn and Stacey seconded. Motion passed 6-0.