CITY OF MILWAUKIE
CITY COUNCIL MEETING
DECEMBER 19, 2006

CALL TO ORDER

Mayor Bernard called the 1996th 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	Katie Mangle, Planning Director
Gary Firestone, City Attorney	Alex Campbell, Resource and Economic Development Specialist
	Kenny Asher, Community Development/Public Works Director

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

Announcements

Mayor Bernard congratulated Taylor Brown on achieving the rank of Eagle Scout.

Update on South Corridor Phase 2

Mr. Swanson stated this was a briefing for Council and no action was needed. South Corridor Phase 2 was the Milwaukie alignment. The study phase was beginning as construction moved forward on Phase 1, the I-205 segment. Light rail has been around for a number of years, and he thought looking at 1998 and 2006 offered a perspective. In September 1998 gas in Oregon was selling for $1.22, and in September 2006 it was selling for $2.93 per gallon. According to the Federal Trade Commission in 1998 the average domestic and imported new car sold for $21,513, and in 2006 the average new car was $28,400 or a 32% increase. For a family of four the cost of transportation in 1996 was $405 per month, and in 2005 it was $910 or an increase of 125%. In 1998 an entirely different project was being discussed. This was a completely different alignment that was a result of extensive community process. Today the Phase 2 study stage began in earnest.

Mr. Asher introduced Ross Roberts, Metro Transit Program Director, and Bridget Wieghart, Project Manager. This was the first time that light rail had been discussed by Council in about a year and longer than that in terms of alignments and studies. South Corridor planning was going on in and beyond Milwaukie since the early 1980's. In that regard this was an old project that had gone through several iterations. Milwaukie will be involved in the Draft Environmental Impact Statement (DEIS) that was a federal

requirement for doing a light rail project. A DEIS was started for this Corridor and the North Corridor that started in 1996, and in 2002 there was a DEIS started and completed just for the South Corridor. Part of tonight's intention was to clear up confusion about the project and to begin talking about the DEIS again.

Mr. Roberts noted that Councilor Collette had been one of the early Working Group members on the Portland to Milwaukie leg of the Corridor during the early planning phase. Mayor Bernard had served on the steering committee, but others had no previous involvement. The planning for this project had been going on for a long time – some time after the earth cooled and after the Pangaea broke up. He had personally been working on it since 1992 and was the project manager for earlier iterations of the EIS process. This was not new to him, and he hoped this time the project could make it to the finish line and be built.

The project in its current iteration was built upon two significant efforts. One was the South/North Light Rail Project that went from the Clackamas Town Center to Milwaukie and up to Clark County. It was about a 26-mile $2.6 billion dollar project that ultimately had a number of funding setbacks. In 1994 there was approval for $475 million for bonds to construct the South/North project, but on the heels of that the Clark County vote failed. A State referendum on project funding was narrowly defeated shortly after that. Finally in 1998 there was a vote to reaffirm whether TriMet had permission to sell the general obligation bonds to construct the project for an Oregon-only project, and that measure also went down to defeat. This was the time when planners and politicians talk about Plan B. The Metro Council and the Joint Policy Advisory Committee on Transportation (JPACT) were a little gun-shy about light rail. They held listening posts where people expressed strong feelings about the need to address transportation problems in the corridor.

In 1999 and 2000 staff was directed to look at as many options as possible that did not include light rail. Staff looked at a busway, bus rapid transit (BRT), high occupancy vehicle (HOV) lanes on McLoughlin Boulevard, tolling those lanes, commuter rail on the existing Union Pacific tracks or tracks to be built adjacent to them from Clackamas to downtown, commuter rail on the Portland Western Railroad Bridge known as the "Forgotten Bridge" across the Willamette to the rest of Clackamas and Washington County, and river transit. Mr. Roberts thought it was fair to say aside from helicopters and hovercraft that staff looked at everything it could to meet the needs of the corridor. One thing heard loud and clear was that all of these options did some things for the community but did not do all of the things light rail did. They heard from the Portland neighborhoods and Milwaukie that there was a very strong desire to bring light rail back into the mix. For him as the project manager it was a 180-degree turn. The alignment work done in Milwaukie from 1996 to 1998 was very contentious. There was a group called ORTEM – Metro spelled backwards -- that was opposed to light rail. In the end it turned out that the community really wanted an alignment for which it could advocate. Mr. Roberts referred to the Milwaukie Neighborhoods' "14-Points." Those were drafted by the Milwaukie neighborhood leadership and reviewed by the Council. It was the guiding light for how light rail transit would be developed in Milwaukie and hopefully the beginning of a long partnership between Milwaukie, Metro, Portland, Oregon Department of Transportation (ODOT), and TriMet. In 2000 he specifically recalled a meeting at the Milwaukie Jr. High where they gym was packed. It helped everyone working on the project and energized the community. Through the process light rail to Milwaukie came back on the table as did light rail down I-205 to serve the Clackamas Town Center. One of the stated intents of the South Corridor Light Rail Project was to support the 2040 Plan and Regional Transportation Plan (RTP). One very contentious area was The Railroad Avenue alignment between Milwaukie and the Town Center and Hwy 224. Those were taken off the RTP as being high capacity transit corridors. In this

project since light rail was being built from Gateway to Clackamas there was no discussion of connecting Milwaukie and Clackamas Town Center by light rail. He wanted to make sure everyone understood that.

By the time the DEIS was concluded in 2003 the field of options had been narrowed down to busway, BRT, and two light rail options. One of the light rail options was I-205 and Milwaukie combined. Out of that process the Steering Committee, the Metro Council, and local jurisdictions adopted a locally preferred alternative (LPA). It included a new light rail bridge across the Willamette at Carruthers Street with a new connection from Lincoln Street. It followed the railroad alignment just to the south to 17th Avenue and McLoughlin Boulevard into Milwaukie. This was the second half of a two-phase decision. The first decision to build the I-205 project with the Portland Mall was critical. As the Council heard in work session there were some commitments made about moving the transit center and getting park-and-ride facilities in the interim during the time when the I-205 and Portland Mall project was being built. TriMet was moving forward on those conditions. The second phase due to start up will take the Milwaukie light rail project through another DEIS and hopefully to the conclusion of an adopted alignment funding plan and a project that the region was able to finance and build.

In earlier versions of the project, the South North Light Rail Project, there was discussion of having to build the transit mall as part of the project. The transit mall was being built to include light rail as part of the I-205 project. TriMet was close to having a full-funding grant agreement with the federal government to actually fund that project. Because this was a federally funded project, the Federal Transit Administration (FTA) was the federal oversight body. It had some very specific criteria that needed to be met related to cost effectiveness, meeting land use goals, economic development, and a number of other factors on which the region historically competes very well. In the last federal fiscal year, the federal government only approved five transit projects in the nation for funding through these grant agreements. Two of those projects were in this region. One was the Wilsonville to Beaverton Commuter Rail Project, and the other was South Corridor Phase 1. Metro looked forward to continuing the working relationship with the City of Milwaukie and gathering public input throughout the process.

Councilor Collette asked if the Portland downtown mall took some of the expense out of the Milwaukie light rail project.

Mr. Roberts replied the earlier project – the North Corridor -- would have required building the downtown Portland transit mall as part of the combined Milwaukie. That cost would no longer be borne by the Milwaukie project. The takeoff point for Milwaukie was now Portland State University as opposed to downtown Portland.

Ms. Wieghart was reminded during Mr. Roberts' presentation of why the project was started in the first place. The reasons have not changed that much and perhaps have become more pressing in order to provide access and mobility to and through the areas to a rapidly-growing part of the metropolitan region. The current process was starting because of the growing need and according to the LPA adopted in 2003 the Milwaukie to Portland DEIS would begin as soon as the engineering of Phase I – the I-205 and Portland mall – was completed. Phase I would begin construction in the next couple of months. A new DEIS of the Portland to Milwaukie segment was needed because some portions of the alignment had not been studied since 1998. Other sections such as the Lincoln Street segment were completely new.

Mr. Roberts said the Council convened the Milwaukie Working Group to solve some lingering issues, and it was made up of business interests in the downtown and community members. These issues had to do with access in the North Industrial area and park-and-ride and transit center locations. The Working Group worked for six to

nine months to develop the alignment. The LPA alignment used what was called the Southgate crossover which went through the Southgate site and transitioned from McLoughlin Boulevard over to the Tillamook Branch railroad. It hugged that alignment to a park-and-ride at 21st Avenue and Lake Road. Of the nine alternatives there was a new version of an alignment that was in the draft DEIS that utilized the Tillamook Branch Railroad all the way from the Tacoma site into downtown Milwaukie to a new transit center and park-and-ride in the vicinity of Kellogg Lake. The notion of not having to have all the transit functions at one spot helped a lot in terms of trying to fit all of the elements of the project into the community. As Mr. Asher said earlier it was a small area and not a lot of real estate. TriMet was working now to look at how to spread those functions through downtown. One of the Working Group recommendations located some of the layover functions out of downtown and created the bus stop that did not have all the impacts of the on-street transit center. In the interim the Kellogg Lake site was no longer available. That set the stage for the discussion about the LPA and the Working Group alignment that still needed work in terms of the transit center and park-and-ride locations.

Ms. Wieghart reported the DEIS was scheduled to begin in April. Start-up work was beginning with Metro, TriMet, Milwaukie, Oregon City, Portland, ODOT, and Clackamas County. They were reviewing the LPA to examine issues that were likely to come up during the DEIS including cost effectiveness and changed conditions. It was important to be cognizant that cost effectiveness had become a more important element from the federal funding standpoint over the past several years. There was some upfront analysis to determine how it would likely score in cost effectiveness and how much work needed to be done on ridership, timesavings, and cost. There were some conversations in the Portland area to get input on the recent development on the east and west sides of the Willamette including the South Waterfront. The Carruthers Crossing had not been studied in a lot of detail since 1998, and the land use changed in the intervening years along so ridership effects would need to be studied. They may or may not be other LPA crossings that should be considered. In Milwaukie the process was starting with this briefing. Because the Kellogg Lake site was no longer under consideration, terminus and park-and-ride components of the Working Group recommendation as well as the adopted LPA needed to be reviewed prior to starting the DEIS. Metro and its partners were looking at the Tillamook Branch alignment and attempting to identify new park-and-ride and terminus locations. Those would then be carried into the DEIS when it started in April to be studied further. Consideration would be given to site south of Milwaukie including the ODOT-owned site on McLoughlin Boulevard and some sites on Park Avenue. The feasibility of a possible extension to Lake Oswego via the Portland Western "Forgotten Bridge" will be studied based on a Metro Council request as part of the Lake Oswego Streetcar Study. The intent of doing that was to take a regional look at how one might get to Lake Oswego. The project would provide opportunities for public involvement to people in Milwaukie prior to the start of the DEIS. Milwaukie staff and Metro have discussed the possibility of workshops in February to lay out some of the initial concepts with some analysis to get public input at an early phase. The DEIS would start with a public scoping meeting in April to examine the benefits and impacts of light rail. It would include the LPA and the Working Group recommended alignment with new terminus and park-and-ride locations. The DEIS would evaluate traffic, neighborhood, environmental, cost, ridership, engineering effects at the various alignments, and design options. There would be ongoing opportunities for public involvement of all affected parties including business, property owners, neighborhood groups, and residents throughout the process. Metro and its partners plan to form a citizen advisory committee (CAC) to guide the project. That group was still forming, but the membership would represent the entire LPA including businesses, residents, and institutions. Additionally, there would be open

houses, newsletters, a project website, hotline, and public presentations throughout the DEIS process. The Steering Committee was responsible for making final recommendations regarding key decisions in the DEIS. The Committee was comprised of local elected officials from Clackamas County, Milwaukie, Portland, Metro, TriMet, and ODOT. The DEIS should be completed by spring 2008.

Councilor Collette asked if anyone would look at making the Carruthers Bridge freight traffic and transit only in order to take some of that traffic burden off some of the smaller bridges. That would also bring in additional money from the Freight Mobility budget and improve traffic near the Ross Island Bridge.

Ms. Wieghart replied they would definitely look at buses on the Bridge because of the federal cost effectiveness. Total transit timesavings was key, so speeding up buses was a positive. There had been discussion of whether the Bridge should accommodate auto or freight traffic, so some thought had gone into it. The real concern of the planners was increasing the length of the process by as much as a couple of years. People would want to look after the neighborhood impacts.

Councilor Collette said her intent would be that the Bridge strictly accommodated freight and transit and not include cars. The Sellwood community would not have to worry about semis going into their neighborhood with a new bridge. Freight traffic would only be allowed on the freight bridge and existing freeway bridges.

Mr. Roberts said part of the process was trying to configure the project to make it more cost effective. Over the next few months staff would be developing information on a lot of things including this specific suggestion. The concept of the light rail bridge included bike and pedestrian and perhaps bus and freight.

Councilor Stone said in 1998 the cost of bringing light rail to Milwaukie was over $100 million per mile. She asked if there were estimates for this project. She wanted to know the projections for usage and what they currently were on light rail. What percent of the commuting public actually used light rail, and what were the projections for future light rail lines? When would this likely come before the voters to approve the funding?

Mr. Roberts said the cost would be revised early on. The project had gone through several redesigns. The South North Light Rail project costs were on the order of $600 million, and that was a number of years ago. The project has been engineered a little more tightly with an eye toward cost savings. In 2002 the Hawthorne Bridge was considered as a way to cut costs, but there was a significant flaw with the bridge lifts and tight engineering standards on the bridge. It came in at $400 million. In the South Corridor Project the Milwaukie Light Rail portion as configured in the LPA was $550 million. TriMet did a revision of the cost estimate with an eye to the cost escalation of various key construction components, the schedule, and how the project might actually be built. That number was close to $877 million. It was likely the project would average a little more than $100 million per mile with a major portion of that going to the new bridge across the Willamette. Ridership forecasts have not been redone yet, but as part of the last DEIS the 2020 forecast was for just over 25,000 riders per day on the Milwaukie line. Those estimates will be revised in the new DEIS process. In terms of a public vote at this stage of the process there was no set funding plan, so it was not clear if the local part of the funding would require a public vote. That would be determined within the next year or so.

Councilor Stone was under the impression that it would have to go before the voters. She understood now that it was not necessarily so.

Mr. Swanson said only if the local share could be done in a different manner. The East-West segment was built with 80/20 federal matching money, but that had declined significantly to about 60/40.

A member of the audience responded to Councilor Stone's ridership questions which last August was 102,000 rides per day. In downtown Portland 40% to 45% of the people ride transit for a work trip. Any trip in the suburbs would be in the single digits, but he offered to find that information. About 300,000 people per day used the transit system. He did not know how many people drove.

Councilor Stone would like to compare what percent was using bus versus light rail versus their cars.

Councilor Loomis commented it was valuable to have someone involved in this process that knew the history and lived it. He wished Mr. Roberts good luck.

Councilor Barnes said people needed to understand it would still take much longer. The City needed to think about 50 to 100 years from now and where it would be. Metro has already said there will be more population than ever imagined, and they will all be driving cars. There were problems through downtown Milwaukie now, so the City needed to start thinking about the long term and what it wanted to leave for the children and grandchildren in terms of transportation. It was Milwaukie's turn to either step up to the plate and work with its regional partners or to be neglected when the City applied for grants. For Milwaukie it was do or die time – to step up to the plate and think about the future as partner in the region or no one would back up Milwaukie when it needed help 50 years from now.

CONSENT AGENDA

Councilor Stone asked for clarification of board and commission appointments. She understood five people were going to be appointed.

Ms. DuVal explained Library Board appointments were not done by resolution and that the Park and Recreation Board had a residency requirement since Milwaukie was part of the North Clackamas Parks and Recreation District.

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

A. Council Minutes
   1. **November 9, 2006 Work Session**
   2. **November 9, 2006 Regular Session**

B. Resolution No. 54-2006: A Resolution of the City of Milwaukie, Oregon, Certifying Election Results for the November 7, 2006 General Election.

C. Resolution No. 55-2006: A Resolution of the City Council of the City of Milwaukie, Oregon, Designating the First and Third Tuesdays of Each Month as the Regular City Council Meeting Date, Establishing the Time of the Said Meetings, and Repealing Resolution 55-2005.

D. Resolution No. 56-2006: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Paulette V. Qutub to the Milwaukie Planning Commission.

E. Resolution No. 57-2006: A Resolution of the City Council of the City of Milwaukie, Oregon, Appointing Gregory W. Seagler to the Milwaukie Riverfront Board.

Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

- **Corky Coreson, Licyntra Lane**

Mr. Coreson spoke about light rail and density. It was his belief that light rail was a viable solution to density and traffic problems associated with density. That made it a very expensive solution to a problem that Milwaukie would only have if it chose to have it. If one did not want the problem in the first place, one did not change zoning regulations and build high density housing structures such as the North Main Project or the proposed Texaco property project. In his view, this was a logic that was identical to Munchausen's Syndrome wherein a person intentionally caused himself or herself physical injury so that they could enjoy the comfort of having the injury treated. It seemed illogical to discuss the solution to a problem that one could avoid in the first place. The River and the city limits of other cities bordered Milwaukie. There were no open fields left to build houses on; therefore growth could only take place if the City invited multi-unit high-density housing and increased current retail space. The population statistics available on the City's website suggested there was not a problem with excessive population growth. It was interesting that he heard a comment about that earlier. The current census statistics posted indicated population growth would have to increase in the area of 1000% to keep pace with the population growth of Clackamas County, the Metro area, and Oregon as a whole as Milwaukie was listed as having 0.5% per year while the rest were in the neighborhood of 5%. At present the North Main Project was populated with vacancy signs as it sought new retail tenants. In fact downtown Milwaukie has a lot of uninhabited retail space. His point was that the success of the North Main Project was presently unproven. To be frank the traffic impact statistics suggested on the City's website were laughably suspect. The 25 cars per day. No one knew if the North Main Project was going to succeed in terms of attracting retail nor did one know the reality of the real traffic impact. Now the City was requesting proposals to build an even taller structure despite the fact that it violated the City's own building codes with more retail and residential space at the Texaco property. It was his belief that that would be grossly premature. It was also a clear invitation to create a density issue that the City did not currently have. The extent to which his fellow business owners and citizens agreed or disagreed at this point was unknown to him. For that reason he and his wife Karen joined together with some other local business owners and citizens to start a dialogue. He had been here for a long time and has not heard a lot of talk. He was not consulted, and he thought there were a number of citizens who felt the same way. To that end he launched a website called www.savemilwaukie.com. This had a forum section, and the idea was to invite people to offer their opinions. Mr. Coreson clearly had a one-sided opinion, but that was not the idea of the website. He urged all citizens and the Council to talk about it and let people see their opinions. It was easy to believe the public was apathetic. He would say non-participatory was a better phrase. Apathetic implied not caring. Lots of people cared, but they were running their lives. One could look at the population and compare that to the number of people at the meeting, and one saw there was quite a disparity. Let us not assume because the Council met with a certain number of people regularly who had a certain opinion that that was the opinion of the populace. He intended to distribute some questionnaires around town to get people to answer them. How they felt about density. How they felt about light rail. Go to savemilwaukie.com and talk about it on the forum. He would respond to this Council with any information he was able to garner with respect to public opinion. He was looking forward to seeing what people felt. It was his sincere hope that the City Council would welcome that information as well.

PUBLIC HEARING

Adoption of a Street Surface Maintenance Program

Mayor Bernard called the public hearing on the street surface maintenance program to order at 8:05 p.m.

The purpose of the hearing was to consider three ordinances that would implement the program of maintaining, repaving, and rebuilding major City streets over a ten-year period. Mayor Bernard reviewed the order of business.

There were no conflicts of interest declared and there were no challenges to any Council member's ability to participate in the decision.

Mr. Swanson said this was not a new issue. He started it in 2001 for the ensuing fiscal year, and since then the Budget Committee continued to ask what the City could do about its street maintenance. The Citizens Utility Advisory Board (CUAB) asked the same question. For the first four to five years he was in Milwaukie he had not proposed any kind of measure or an effort to put one together. At the February 21, 2006 work session he proposed that the time had come. The legislature had shown no movement to do something about the state gas tax, and it had not acted for over a decade to increase those funds. Cities and counties throughout the state were finding this a particularly difficult issue. At that time the Council directed staff to take this on. He met with staff and requested that in creating a proposal they do a number of things. First was to develop a clear statement of all the different options, second conduct a community process that would seek to reach as many people as possible in developing a proposal to submit to the Council, and finally provide a clear recommendation from among the options being proposed. He felt staff had done that with Alex Campbell taking the lead. The Council and City Manager have a responsibility to protect the City's assets, and the streets indeed were an asset. At this time the City was in danger of seeing that asset deteriorate. The proposed program was developed over several months and revised a number of times based on input from citizens and businesses. He believed it was a balanced approach to creating the funding needed just to bring the streets back to a condition where they were protected. The adoption of the proposal would be in the form of three ordinances.

Correspondence: **Mr. Campbell** reviewed an online survey response from an individual who was against all three of the funding proposals. The North Clackamas Chamber Government Affairs Committee wrote in support of the program as proposed with several caveats. It would like to see a fee reduction for households with no cars. There were some concerns about the impact of the privilege tax. There was a letter from the owners of the Linwood Mobile Estates stating their belief that there should be an exemption or reduction for properties that did not front streets maintained by the City. Resident Stephan Lashbrook sent an e-mail recounting his experience working with jurisdictions that had adopted similar measures. Mr. Lashbrook stated he understood the difficulty of making this decision but as a resident and someone who had been through this process he recommended the program. Former employee and resident Alice Rouyer had struggled with this problem and recommended the Council adopt this difficult program. Thomas Teramura, PCC Structurals General Manager, believed the PGE privilege tax did not represent a fair share of the company's part of the problem. He believed the fair share was more on the order of $800 per month. Danielle Cowan, City of Wilsonville staff, was involved with the program that had actually been reduced by 10% due to its success. She recommended the Council tackle this difficult decision.

Staff Report: **Mr. Asher** reported the project began 10 months ago and acknowledged the contributions of Ms. Herrigel, Mr. Shirey, Ms. Schleining, Ms. Mangle, Mr. Clark, Mr. Wheeler, and Ms. Garst.

The proposal was adoption of a street surface maintenance program initiated by Resolution 35-2006 adopted on July 18, 2006. It acknowledged the need and gave some direction on how such a program should be assembled. All the efforts were directed toward a program that met the goals and objectives stated in Resolution 35-2006. One of the things called for was a Council proposal by the end of the calendar year. The action being requested was to adopt the program. The program was designed to fix about 18 – 20 arterials and collectors in Milwaukie that carried the bulk of the residential and business traffic. In the course of putting together the program several determinations needed to be made. One was where to begin. The community said clearly that the big streets should be dealt with first. The idea was to repave, rebuild, or get more money to do more preventative maintenance on these very important streets that comprised the bulk of the $65 million asset. In order to put that program in place the Council had three ordinances to consider. The first adopted a street maintenance fee, the second a 1.5% privilege tax, and the third was a $0.02 per gallon motor vehicle fuel tax. Staff would discuss why each was necessary to achieve the goals of Resolution 35-2006. First he would describe the problem and the program designed to deal with that problem. He would not go into great detail on the outreach but would address modifications based on public input. Finally staff would describe the ordinances. He wanted to make it clear the program had to do with the City's pavement, and it was not a program to improve sidewalks, the drainage necessarily, street trees, or a boulevard. The issue was what was happening curb to curb. There were issues all over town, but the program was designed to a manageable scale because this will take local money. It was not just that the streets declined but the longer the City waited the more it would cost. He felt the community was beginning to understand the problem.

Mr. Campbell said there were a number of streets on the downside of the curve, and he showed several examples. The subsurfaces of King Road and Lake Road have been damaged, and the City was doing patching. Even if it were overlaid it would not last because the subsurface was not rigid enough to hold an overlay. The streets were a major City asset, and the current maintenance was not sufficient. The potholes around town represent a cost, so the longer the City waited to address those problems the more money would be spent. There were also safety issues that needed to be addressed. He showed a graph that indicated a 10% decline of 'good' streets over the past few years. The City would see another dramatic decline in another two years. The overall network condition dropped four percentage points in two years, so the City streets were in a dramatic decline. Another way to represent that decline was through a calculation of deferred maintenance that was a dollar value of how far one was behind restoring the street condition to 'good.' Right now the City was building up $750,00 in deferred maintenance that would grow to almost $10 million in 2014. The average pavement condition index (PCI) would decline below 50. The proposed program would reverse both negative trends. Over 10 years staff estimated the system PCI could be in the low 80's and deferred maintenance would be cut to about 2/3 with the recommended program.

The first program goal was a PCI target based on what kind of system was the least expensive to maintain. It was a system where there would be a lot of preventative maintenance and few reconstructions. The second goal was reducing the deferred maintenance backlog by rebuilding some of the streets that had failed. The third goal was a matter of spending the money effectively. It was determined how much money would be needed to meet the first three goals. The money would first be spent on preventative maintenance. Right now a little crack sealing was being done, but a lot more would need to be done once streets were rehabilitated to preserve them. The second priority was rehabilitation when crack sealing did not keep out the water. The current surface would be ground off, and 2 – 4 inches of new pavement added. The

third priority was actual reconstruction of failed streets. This was a costly part of the program.

Mr. Campbell reviewed the model project schedule over 10 years. King Road would be addressed in the first couple years of the program. In years 3 and 4, 27th Avenue and Linwood Avenue would be addressed based on the amount of traffic they carried. In years 5 and 6 there would be some overlay projects along with some reconstruction projects in the central part of town. In years 7 and 8 some of the neighborhood routes would be addressed as they were important streets for moving around town. In the final years of the schedule local streets would be addressed that were important to the business community.

Mr. Campbell reviewed the outreach efforts. Staff gave detailed presentations to about 450 people. There were survey forms or comments from over 200 people. There were 7 *Pilot* articles, and each mailing address in the 97222 zip code received the newsletter. Each utility customer received information in the bills two separate times. *The Oregonian* published four articles, the Chamber of Commerce e-mailed its members, and letters were mailed to 400 businesses and 150 apartment owners. He maintained a mailing list of 100 local businesses that expressed interest in receiving updates. There was a page on the City's website, each Neighborhood District Association was briefed twice, and there was an open house. Staff spoke with the Planning Commission twice, the Citizens Utility Advisory Board (CUAB) three times, the Rotary twice, the Chamber of Commerce, the Milwaukie Center, Sunday Farmers' Market, Library Plant Sale, and Down to Earth Day. There have been one-on-one conversations with about 50 businesses as well as follow up meetings with groups such as representatives of the petroleum industry, grocers, and PCC Structurals.

As well as providing information staff received suggestions to improve the program which was the goal of public outreach. The program as originally conceived was heavily weighted toward the neighborhoods, and the needs of the businesses were not being addressed. The Planning Commission and others stressed the importance of annual reporting, so people knew what they were getting for their money. Staff heard concerns about how the City was handling funds, so more work was done to ensure that the appropriate projects were selected and constructed to ensure longevity. The proposed ordinance directed the engineering director to establish a moratorium on capital projects for 5 years and more effort would be put into coordination with other utilities. Inspection and enforcement of street cut repairs would be strengthened. The ordinances made it clear that all of the revenues would be dedicated to the street surface maintenance program and would not be contributed for matching funds. The fees would be reduced if and when the State or Clackamas County found a way to deal with this issue and made more funds available for street maintenance. There was a fee review process for non-residential customers who felt their business was being unfairly burdened by an inaccuracy in the methodology. Staff also capped the fee at $250. The gas tax ordinance came from public and Council recommendations.

Mr. Asher said one of the comments was that this program seemed very complicated. He felt this was a straightforward approach. It took just a moment or two of concentration to understand why it was structured this way. There were three ordinances and three funding sources. The first ordinance had two parts. The first was to adopt the program and the elements that Mr. Campbell described. It was an asset management approach and a different way of thinking about assets. Asset management was a well-defined approach for dealing with infrastructure and focused on long-term life cycle costs and sustained performance. It was a matter of understanding what one had, what was needed to maintain the inventory at what level of service, how to design a capital improvement plan (CIP), and a funding strategy that did the critical things at the critical times. That was not an easy thing to do and required

the cooperation of the public, City Council, and City departments. The program would be refined and evaluated as improvements were made. Other elements had to do with oversight and coordination which the community said was very important. People wanted the projects done in a way that they could be seen, were spread geographically, and reduced street cuts. The second part of the ordinance adopted a street maintenance fee. For single-family residences the fee was $3.35 per month and $2.10 per month for multi-family with the same low income exemptions as the other City utilities. This fee funded about $600,000 to $700,000 and was the lion's share of the program. The non-residential fee was based on a trip estimate, and the methodology would charge a business for every trip that arrived at its door. Some businesses caused more trips, so they paid more. However, the recommendation after talking to the businesses was that there be a $250 per month cap on the non-residential side. Mr. Campbell commented on the friendly review and appeal. Staff was not convinced this methodology was perfect, however, it was based on the International Traffic Engineer (ITE) Standards. There was a process in the program that allowed anyone to meet with the engineering director to review traffic studies, parking counts, or other data to determine if there was a better way to assess that business.

The second ordinance adopted the privilege tax. Nine of 52 cities served by PGE have such a tax. It assessed a 1.5% tax on all revenue raised in the City of Milwaukie. That would be on top of the regular franchise fee. PGE would collect that tax and pass it along to the City. The intent was to distribute costs. Over the years the Council had discussed street lighting that was paid from gas taxes. There were a number of opinions on how to pay for street lighting, and this was the simplest approach. It would not burden the general fund and raised a new revenue source to offset the street lighting costs. Money would not have to be moved around in the budget, and this tax would cover the approximate $300,000 annual street lighting fee. The average monthly household would pay about $1.

The third ordinance proposed a local gas tax of $0.02 per gallon that would be collected by ODOT and passed along to the City. One of the things staff heard in the community was that while these were Milwaukie streets, they were used by a large number of vehicles. The gas tax helped spread the costs of the facility users to those who did not live in Milwaukie or pay their utilities here. The annual cost per household would be approximately $5 - $10 with a projected yearly revenue of $100,000 to $200,000.

The bottom line for Milwaukie was about $60 annually for all three funding sources. The median street maintenance fee for non-residential was approximately $360 annually. Businesses were very different so it was difficult to come up with a bottom line for non-residential share, but the overall split was about 50/50.

Staff recommended that City Council adopt the three ordinances to fulfill the direction and goals established in Resolution 35-2006. All three of the ordinances needed to be adopted to address the asset management problems and the urgency of maintaining the City's $65 million investment. There was an opportunity to build community confidence, and if approved this program would succeed. There was a positive economic development impact. The disrepair of the roads was not a pretty display and did not send the right signals to the rest of the region about how Milwaukie felt about the community. The program was designed in collaboration with the businesses and the neighborhoods as Council directed. The CUAB from the start talked about the quantitative backing this needed. It was too large a program to guess, and the City had not guessed at anything. Every street was tested in three different ways. Every funding possibility was considered, and staff contacted other communities throughout the state that have adopted these types of funding mechanisms. The program was geographically distributed throughout the City, and all the neighborhoods would enjoy the benefits of the program that would reverse the decline. Doing nothing was probably

not tenable. It was important to raise enough funds to do things right. A smaller program would only defer the needed maintenance to improve the pavement quality. The program provided local control, and if and when the state legislature did something with the gas tax, then the City could certainly do something else.

Mayor Bernard noted in reading some correspondence people asked why they would be charged the utility fee if they did not drive. He asked for examples of services received by people even though they did not drive.

Mr. Campbell gave several examples including garbage and recycling collection and mail service. If one did not use a car, then there was probably reliance on some kind of transportation service. All those types of trips were the same for households with or without vehicles. The issue for the Chamber of Commerce was one of hardship as much as it was of fairness based upon whether one had a car or not. Those on a low-income utility program would be exempted entirely. He thought staff had made a good effort to address the hardship issues.

Councilor Collette asked what the average monthly cost would be.

Mr. Campbell said it would cost citizens about $60 annually for all three.

Councilor Stone understood that if Clackamas County adopted a road maintenance fee that Milwaukie would look at changing or eliminating its fee structure.

Mr. Campbell replied that was written into the first ordinance. Council would reduce the fee most similar to the new one put into effect first. The state gas tax was the most likely, so the first step Council would take would be to repeal the local gas tax. If the local share of the gas tax was producing more money, then the street maintenance fee would be reduced by the appropriate amount.

Mr. Asher added it was worded so that it was not just what the County might do, but what anyone might do. This was the last resort, and the City would hope to get out of that position. He would continue to work with people in the region to get something out of Salem.

Councilor Stone aired her comments again about the effect of TriMet buses, and why they were not taxed. It seemed to her there should be some way for TriMet to help fund this. She asked if school buses and hospitals were exempt.

Mr. Firestone responded to the extent that the taxation in any way involved any type of property TriMet was exempt. TriMet also believed it was exempt from all local government taxation. If the City tried to impose a tax, it would have a legal fight on its hands that the City may or may not win. All the special districts in the state have long taken the position that cities cannot tax them. TriMet would be in basically the same position. The issue was not clearly resolved because no city had tried to tax a district mostly because they did not think it would be worth it.

Mr. Asher added the internal structural logic was that the destinations were being charged because the destinations were creating the trip. TriMet though it used streets was not a destination in and of itself but was a carrier. There would be a break in the logic of how this was set up in not just Milwaukie but also the other jurisdictions that had adopted a street maintenance utility fee.

Mr. Campbell explained schools and hospitals were charged as destinations. One could argue with the TriMet bumper stickers about how many vehicles were off the road, but there was a good argument that those trips would exist anyway. If people were not taking public transportation, many of them would be begging, borrowing, or stealing car rides.

Councilor Stone referred to comments by the gentleman who came forward about the website forum. He mentioned that the website said North Main property would generate 25 cars per day. She asked if that was true because it seemed low when a single-family residence generated 9.57, and an apartment or a condo dweller would generate six.

Mr. Asher said that was 25 trips on local streets per day. He would ask Gary Parkin to talk to the traffic engineering firm about the methodology behind that figure.

Councilor Collette understood that figure was based on the number of trips over and above the previous use as a grocery store.

Councilor Loomis heard in work session how TriMet had to reinforce the pavement at Southgate, so it was really about the impact of the bus compared to the number of trips in a car. He knew that Milwaukie High School would pay approximately $900 a year for the road maintenance fee, but now it was capped. He asked how that cost would be recovered in the program.

Mr. Campbell replied the beginning revenue target was $1.2 million. There was some expectation that the fees would not increase after the public outreach effort, so there was some slippage below the target. He thought the gap would be made up with new commercial development.

Councilor Loomis thought staff had done a good job of identifying the problems and how to fix them. His only concern was how the revenue would be generated, and that was for Council to discuss. What was the cost of the privilege tax to local schools?

Mr. Campbell explained PGE had confidentiality agreements. It shared the top ten utility bills but did not detail who was who. He provided the School District with the information it needed. Superintendent Naso was going to recommend that the District support this proposal, and although the gavel came down without a recommendation, the District did not oppose the proposal.

Councilor Loomis said the District did not have an opportunity to weigh in one way or another.

Mr. Campbell had a meeting with Superintendent Naso and Mr. Krumm before the Board meeting as staff had done with other large institutions. It was a candid discussion about the School District bond measure and the City's support. A public institution was facing budget issues, and in that discussion there was an expression of support. Mr. Naso could not speak for his Board, but it did not come up on the agenda due to the lateness of the hour.

Councilor Loomis observed that it resembled a Council meeting. The chair decided it was going nowhere and dropped the gavel. He did not come away from the meeting with a sense of support.

Mr. Campbell added the Superintendent's perspective was that the District had invested a lot of money in the schools in this part of the County. He believed this was an important step in maintaining investment and matched the District's long-term goals.

Mayor Bernard had a similar conversation with Mr. Naso before the cap was added. The District wanted safe streets. He participated in the Clackamas County transportation utility fee study in which the City invested staff time and money. He was glad that the City was able to use some of that information and get some return on its investment. Many cities had the same issues and expected the state would do something to help. He would work in Salem and with the Joint Policy Advisory Committee on Transportation (JAPCT) to find a statewide solution. At this time it was

still the City's responsibility, and he felt the staff had been thorough in its analysis of the problem.

Councilor Stone addressed comments in a letter from Steven Rowe. He talked about the City's 2006 – 2007 budget and contingencies built into that budget in the amount of $10 million. It has been in staff reports that the City had about $30,000 to maintain streets after the $2.2 million revenue in the street fund. She wanted to make sure all of that was addressed. It would be important for citizens to know everything was uncovered in terms of how the City might save money and spend it wisely before imposing a tax.

Mr. Asher agreed and that was the point of the process. He asked Mr. Campbell to comment on what he considered Mr. Rowe's misinterpretation of overhead and how the City was using its funds just within the street fund. Mr. Swanson could speak more generally to how the City handled its budgeting and contingencies since that was where Mr. Rowe was calling City practices into question.

Mr. Swanson responded to Mr. Rowe on the specific budget issues. He still owed him a response on the development issues; however, Councilor Collette had responded much as he would have. In light of the question this evening he would ask that Mr. Wheeler post those responses on the City website. With respect to the contingency items, many of the individual funds within the City budget had contingency line items or reserves. For example, the general fund had a contingency of about $900,000 and an unappropriated fund balance of approximately $478,000. Those funds would be available if the City desired to use them for road maintenance, but it would be one time allocation that would not regenerate. Those dollars were there to fund any unforeseen circumstances. Wastewater had a healthy fund balance, but it had to be used within the wastewater fund where the fee was generated. The money in the wastewater contingency was projected to be used on the Kellogg Treatment Plant if there was an agreement to decommission it. He would ensure that was put on the website along with Mr. Rowe's original e-mail.

Public Testimony in Support

- **Art Ball, 4960 SE Harvey**

Mr. Ball read Ms. Rouyer's letter into the record.

"Thank you for the opportunity to offer my comments of support for the proposed Street Maintenance Funding Program. I am working this evening with the Gresham City Council and cannot attend your hearing. I want to thank Art Ball for reading my comments into the record. It is a real honor to have one of Milwaukie's most respected citizens offering my comments to you tonight.

Before you this evening is a very comprehensive and thoughtful funding package for street maintenance in Milwaukie. This program is long overdue. When I served you as Director of Community Development and Public works a few years ago, I remember having periodic conversations with City Manager Mike Swanson and each of you detailing the need for more street maintenance funding. With declining revenues from the state gas tax and a small likelihood that more maintenance funding would trickle down to Milwaukie from other state or regional sources, I knew that Milwaukie would need to fund street maintenance locally.

From 2001 through 2003 many residents in Milwaukie faced financial uncertainties along with the rest of the country. Despite the real need for more street maintenance during this time period, I remember Mike Swanson and Councilor Joe Loomis reminding staff that it would be the wrong time to ask citizens to fund anymore city services. Both had strong compassion and understanding for our citizens.

The tide began to turn in 2003 and 2004. With this in mind, the City spent staff time and budget money to participate in the County's transportation maintenance funding program. Milwaukie helped pay for consultants, study the issue and attend meetings with citizens to help develop a countywide funding package for street maintenance. The result was a sound, thoughtful and fair approach to this problem. I watched with great disappointment as our County Commissioners were unable to reach consensus on this issue. Rather than making a decision on this matter, they deferred it to a countywide vote. Given the lack of support from the Commissioners, it came as no surprise to me when the measure was resoundingly defeated by the voters.

You are now facing the same decision. Your support for staff's efforts to date has been commendable. Alex Campbell, Paul Shirey, Mike Clark, and Brenda Schleining have produced an excellent package for your consideration tonight. The combination of four funding sources will ensure a sustainable street maintenance program for many years to come.

We have just experienced a banner year in Milwaukie. Redevelopment is on the rise. The economy is improving and many residents are experiencing record home value appreciation. I strongly encourage you to now take care of your most basic infrastructure asset by approving this program. Infusing resources into this program will improve livability and ensure that future residents aren't saddled with rising costs that will result from deferring street maintenance into the future.

Thank you for considering my comments. I support your efforts in making a fair decision for the citizens of Milwaukie."

Mr. Ball added his personal comments. He had been convinced for years that Milwaukie needed to pay attention to its streets. He was 100% behind getting the streets fixed and maintaining them. He lived on a local street that was about 50 years old, and he could foresee the day even if this program succeeded he would be mowing the street because of the grass growing up through the cracks and patches. He could put up with that as long as he had nice roads to drive on to get to his street. He did have some concerns. He did not understand the logic behind a person paying $3.35 versus $2.10. He thought those paying $2.10 probably drove as much as he did. Just because they lived in a condo or apartment building he did not understand why they paid less.

Councilor Loomis did not think there was a way to tell exactly how much someone drove. He thought they were just picking out a number to average it out.

Mr. Ball just wanted to make sure it was fair and equitable.

Mr. Campbell replied it was an estimate but that level of fairness between one apartment dweller and another of a single-family homeowner and another was not something this method could capture. This was one of the most thoroughly researched parts of the traffic engineers' studies. There were thousands of studies that looked at residential trip generation. On average an apartment generated about 2/3 as many trips as a single-family household because there were fewer people living there plus services like garbage pick up were consolidated.

Mr. Ball thought that explanation helped but still did not think it was fair and equitable. He was deeply concerned about people on limited incomes or retirees who did not drive. He thought there should be a concession made for those people. He did not know how the City would find out who did not have cars and did not drive. He thought they should still be charged through the PGE tax. Nice roads to your house increased your property valued, but he felt there needed to be some language that identified certain concessions. He was concerned about people on fixed incomes because they

struggle with their bills. There were annual tax increases, and he cared about those in the community feeling the burden.

- **Bob Hatz and Charles Bird, Citizens Utility Advisory Board Chair and Vice Chair.**

Mr. Hatz stated he was very much in favor of this proposal.

Mr. Bird had served on the Citizens Utility Advisory Board (CUAB) for a number of years, and during that time staff made presentations and gave slide shows about good and bad roads and why the City needed more money, but it was anecdotal. The Board members had been critical of the engineering department because they wanted data on road conditions and if they were getting better or getting worse. The Board needed to know the costs. There was a depth developed over the past four or five years which the CUAB was pleased to see. The Board also saw two sides to the program. It was a tough decision to put any fee increases on citizens. If the Council decided not to do this then the roads would get worse. He strongly urged the City Council to make a decision to fund this. Inaction or status quo was saying the City would let the roads get worse. While the CUAB did to wish to see that happen, it was an option. Controls were built in to adjust the program if needed. The CUAB adopted a resolution at its last meeting supporting the program and funding proposal. The streets were a significant part of the City and an investment that needed to be protected. Maintaining streets was important for safety as well as quality of life in Milwaukie. The CUAB wholeheartedly supported the proposal, and any of its previous criticisms had been addressed.

- **Lisa Batey, 11912 SE 19th Avenue**

Ms. Batey has been on the Planning Commission for the last two years and before that she was a CUAB member, so she knew the issue had been around for a long time. It was a hard decision to make to ask people to pay for more and particularly after the recent election where levies were passed for schools, public safety, and parks. She attended several presentations at the Island Station Neighborhood Association, Planning Commission, and the Neighborhood Leadership group. She had not heard anyone say that Milwaukie did not need a program to fix its streets. She voiced her support for the proposal. It was an equitable way of distributing the burden and well thought out. She would reserve the right to challenge the street priorities in the future. As for the program itself she thought staff had been very thorough in exploring the options, and this was an equitable way to apportion the burden.

Councilor Barnes asked what the general consensus was among the Milwaukie neighborhoods.

Ms. Batey replied there was never a vote in the neighborhood or among the leadership. Some might quibble about the gas tax or allocation, but she had not heard anyone quibble with the idea that something needed to be done.

- **Debby Patten, 11880 SE 34th Avenue**

Ms. Patten asked Council for its support of the ordinances and concurred with Ms. Batey's comments.

Neutral Testimony

- **Annette Matson, Government Affairs and Public Policy, PGE, 121 SW Salmon, Portland 97204**

Ms. Mattson said for the record that PGE was neutral on the position of the privilege tax implementation by the City of Milwaukie. In the past PGE had opposed the implementation of this tax because it made customers' bills larger. PGE incurred the cost of programming, notification, and collection. Every line item on the bill generated a

certain number of calls that were taken by customer service representatives. Milwaukie like 51 other cities were PGE customers, and the company understood the cities' financial situations with increased expenses and limitations on abilities to increase revenues. PGE respected the legal right to implement the privilege tax on its customers in Milwaukie. Sixteen of PGE's 52 cities had privilege taxes, and eight exempted industrial customers. She appreciated the outreach efforts by staff.

Councilor Loomis asked if PGE would charge for collection of this fee.

Ms. Mattson replied it was a straight pass through, and PGE did not take a percentage.

Mayor Bernard thanked Ms. Matson and PGE for supporting community events.

Ms. Mattson said Milwaukie was one of her favorite communities. PGE was concerned that the customers' bills would be getting a little larger but appreciated the open communication.

Public Testimony in Opposition

- **Paul Romain, 707 SW Washington, Suite 927, Portland 97210**

Mr. Romain represented the Oregon Petroleum Association. He sympathized with the City because repairing the streets was a good idea. The Association was between a rock and a hard place and opposed all local gas taxes at this time. They did not like the vulcanization of taxation where one jurisdiction had a tax and another did not because it put certain members at a competitive disadvantage. The Association was in favor of a statewide gas tax increase because the State of Oregon could go up between $0.10 and $0.14 per gallon. Oregon was far below Washington State, and the Association would support a substantial portion of that going to local jurisdictions. As a policy the organization opposed all local gas taxes until there was a time the State realized what it must do and imposed a statewide tax and allocated it out to the jurisdictions that needed it. He asked the Council to not include the gas tax. The City would be adding two cents to Mr. Kanso's costs and put him into competition with other dealers on 99E where drivers had many choices. People will drive a long way to save a penny or two on gas. Staff did an outstanding job of keeping all parties informed, but the Association opposed the local gas tax. It was at the position of attempting to refer the gas tax portion to the voters. If the Council decided to include it in the package he asked that the election be controlled. He understood the City needed the money, but the local gas tax put the organization in a very difficult situation. It was not a utility, and people did not have to use certain stations.

Mayor Bernard asked if the Oregon Petroleum Association and Oregon Gasoline Dealers was the same organization.

Mr. Romain replied there used to be an Oregon Gasoline Dealers Association and Oregon Petroleum Marketers' Association. The industry went through a consolidation, and this was the only segment of the industry that was not making money. People made money pumping it out of the ground. The margins were being squeezed at both ends all the time. His Association presented the jobbers and the dealers in the area.

- **Nabile Kanso, Sr., 10966 SE McLoughlin Boulevard**

Mr. Kanso had a station on McLoughlin Boulevard that he bought in 1989. The station was doing about 7,000 to 8,000 gallons per day, and it went down to 3,000 per day after ODOT made the boulevard improvements and installed the divider. The margin was very small. He was in a very bad position when it came to a mid-block station. He agreed with Mr. Romain's comments. Mr. Kanso got all of his traffic coming from Oregon City and Gladstone, and there were 12 stations before his. Today his price was $2.61 for unleaded. Gladstone and Oregon City were $2.59. Mr. Kanso worked with

about $0.095, and they averaged about $0.15. Where would you go? Probably where it was $0.02 less. His volume would drop even more with the local gas tax. There was only one other station on McLoughlin Boulevard besides his. His had better access. He would be forced to close at 10 p.m. and open at 6 a.m. He would have to reduce his staff and perhaps close his business if the gas tax went through. He was against a local tax but would support a statewide tax.

- **Michael Lifes, 3800 SE Filbert Street**

Mayor Bernard read Mr. Life's question from the comment card as he had apparently left the meeting. "Will this 'group' of taxes be rescinded once the needed money is collected? Instead of painting nice designs on the streets, why didn't you use the money to fix the roads? Why don't you live with the budget you have like I do?"

Mayor Bernard noted the first question had already been answered. The McLoughlin Boulevard improvements was an ODOT project. He suggested the City answer his questions.

- **Steve Rowe, 5101 SE Park Street**

Mayor Bernard noted that Mr. Rowe had left the meeting, but Mr. Swanson had responded to his questions.

Council Questions

Councilor Loomis understood the City was estimated to take in about $1 million from gas taxes.

Mr. Swanson recalled it was $980,000.

Councilor Loomis asked how that money was being spent now.

Mr. Campbell used 2004 – 2005 budget actuals that were available during the research. In 2004 – 2005 the total street revenues were $2.2 million. $450,000 of that was dedicated grant revenue. $990,000 of that was gas tax revenue. $490,000 of that were franchise fees. 3% was interest and other, and 9% was system development charges (SDC). In expenditures 13%, $280,000, went to street lighting. $690,000 went to capital expenditures. $680,000 went out, and $450,000 came in on those dedicated projects. The grant matching funds did not always happen in the same year, so the 9:1 benefit might not be seen in the given year. $180,000 were reserved SDCs but were not spent in that year because of their limitations. $380,000 of that went into maintenance that included 15% to street sweeping, 13% to street marking maintenance, 16% to sign and signal maintenance, 24% to right-of-way maintenance such as trimming vegetation and spreading rock on shoulders, and 23% for emergency street repairs including patching and pothole fixes which was the burden that would continue to grow as long as this maintenance issue was not addressed. About $30,000 went into a fairly ad hoc crack sealing program which was preventative maintenance but was not done on a systematic basis. The remaining was 30% of the budget about 9% of total budget was overhead. Of that 5.4% of that was for vehicle fuel and maintenance, 2.5% to vehicle replacement, .8% for miscellaneous expenses, and .3% for facility occupancy. Of the remaining 20% of the budget 7.5% went to engineering, 6.8% went to general administrative services of which was the Council, city manager, city attorney, human resources, finance and those types of things, and 6% was a transfer to community development administration and operations. The share to engineering was split equally between the City utilities, so streets contributed about 25%. The community development administration charges were shared among the various departments and based on the number of FTE.

Councilor Loomis asked where the $680,000 in CIPs was spent. Was it used in maintenance?

Mr. Campbell replied the $450,000 that came in had to be spent as part of the $850,000. In that year $230,000 was coming from a non-grant source. That was more than the typical 10% match because the matches varied, and if a project goes over the City has to cover the cost.

Councilor Collette asked how many gas stations there were in Milwaukie.

Mr. Campbell replied there would be six when Safeway opened. Those businesses would be paying all three elements of the program.

Councilor Stone commented on Mr. Ball's concerns about the monthly bill and trips per unit for a single-family versus multi-family. She understood it was hard to measure trips per day. Mr. Ball brought up a good point. This needed to be as equitable as possible. How could the City still generate enough revenue to fix the streets? She believed everyone would agree the streets were in disrepair. Could the City be creative and look at changing the structure in terms of the fees so everyone was paying the same. She was also concerned about Mr. Kanso's testimony. She raised the issue in her conversation with Mr. Asher and Mr. Swanson about someone's going to a gas station outside the City to save a couple of cents. She knew a lot of people did that and particularly seniors. She had some concerns about implementing a local gas tax as well. She suggested being creative and structuring it so the City could collect revenue but still make it equitable. She did not wish to put gas stations in fierce competition with each other.

Mr. Swanson thought that problem should be taken care of by 90 people in Salem who for the last decade or more had not been paying attention to the infrastructure that staff was asking the Council to look at. There was an equitable answer. The Association did not shrink from a solution. Mr. Romain and Mr. Kanso were willing to be part of the solution, but they were concerned about the vulcanization of the gas tax. Some people would drive miles to pay a penny less per gallon. This problem existed in every city large and small and every unincorporated area of the State. Milwaukie said it needed to step up to the plate and do something. The answer to Mr. Ball's question was that the study showed people in multi-family residential drove 2/3 fewer trips than those in single-family residences. Was that the case for everyone? Probably not. Did this approach 100% equity? He would not pretend that it did. If there were a solution that approached 80% reality, then Milwaukie would be the first to jump on it. The road use fee was a methodology that was widely accepted because there have been actual on-the-street studies. There has been enough evidence that a multi-family residence probably drove 2/3 fewer trips, so that was what was accepted. Until there was a better methodology this was what we had. This was not a perfect system, but it was more perfect than the current system which was to let the infrastructure fail. This was defensible with an underpinning that had been tested by traffic engineers.

Close Public Hearing

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

Council Discussion

Councilor Barnes said it was clear that everyone shared the opinion that there was a problem and the roads in Milwaukie were terrible. There was an old wives' tale told among the ob-gyns in Milwaukie that if one were 9 months pregnant and could not deliver quickly then she should drive down Monroe. She commended staff for its extensive public outreach because people always said they did not hear about it. The

City was committed to reaching out and getting input. It was clear from Ms. Batey's testimony that there was no formal opposition, so that was a sign that the NDAs wanted to move forward. Delay had already cost the City thousands if not millions of dollars. With every day the City waits, the price goes up. In her opinion this decision cannot be put off, and she would support all three proposals. A majority of people in Milwaukie made it clear through their NDAs that they were on board.

Councilor Collette agreed with most of Councilor Barnes' comments. When she was campaigning and going door-to-door most people said their main issues were the condition of the streets and traffic. Traffic was an issue with which the City would have to deal, and she felt the best way to deal with it was public transportation. Staff had worked incredibly hard and looked under every stone to find funding. She was proud and pleased with the work they did. It would be great if Clackamas County or the State would step up to the plate and help. Even if they did, Milwaukie would not have the local control it would with this set of measures. The City could identify which streets, when, and what condition, and staff would prepare follow-up reports. This was about as good as it got. She was concerned about the five or six gas station owners in the City. She would also like it if people driving through the town had to pay something for the use of the streets. In every other way she thought this was a solid package of options. She was grateful to staff and the citizens who participated.

Councilor Loomis would not support the proposal. It was not because the roads did not need to be fixed. Ms. Batey said everyone agreed that the roads needed to be fixed. She also said it was a tough decision to ask the citizens to pay. The Council would not be asking the voters, it would be telling them this was what was going to be done. Was there a reason the City did not want to ask the voters?

Councilor Barnes thought Council members were voted into their positions to make the hard decisions. The Council was able work with the staff to go through the research. This was a job. She was not against asking, but in leadership positions some hard choices needed to be made on occasion. There was a problem. We either pay for it now or pay more later. This was similar to roofing and having to pay more later as more damage occurred.

Councilor Loomis did not disagree with anything Councilor Barnes said.

Councilor Stone and Councilor Loomis felt the same way about putting taxation issues out to the voters. In looking at all of this information and doing some research it was obvious that some cities were not successful in passing these fees. In 2001 Portland passed the traffic utility fee, and it was overturned by the voters. In 2003 traffic utility fees were adopted by Eugene and Springfield, but it was repealed because of a voter referendum. There was a risk in passing something like this. If it was put to the voters and they said 'no' then the Council was going to have to do something. If the City had the assurances of staff that they looked for every possible way to literally save pennies in the budget, then Council members were put in their positions to look out for maintaining the infrastructure. She thought $60 annually was reasonable. She was not certain it was fair to charge single-family residences $3.35 and apartment dwellers less. She would like to see that fee flatter and more equitable. It was not fair to tax gas stations in Milwaukie, so she could not support that. No one liked the idea of having to swallow this nasty pill, but it was a small dollar amount per year. The longer the City waited the more it would cost, and Milwaukie had been waiting for years. She recalled talking about this in the last century – in the mid- to late-1990s.

Councilor Loomis had more faith in the voters. They knew there was a problem, and Mr. Campbell explained where the money went. He believed the voters would support it, and they should be asked.

Councilor Barnes asked Councilor Loomis what he would do as a Council member if the voters did not support it.

Councilor Loomis would look at the budget. The primary role of the city government was to provide public safety, utilities, and roads. Those were the main three things the City needed to do. The City puts $1.6 million into the Library. The reason the roads were in the condition was because of City Councils present and past did not make the right decisions. Councilor Barnes asked what he would do if the measure failed. The Council would have to go back and find the money to fix the roads. He had faith in the citizens. He asked if Councilors did not want to do it because it was a lot of work.

Councilor Barnes did not believe anyone was saying that. All she said was the Council members were put into their positions to make hard decisions. If it went out to the voters and they said no, then Councilor Loomis said the Council would have to come up with a solution anyway to fix the roads.

Councilor Loomis added the money would have to be found within the budget.

Councilor Barnes asked if that meant another essential service like police would have to be cut.

Councilor Loomis replied it all has to do with priorities.

Councilor Stone asked what the timeline would be if it were put on the ballot. She understood it would not cost that much to put a measure on the ballot. What percentage of vote would be needed and how long would it set the program back? As it was right now the program would go into effect on July 1, 2007.

Mr. Swanson replied the fee would be effective on the new fiscal year. The last couple of elections cost the City between $5,000 - $10,000. The election would likely be May 2007. A double majority would not be required.

Councilor Stone asked if the measure could be written so that the fees would go into effect at the beginning of the fiscal year.

Mr. Campbell said it would depend on if it were a property tax or a fee. The businesses needed adequate lead-time, and the proposal built in six months.

Mr. Asher reviewed Resolution 35-2006 for the record. The outreach effort sent a menu of funding options out to the community to get input on what it might support. Staff was expressly told not to do a citywide vote, because people did not think it would pass. Others said it was not equitable. The resolution specified the funding sources and gave staff direction.

Mr. Swanson said the question was why Council would not put it on the ballot but instead adopt the funding mechanisms. That was a difficult if not impossible question. In Oregon there was a rich tradition of elections. On the courthouse lawn in Oregon City was the bust of William U'Ren known as the father of the referendum and initiative. He thinks of Mr. U'Ren when he thinks of this question. When he looked at this particular issue it was not one in which he saw a lot of discretion. It was not an issue of approving an increase of X per thousand in order to hire five more police officers. In this case, without action, the City would be losing the integrity of its infrastructure daily that had been constructed with tax money over the years. He saw it as a question of Council's responsibilities and leadership. He thinks of the issue of segregation and President Truman's not integrating the Army. Chief Justice Burger not taking the initiative to push through Brown v. Board of Education and Lyndon Johnson not championing civil rights. None of those were popular, and none of those if left to the populace would have happened. Those three gentlemen took leadership. It was a difference of opinion about whether this was taken to a vote or not. If the Council

enacted the program, it would at least have an answer for the time being. It might be referred, and heard from two Council members that they might not want to enact the gas tax. He met with the Board of County Commissioners (BCC) in 1986, and they asked him what he was going to do. Mr. Swanson told them that he was going to work with the Sheriff on the next levy proposal, and the BCC asked him why he was going to do that since it was the Sheriff's levy. Mr. Swanson told the BCC it was their responsibility for providing money to hire deputies. The BCC said if the Sheriff lost, then it was his problem – a comment that Mr. Swanson found shocking. He intended his comments to illustrate why the Council might want to make the choice to enact the program. The Council was in a difficult position. The Council knew something needed to be done. Councilor Stone had asked if staff was willing to say it had searched for every penny. Today's budgets were not flush, and gone were the days when there were pots of money secreted away. This was a straightforward, simple budget. It did not without changes to other services have room to enhance the resources within the street fund. It would be an exercise in reducing services somewhere and existing service levels. The City had been reluctant to put anything on the ballot and ask for additional money. That was rare in this day in age, but it was a necessity.

Councilor Loomis commented Mr. Swanson's analogy between civil rights and road did not wash for him. Those were two very different types of decisions. One was easy, and one was tough. He had faith that the citizens of Milwaukie knew there was a problem, and a property tax levy would pass.

Mayor Bernard had faith that the voters elected Council members to make the tough decisions. He had been elected three times to make those decisions. In his office there are riverfront and downtown plans from 1986, 1996, and 2006. Someone needed to take leadership to make those things happen. If that was risking the current high pay, then it was worth risking. He owned an auto repair business that his grandparents started as a gas station in 1925. It lasted for 65 years. It was always the highest priced gas station in town intentionally because it provided the best service it could give. People drove out of their way and were willing to pay extra to come to Bernard's Garage. The City of Sandy had some of the cheapest gas even with a gas tax. That Council made some tough decisions. Maybe the decisions should have been made a long time ago by Council and the State, but they were not. Milwaukie was at a crossroad where the decision had to be made. He did not find it to be a tough decision. Very few of the people he talked with thought this was a bad idea, and staff had been very thorough. The Council members were elected to make tough decisions, and he was willing to make them. The gas tax was his suggestion having been in the business. He did not agree that people would drive out of their way to save a couple of pennies. He did not buy gas from some stations in town because they did not accept credit cards, and that might be an issue. He would support all three ordinances.

Councilor Stone commented that Sandy was more remote, and someone could actually run out of gas looking for a station that had a lower price. In Milwaukie she questioned being sure the gas tax would generate $125,000 to $200,000. She was not convinced that much would be raised because people had other options. Citizens were being asked to tighten their belts, and the City should be doing the same. She would not support the gas tax and would hope the City could tighten belts to make up the difference. The City might need to re-look at the single-family versus multi-family utility fee. She wanted assurances that with every budget cycle that the budget was scrutinized to come up with additional revenue and not just depend on what we have if this was passed. The City might be able to fix the streets sooner than later at a cost savings. She did not want the City to rest on its laurels because the fee was passed. The City needed to continually look at its budget to come up with the revenue to get the maintenance done more quickly to save money.

Mayor Bernard was concerned that if the Council decided not to do this it might have to cut the Library or police budgets. He hoped Chief Kanzler would talk about the drop in crime in Milwaukie even though the police department had fewer officers. Maybe it was because Milwaukie had good library services. It might be the big picture in which all the services and citizen support made this a great community.

Mr. Swanson recommended not speculating on any specific service level adjustments at this point. The state of affairs would have to change to fund this, and the budget would have to be looked at closely.

Mayor Bernard said that was not his intent. When he started on Council there were two assistant city managers and more department heads than there were now. The City has worked hard to be lean and mean.

It was moved by Councilor Barnes and seconded by Councilor Collette for the first and second readings by title only and adoption of the ordinance amending the municipal code by adding a new chapter 3.25 – Street Surface Maintenance Program adopting a street maintenance program, and requiring payment of a street maintenance utility fee. Motion passed with the following vote: Mayor Bernard and Councilors Barnes, Collette, and Stone voting 'aye' and Councilor Loomis voting 'no.' [4:1]

Mr. Swanson read the ordinance for the first time by title only.

The second reading of the ordinance would be January 2, 2007.

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 municipal code by adding a new Chapter 3.30 – privilege tax and imposing a privilege tax on electric utilities. Motion passed with the following vote: Mayor Bernard and Councilors Barnes, Collette, and Stone voting 'aye' and Councilor Loomis voting 'no.' [4:1]

Mr. Swanson read the ordinance for the first time by title only.

The second reading of the ordinance would be January 2, 2007.

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 creating and imposing a tax on motor vehicle fuel dealers; providing for enforcement, administration, and collection of the tax; and amending the municipal code by adding a new chapter 3.40.

Councilor Collette hoped this could work through the state legislature in order to remove the burden from local stations.

Mr. Firestone said it was written in the ordinance that the gas tax would be repealed if a County or State tax were adopted.

Motion passed with the following vote: Mayor Bernard and Councilors Barnes and Collette voting 'aye' and Councilors Loomis and Stone voting 'no.' [3:2]

Mr. Swanson read the ordinance for the first time by title only.

The second reading of the ordinance would be January 2, 2007.

Mr. Firestone clarified that the provision stating the taxes would be rolled back or dropped in the event of a Countywide or Statewide tax or any other replacement was in the first ordinance adopting the street maintenance fee. It applied to all the revenues.

OTHER BUSINESS

A. Ethel Folden Gift to Milwaukie Ledding Library -- Resolution

Mr. Swanson reported that Ms. Folden was a long-time volunteer at the Ledding Library in the 1980's, and she designated the insurance and annuity proceeds from her estate be gifted to the Milwaukie Ledding Library. Ms. Folden passed away in Tampa last July. In talking with the financial advisor, he learned the benefits would be approximately $145,000. The proposed resolution showed that Mr. Swanson had the authority to sign documents on behalf of the City of Milwaukie. Checks would be placed in a segregated account, and he would recommend the money be assigned a purpose such as the building fund rather than funding operations. He suggested some long-term library use.

It was moved by Councilor Barnes and seconded by Councilor Collette to adopt the resolution authorizing City Manager Michael F. Swanson to sign any documents required to effect the disbursement of funds designated by Ethel Folden as being a gift to the Milwaukie Ledding Library. Motion passed unanimously. [5:0]

RESOLUTION NO. 58-2006:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING CITY MANAGER MICHAEL F. SWANSON TO SIGN ANY DOCUMENTS REQUIRED TO EFFECT THE DISBURSEMENT OF FUNDS FROM INSURANCE AND/OR ANNUITIES DESIGNATED BY ETHEL FOLDEN AS BEING A GIFT TO THE CITY'S LEDDING LIBRARY.

B. Consider Settlement Agreement Relating to International Way Site

Mr. Firestone reported the International Way site was composed of two properties generally known as the XTP Property and the Watamull Property. In the past the properties operated as one, and at that property there were significant releases of TCE into the soil and the groundwater. The City believed TCE contamination had reached City Well #7. The City has spent a large amount of money over the years treating the water from that well because of the contamination. There was a major effort underway being spearheaded by the Department of Environmental Quality (DEQ). It also involved all the current owners, the bank that financed the acquisition of one of the properties, and the former owners. There was a global agreement that involved all of the parties that had ownership or other interests in that property contributing something. There were insurance proceeds and money offered by the various companies. The end result was that millions have and will be spent on cleanup of that site. That was clean up of groundwater within the City. Because of that cleanup and the commitment by all the owners, DEQ published notice that it intended to enter into and have a consent judgment issued. The effect of the consent judgment would cut off the City's ability to recover anything from any of the responsible parties from the International Way site even though they were not cleaning up the City's well. XTP and related entities offered $75,000 for the City to not oppose the consent judgment and waive all claims relating to the International Way site. He recommended the Council accept the offer on behalf of the City. If the Council did not accept the offer, then it would not get the $75,000. Based on experience it was unlikely that the objection to the consent judgment would be unlikely to have any effect. The City would be cut off if the consent judgment were issued and not get any money. To him there were three differences from the Stanley situation. One was the City had evidence that Stanley contaminated five of the City's wells, and International Way was lined to one City well. Another difference was that these parties were paying millions for the cleanup. Stanley and Ingersoll Rand were not

paying anything. They paid something to remove contaminated soil but were not paying anything to clean up contaminated groundwater. Third, DEQ was not prepared to go into the consent judgment process for the Stanley property. The basic terms were that the City would be paid $75,000 by December 27, 2006, and the City would not contest or delay the consent judgment and waive all the claims against the various parties.

It was moved by Councilor Stone and seconded by Councilor Barnes to authorize the city manager to enter into the settlement agreement with XTP regarding the International Way site substantially in the form of the draft agreement that was provided to the Council this evening and further authorizes the city manager to negotiate changes and sign an agreement with minor changes that did not affect the basic terms. Motion passed unanimously. [5:0]

C. Council Report

Mayor Bernard thanked Councilor Loomis and Mike Stacey for their work on the Winter Solstice Event. Although the Christmas Fleet did not go out on the River that night because of the debris from the recent heavy rains, the event was well attended. The Lewelling Neighborhood and Starbuck's volunteers provided refreshments.

Councilor Loomis thanked Ms. Herrigel and the Community Services Department staff and Gary Nebergall of General Tree Service for providing the wood. Starbuck's had adopted the City's riverfront as one of its projects.

Councilor Stone reported on the success of the Ardenwald Holiday Potluck.

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 10:55 p.m.

Pat DuVal

Pat DuVal, Recorder

Date: 12/19/06

I wish to address City Council on Agenda Item # Street Issue

Name: Arthur Ball
Organization:
Address: [redacted]
Phone:
E-mail:

Speaking in support ✓ Speaking in opposition
Raising questions Providing information ✓

Comments:
1) Sending a letter to be entered into the record for Eric Boyer.
2) A brief personal comment.

Date: 12-19-06

I wish to address City Council on Agenda Item # _____

Name: Corky Coreson

[redacted] Ln.

[redacted].com

Speaking in support _____ Speaking in opposition ✓

Raising questions _____ Providing information _____

Comments:

Date: 12/19/06

I wish to address City Council on Agenda Item # Street Maintenance Funding

Name: Debby Patten
Organization: Lake Road NA
Address: [redacted]
Phone:
E-mail:

Speaking in support ✓ Speaking in opposition _____
Raising questions _____ Providing information _____

Comments:

Date: 12/19

I wish to address City Council on Agenda Item # 5

Name: Lisa Bates

Organization: self

Address: [redacted]

Phone:

E-mail:

Speaking in support ✓ Speaking in opposition _____

Raising questions _____ Providing information _____

Comments:

Date: 12-19-06

I wish to address City Council on Agenda Item # Utility Tax (Trip fee)

Name: Michael Lipes

[redacted]

Speaking in support _____ Speaking in opposition X

Raising questions _____ Providing information _____

Comments:

Will this "group" of taxes be re-cinded once the needed money is collected?

Instead of painting nice designs on the streets, why didn't you use the money to fix the roads.

Why don't you Live with the budget you have, just Like I do?

Date: 12-19-06

I wish to address City Council on Agenda Item # 5

Name: NABIL KANSO SR

Organization:

Address: [redacted]

Phone:

E-mail:

Speaking in support _____ Speaking in opposition ✓

Raising questions _____ Providing information _____

Comments:

_____

_____

_____

_____

Date: 12/19/06

I wish to address City Council on Agenda Item # 5

Name: PAUL ROMAIN

Organization: OREGON PETROLEUM ASSOCIATION

Address: [redacted]

Speaking in support _____ Speaking in opposition X

Raising questions _____ Providing information _____

Comments:

Date: 12/19/84

I wish to address City Council on Agenda Item # 5 (street prog; privilege tax)

Name: Annette Mattson
Organization: Portland General Electric
Address: [redacted]
Phone: 503-464-8000
E-mail: [redacted]

Speaking in support _____ Speaking in opposition _____
Raising questions _____ Providing information X

Comments:

Date: 12/19/06

I wish to address City Council on Agenda Item #
#5 - Street Maintenance Funding Ordinances

Name: Steven Rowe
Organization: _____
Address: [redacted]
Phone: _____
E-mail: _____

Speaking in support _____ Speaking in opposition X
Raising questions X Providing information _____

Comments:

_____

_____

_____

_____

Date: _____

I wish to address City Council on Agenda Item # _____

Name: Chuck Bird

Organization: [redacted]

Phone: _____

E-mail: _____

Speaking in support X Speaking in opposition _____

Raising questions _____ Providing information _____

Comments:

_____

_____

_____

_____

_____

Date: 12-19-06

I wish to address City Council on Agenda Item #

TRANSPORTATION FEE

Name: BOB HATZ

Organization: CUAB

[redacted]

E-mail: [redacted]

Speaking in support X

Speaking in opposition _____

Raising questions _____

Providing information _____

Comments:

REVISED

AGENDA

MILWAUKIE CITY COUNCIL
December 19, 2006

MILWAUKIE CITY HALL **1996th MEETING**
10722 SE Main Street

REGULAR SESSION – 7:00 p.m.

I. CALL TO ORDER
Pledge of Allegiance

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Update on South Corridor Phase 2 (Kenny Asher)

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. City Council Minutes**
  1. **November 9, 2006 Work Session**
  2. **November 9, 2006 Regular Session**
- **B. Certify the Results of the November 7, 2006 Election – Resolution**
- **C. Set Meeting Dates for 2007 -- Resolution**
- **D. Resolution Appointing Paulette V. Qutub to the Planning Commission**
- **E. Resolution Appointing Gregory W. Seagler to the Riverfront Board**

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.)*

Street Maintenance Funding Program Adoption – Ordinances (Alex Campbell)

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

A. Ethel Folden Gift to Milwaukie Ledding Library – Resolution (Mike Swanson)
B. Council Reports

7. INFORMATION

Park and Recreation Board Meeting Minutes of October 24, 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.

To: **Mayor and City Council**

Through: **Mike Swanson, City Manager**

From: **Kenny Asher, Community Development and Public Works Director**

Subject: **Update on South Corridor Phase-2**

Date: **December 6, 2006 for December 19 Work Session**

Action

None. This is a briefing for Council on the upcoming Portland-Milwaukie light rail study known as the South Corridor Phase 2 Draft Environmental Impact Study. Metro is preparing to begin the study, which involves some planning work on Milwaukie-related issues. Council and the community should be apprised of this project (estimated at $4.2 million) and its related startup activities, since some planning will begin prior to the official April 2007 DEIS start.

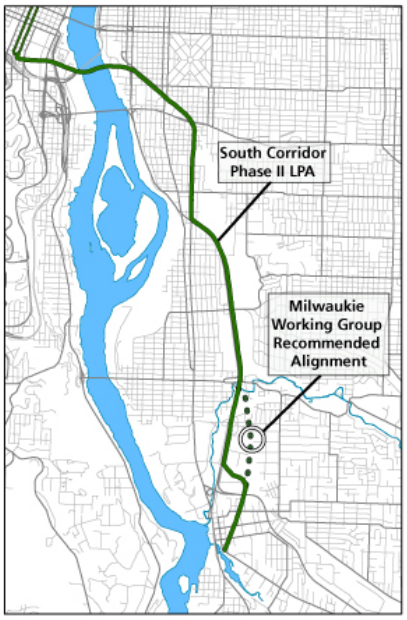
Background

South Corridor Planning

The South Corridor Phase 2 Draft Environmental Impact Study ("DEIS") is a multi-partner process, officially led by Metro, to identify the most effective and publicly supported light rail in the SE McLoughlin corridor. The principal partners in the study include Metro, TriMet, ODOT, Clackamas and Multnomah counties and the cities of Portland, Milwaukie and Oregon City

The Project began in 1999. Phase I of the project is the Downtown Mall/I-205 light rail alignment and Phase 2, identified in 2003, is the light rail project between Portland and Milwaukie. Now that Phase I is under construction, Phase 2 is scheduled to begin. A DEIS for Phase 2 is the first step – necessary because portions of the alignment identified in 2003 remain unresolved. The DEIS is set to begin in April 2007, and should be complete in the summer of 2008.

Portland/Milwaukie Light Rail Alignment



The DEIS will analyze the design, user benefits, ridership projections, construction costs, engineering, environmental impacts, traffic impacts, economic development and property impacts of the proposed project.

The product of the DEIS will be an updated locally preferred light rail alignment, memorialized in a report to the Federal Transit Administration. The report is required by the federal government to ensure that the project and its impacts are fully understood by the public, and that adequate input has been collected prior to moving the project forward. Although there are many variables, a successful DEIS could lead to construction beginning in 2011.

South Corridor and Milwaukie

Milwaukians might recall the request put forward by Southeast Portland neighborhoods and Milwaukie in 2000 to have light rail studied as a transit option for the corridor, along with busway and bus rapid transit. In 2001, Milwaukie's Neighborhood Associations drafted its 14 Points, a document that outlined the conditions under which the neighborhoods would support a light rail alignment, or busway, in Milwaukie. It was this request and subsequent work that eventually led to the two-phased South Corridor project described above.

In 2003, the adopted Locally Preferred Alternative (LPA) for the Milwaukie light rail project called for:

- Tacoma Station with a 600 space parking structure located at the then Goodwill site.
- Closure of Moores Street at northbound McLoughlin.
- Elimination of two Thomason buildings north of Ochoco Street.
- Shifting Main Street to the east.
- Reconstruction of the intersection of Main and Beta Streets.
- 600 car parking structure and transit center at Southgate.
- "Crossover Alignment" from Main Street east to the Tillamook Branch.
- Harrison Street Station behind Waldorf School with a "quick drop" along Harrison Street.
- Lake Road Terminus Station at 21st Avenue

- 275 Space Park & Ride with 17,000 square feet of retail at Washington & Main Street that will serve the Lake Road Station.

Milwaukie City Council adopted this LPA, but appended to the resolution (12-2003) was Exhibit A calling for the formation of a Working Group to mitigate anticipated impacts to the North Industrial District, based on the LPA design.

The Working Group consisted of representatives from TriMet, ODOT, Metro, North Industrial land holders and neighborhood leaders. The Working Group worked for six months and studied 10 LPA alternatives before delivering a final recommendation in February of 2004. The Working Group recommendation differed from the adopted LPA in moving the light rail alignment to the Tillamook Branch through the North Industrial District, and moving the transit center location to Kellogg Lake. Council adopted this recommendation in October 2004 (Resolution 31-2004), officially adopting the Working Group's alternative as the city's light rail design preference.

In the fall of 2005, the City learned that the Kellogg Lake property had been gifted to the City under the condition it would be developed as a park in honor of the late Robert Kronberg. In honoring that commitment, the City has changed its position on the future use of the Kellogg Lake site, thereby leaving unanswered the question of alignment and termination for the future South Corridor light rail line.

South Corridor DEIS - Next Steps

The DEIS is scheduled to begin in April 2007. Before then, Metro staff will finish reviewing the light rail alignment as defined in the Locally Preferred Alternative (LPA) adopted in 2003. The review includes examining cost effectiveness and changed conditions since adoption. In Portland, project staff is beginning conversations with stakeholders along the alignment to inform them of the start and scope of the DEIS, and to obtain new input on the adopted LPA. The project will use what it has learned from these conversations to help identify issues to study in the DEIS.

For example, with new development on the east and west side of the Willamette River in the Central Eastside and the South Waterfront districts, consideration will be given to whether an additional river crossing option, south of the Caruthers and north of the Ross Island Bridge, should be studied -- along with the adopted LPA "Caruthers Crossing."

In Milwaukie, project staff is briefing the council and community through a City Council special report on 12/19. Because the Kellogg Lake site is no longer under consideration, terminus and park and ride components of both the Working Group recommendation and the adopted LPA need to be reviewed before, and potentially during, the DEIS process. Specifically, Metro will be begin studying three elements in the next few months:

- Southern extension to Park Avenue with expanded park and ride spaces
- Southern extension to the ODOT property west of McLoughlin
- Milwaukie's recommended refinements to the LPA alignment (Tillamook branch recommendation)
- Feasibility of a Milwaukie to Lake Oswego extension (via the Portland and Western railroad bridge -- requested by the Metro council as part of the Lake Oswego Streetcar study).

Metro staff expects to provide Milwaukians an opportunity to learn more about these studies, and to re-engage with the project, prior to launching the DEIS. Staff from Metro and the City of Milwaukie have discussed the possibility of a comprehensive workshop for Milwaukians and Clackamas County businesses and residents in February 2007.

Study Timeline

Background	**DEIS**			
Preliminary Review of Locally Preferred Alternative	Confirm LPA/Designs Options	Evaluate Impacts	Document Results	Selection of refined locally preferred alternative
SPECIFIC PUBLIC INVOLVEMENT OPPORTUNITIES				
Stakeholders Conversations	*Public Scoping Meetings*	*Neighborhood Updates*	*Open Houses*	*Public Hearing*
Winter 2006-07	***Spring 2007 to Spring 2008***			***Summer 2008***

Opportunities for public input throughout the DEIS itself will be available for all affected parties, including businesses, property owners, neighborhood groups, public institutions, and interested parties. Metro will maintain a project mailing list and communicate regularly with parties interested in the DEIS. In addition, Metro and the project partners will establish a citizen committee to advise the DEIS on a regular basis. There will be open houses, newsletters, a website, and public presentations during the DEIS. Metro will be taking public comments throughout.

The South Corridor Project Steering Committee is responsible for making final recommendations regarding key decisions during the DEIS. The Steering Committee is comprised of elected officials from Clackamas and Multnomah counties, the cities of Milwaukie, Portland and Oregon City, and Metro; and executives from TriMet and the Oregon Department of Transportation.

Concurrence
None, as no action is being requested.

Fiscal Impact
None, as no action is being requested. Council is reminded that the City of Milwaukie has committed $200,000 to the $4.2m study. An Intergovernmental Agreement between the City and Metro for these funds is expected to be forwarded to Council for City Manager execution in the coming months.

Work Load Impacts
None, as no action is being requested. Community Development and Community Services staff have taken the lead in working with Metro on the public involvement design for the project and will continue their involvement throughout the project.

Alternatives
None, as no action is being requested.

Attachments
None.

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION

NOVEMBER 9, 2006

Mayor Bernard called the work session to order at 5:31 p.m. in the City Hall Conference Room.

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

Staff Present: City Attorney Gary Firestone, Resource and Economic Development Specialist Alex Campbell, Transportation Liaison Gavin Hales, and Community Services Director JoAnn Herrigel.

Update on Street Maintenance Funding Plan Development

Mr. Campbell understood the decision would be difficult, so he targeted his remarks to some of the more controversial aspects. He briefly reviewed the July 18 discussion. The case that something needed to be done was clear. The City streets were an asset worth $60 million to $70 million. Preventative maintenance was five-times more cost effective than rebuilding after the streets had eroded. It was important to address the problem and establish a program to do it right. Overlaying a degraded street was not a long-term solution, but funding it was a real problem. The street fund purchasing power had decreased about 40% over the past decade.

He would review the basic proposal that was shared with the community this fall, discuss the tradeoffs related to the revenue proposals, report on the outreach efforts, and ask for Council's suggestions for refining the recommendation before the December meeting.

The proposal as outlined in the staff report was the best guess and was a basis for discussion. He felt it would be helpful to structure the outreach discussion by having a concrete proposal for people to wrestle with. Three revenue tools were identified to raise funds for street maintenance. The first was the PGE privilege tax to pay for street lighting. Currently street lighting was paid out of the street fund, so that move would free up approximately $300,000 for maintenance. The other revenue tools were the street utility fee and the gas tax. The street utility fee as proposed would be based on the charge of $0.35 each month per daily trip generated per engineering estimates. Staff had a data set of all the buildings and the land uses to determine where the fee would need to be set to generate $700,000. On the residential side it came out to about $3.35 per single-family household. There were a number of examples in the staff report of the fees for commercial uses. The fee would be calculated on a monthly basis but charged on a bi-monthly basis on the residents' utility bills. The third element was a $0.02 cent per gallon gas tax on gasoline sold within the City. It was clear that the privilege tax was truly a tax that could be used for anything in the City. People typically think of fairness in terms of raising revenue. There was the service basis and the ability to pay, and the privilege tax was more like the ability to pay. The street utility fee and the gas tax legally would be thought of as taxes but actually was tracked by usage.

In the staff report he outlined how much Milwaukie residents would be charged versus non-residents including businesses, governmental agencies, non-profits, and entities of that nature. About 2/3 of the privilege tax would be paid by non-residential users. There were several big power users, and one alone would pay about 1/3 of that tax. About 58% of the street utility fees would fall on the non-residential users.

The other part of the program had to do with the types of projects that would be done to improve the quality of street surfaces in Milwaukie. Preventative maintenance would be the first priority including crack sealing and other treatments. The more expensive and longer-term solutions were overlay projects where old asphalt was ground off and two inches of new asphalt were added. That kind of rehabilitation project added about 10 years of life on a local street. The final category was rebuild projects, which were very expensive. Staff recommended enough money to rebuild and correct the major arterial and collectors in Milwaukie over a 10-year period. Staff learned over the past few months that it was crucial to find more resources for inspection related to the quality of asphalt, construction, and utility cuts.

The big concern on the revenue side was that the privilege tax would be very expensive for large energy users. The utility fee impacted those businesses in town that generated a lot of trips like retail, fast food, and banks. There was also a concern about the fee amount for residential. The School District would be charged approximately $20,000 a year. He was not sure how the gas tax would play out, but there would clearly be an impact on local gas stations. Mr. Campbell distributed a graphic on the outreach including mailings and flyers for the upcoming open house. The key questions were listed in the staff report.

Mayor Bernard requested that as many Councilors attend these open houses as possible to hear people's comments. Clackamas County was the only county in the Metro area that did not have some kind of transportation fee or tax. Consequently there was always an issue with matching funds since the County had little or no money. One of the region wide questions was why did Clackamas County not take care of itself. The biggest weakness to the County road maintenance fee proposal was outreach. He had not heard a lot from the citizens other than that the lighting portion of the fee seemed reasonable.

Councilor Barnes understood it would be approximately $55 annually for a residence if you added up the $1 privilege tax, $40 for the street utility fee, and about $10 for the local gas tax. She suggested putting it in those terms to make it sound less overwhelming. Just give people the bottom line.

Councilor Collette agreed that would be a good approach and make it more clear for the average person in Milwaukie. Let people see how much comes from each of the three initiatives.

Mr. Campbell met with North Clackamas School District Superintendent Ron Naso and Joe Krumm to let them know about the proposal. He did not know if the District would support it, but Mr. Naso did understand the importance of reinvesting in the City. The District had a lot of schools in Milwaukie, so it was important that the population remain strong. The District supported the proposal in principle, and it was unlikely they would oppose it. Precision Castparts would pay a significant portion of the PGE privilege tax, so there was some balance.

Councilor Barnes noted it was important that follow up phone calls were made to ensure people had gotten written materials.

Councilor Stone agreed with Councilor Barnes and asked why this had to happen right before Christmas. It was only a little over a dollar a week if the numbers were accurate. The City was looking at everyone who used the roads to contribute. It was her experience in the past when 32nd Avenue was rebuilt much of the damage was from TriMet buses. Where was TriMet in all of this because they impacted the streets heavily? What would happen if the County implemented a similar fee? Would Milwaukie's fees stay and would there be a cap once maintenance was up to speed? How many years would it take before the need for maintenance fees leveled off?

Mr. Campbell said if the City got another revenue source there would be a strong incentive to for a future Council to hold back on the fee. This Council could make that explicit within any ordinance that was adopted. The other question was what happened over time absent other revenue. Staff was trying to think in terms of 10 years. In 10 years one extreme was that the City repaired almost all of the significant streets in town, but there were still some local streets that needed significant work. The other was that there was a built-in 4.5% inflation assumption, but if inflation were higher purchasing power would be eroded. That decision could be left up to a future Council or there could be something in the ordinance that forced the decision.

Councilor Stone commented on collecting money to have in reserve for street maintenance much like what Council looked at with utility fees. She thought that it should be revenue neutral so there was not an overabundance of funds. She would like to see it used as it came in and not have a slush of funds.

Mr. Campbell noted there were several millions in deferred maintenance.

Councilor Loomis did not like any of the options. People were aware there was a problem. If there was a good campaign and people were told what their money would be spent on then they would accept the idea and vote that way. He always had an issue with the privilege tax from the standpoint that the City took in nearly $1 million in franchise fees from PGE. That money was for PGE's using the right-of-way. He thought the money should come out of that fund. The street utility – the citizens were paying to go from their house to the school. Just tell people what they need to pay and what it is for. This was too confusing. He brought the local gas tax up three or four years ago, and people in this room were not supportive of it. That was when gas was about $1.50 per gallon; now it was $2.30. He would prefer a levy where the citizens had the opportunity to vote. He was convinced they would not say no if the City worked hard. He suggested talking to the people who got the School District bond measure passed because they obviously knew how to get the job done. You need to work at it and communicate the message. The message was pretty easy. The money was for the roads, and these were the roads that were going to be fixed. The money was dedicated to that, and people would support it. This was too confusing. It seemed like the City was not going to let people vote on this, and it was just going to be implemented.

Councilor Barnes commented the District had hundreds if not thousands of volunteers who went door-to-door. Milwaukie did not have that number of volunteers who would go door-to-door to raise taxes for street repair. She would love to see that, but she did not think this was a top priority like schools.

Councilor Loomis did not think it would be harder to sell. The School District had a much larger area of maybe 100,000 people.

Councilor Stone certainly did not like implementing a tax. This was taxing them again. This was confusing. The City should just have said this was what was going to be needed. This trip generation thing sounded confusing and almost petty. The City needed to get right down to it and say this was what was needed. She agreed with Councilor Loomis. She did not like to see taxes imposed on people, and that was what this felt like. The City did need to look hard at how to fund street maintenance because it was a problem. As long as people knew there was a problem out there and they were convinced of it, which seems like outreach had done, she did not think they would have any issues if it was presented to them in a clear, concise way.

Mayor Bernard used the example of the fire district annexation, which everyone knew was the right thing to do. Until taxes were cut to pay that difference it did not happen. There was a good campaign the first time, and the second time only a handful of people including Mr. Swanson, a few Fire District people, and he campaigned. The only reason it passed was because the information mailers were good.

Councilor Stone suggested a survey in *The Pilot*.

Mr. Campbell noted there was an online survey, but he recommended that the Council not base policy upon that.

Councilor Loomis followed up on the annexation. It passed the second time because it was not clear the first time. It spelled out exactly what would happen. People did not have to be convinced there was a road issue. They drove on the streets everyday.

Mayor Bernard thought the campaign was better, and it was revenue neutral.

Mr. Campbell addressed the utility fee and how it was charged. If it was done on a property tax basis businesses like Albertson's or McDonald's or Safeway that contributed a large proportion of the trips and road surface wear, then they would not be paying their fair share. The intent of the trip generation was to allocate the charges in some way that reflected the use of the streets. He asked for Council direction on continuing forward on a proposal similar to the one being worked on thus far in December.

Councilor Barnes asked why TriMet was not charged.

Mayor Bernard said TriMet was a taxing entity that received funding from businesses.

Mr. Campbell said one way TriMet would be affected would be when it had a permanent address such as a transit center or park-and-ride in town.

Councilor Stone observed that TriMet was using the streets as a transit center right now.

Mr. Campbell replied the City was not charging TriMet any kind of fee.

Councilor Collette asked if there were a fixed residential fee.

Mr. Campbell responded that the fee would be explicit for single- and multi-family residences in the ordinance.

Councilor Collette recommended it be called a street maintenance fee to make it clear that the fee would be used to maintain local streets.

Councilor Loomis asked for a cost per thousand if the Council wanted to put a levy on the ballot.

Councilor Stone wanted the estimated cost of putting the matter on the ballot. She thought that should be explored.

Mr. Firestone said there would need to be a double majority if it were a property tax.

A member of the audience noted that the City allowed overloaded vehicles on its streets and asked if the Council had thought about an ordinance that limited the loads. The Council might also consider a fee for studded tires.

Quiet Zone Research

Mr. Hales reported 31 trains used the Union Pacific mainline each day as it passed through the City. Because of federal regulations each was required to sound its horn at least 16 times in the City limits. The result was a nearly continuous train horn noise as each train passed through. The City continued to receive frequent comments concerning the impact of train horn noise on Milwaukie residents. One such letter described the impact: "in late June we moved from Portland to Milwaukie. By mid-July we were ready to move right back out again. The reason is the incessant train horns." Staff also looked at the impact from a sound engineering perspective. He indicated the impact area on a City map and reviewed some statistics on sound levels. About 4/5 of a mile away from the source, the horn volume reached approximately 65 decibels. This was typical of a residential use next to an airport. At approximately 1/3 of a mile the level reached 75 decibels and considered by FTA generally unacceptable for residential use. 70 decibels was equivalent to the sound volume of a gas lawn mower 100 feet away. The impact at 100-feet from the line reached 104 decibels that was considered unsafe to the human ear if it was heard continuously.

Newly finalized regulations allowed for the establishment of a quiet zone which was a section of rail line in which operators did not sound their horns except in emergencies. The federal ruling required that any new quiet zone include at least one-half mile of rail line and that supplementary safety measures (SSM) be installed at all crossings. SSMs were engineering improvements that reduced the risk of collision by preventing careless movement across the crossing. Milwaukie looked at three SMS types. The first was raised concrete dividers with reflectors separating lanes of traffic at a cost of approximately $100,000 to $125,000. The second was the installation of two additional gates to supplement existing gates in preventing movement across the tracks at approximately $250,000 per crossing. The last option was grade separation. The purpose of the SMSs was to prevent people from weaving between the gates.

In 2005 staff prepared a report that was supplemented by a consultant's report that recommended the City seek funding initially for improvement to the 37th Avenue/Oak Street crossing and later expand the zone to include Harrison and Harmony. The second alternative involved the installation of both four quadrant gates and median barriers at those crossings. Based on the new federal rules and reassessment of quiet zone strategies, staff believed it might be possible to install median barriers at Harrison, 37th, and Oak instead of using the four-quadrant gate solution. The primary benefit was that it costs less. The estimated total cost to implement the quiet zone was between $565,000 and $900,000. These costs were based on a strategy that addressed all four crossings. At present the County was considering grade separation at Harmony Road that would lower the estimated costs by approximately $150,000.

Mayor Bernard suggested adding this to the utility fee because if affected many residents and businesses. He thought Albertson's would be interested because it would significantly reduce the amount of train noise in the area.

Councilor Stone asked how train noise had affected Albertson's business.

Mayor Bernard thought the noise level in the back and in the parking lot was very high.

Councilor Stone thought that would make it too complicated and make the levy fail.

Councilor Collette agreed many people were affected by the horns but was concerned this would complicate the issue. She asked if any funding options had been identified in 2005.

Mr. Hales replied the federal process was the result of long and contentious discussion between various jurisdictions that had implemented quiet zones early on and the railroads. While it gave cities the opportunity to establish zones and clarified that in a way that previous legislation did not made it very easy. However, it also removed the railroad from any financial responsibility. There were no federal grant or support programs for this sort of effort. He spoke with people from the Oregon Department of Transportation (ODOT) rail and while there were grant programs for pedestrian safety improvements there was nothing for quiet zones at present.

Councilor Stone suggested in establishing a quiet zone the crossings would have to be even safer. Could the collision between the car and train have been prevented with something like this? Could it be slanted toward public safety rather than something like an annoyance.

Mr. Hales said that would be worth exploring and the upside with these measures was improved safety.

Councilor Barnes asked if this could be considered a capital improvement project.

Councilor Stone how many complaints had come to the City.

Mr. Hales would have to check with Mr. Swanson in terms of phone calls. A City wide outreach would provide better information. From the people he talked to there was a lot of support, and many did not realize this was an option.

Mr. Firestone added it took several years for the federal regulations to come into effect, and they worked on them for years.

Councilor Collette thought it was also a health issue because of the decibel level, and the City had the responsibility to combine the safety and hearing issues. She felt the Council should take this on.

Councilor Stone thought if hearing loss was an issue then she thought the railroad should bear some responsibility.

Mr. Firestone explained the horns were a federal requirement for safety reasons.

Councilor Barnes asked Mr. Hales to keep a log and ask people how long they have lived here. To some who lived nearby it was a background noise.

Mayor Bernard said many people at the Farmers' Market have made comments, and he thought there would be strong support for a quiet zone in Milwaukie. He would like to hear from people who were concerned.

Councilor Stone asked if there was any data showing that quiet zone methods made crossings safer.

Mr. Hales said as part of the federal program about 40 test studies were done in the northwest. They determined that the risks had gone down substantially using the SSM methods.

Mr. Campbell noted this was an issue in the redevelopment of both the Murphy and MacFarlane sites.

Councilor Loomis asked if the problem was with the horns or the track.

Mr. Campbell replied it was probably both. The zoning on each property currently required a substantial residential component.

Mayor Bernard announced the City Council would meet in 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 6:33 p.m.

_____
Pat DuVal, Recorder

CITY OF MILWAUKIE
CITY COUNCIL MEETING
November 9, 2006

CALL TO ORDER

Mayor Bernard called the 1993rd 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 Kelver, 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 Committee 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 40th Avenue, Milwaukie 97222 in opposition to the appeal.

Staff Report:

Mr. Kelver 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

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 aesthesis, 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. Kelver 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. Kelver 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 27th 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 and 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 Schools 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 cold 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 28th Avenue and owned property at 2725 SE Washington which was in direct site of the sign. The back yard of his 28th 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.

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 28th 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 23rd and 27th 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 there 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 of 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 27th. 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, 82nd Avenue, or 224 this is ok, motorists are not

having to watch our 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 Beavercreek Rod 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 read 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 an 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 23rd and 26th 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 me 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

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. Kelver 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. Kelver 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. Kelver 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 85th percentile before the signal went in and now?

Mr. Kelver replied he did not have that information.

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. Kelver 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 85th 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 our 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

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 19th 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 new 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 20th 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 20th 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 18th 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 18th Street. Two of the four people on 19th 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 20th started going to Lark to 18th 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 20th 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 20th 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.

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

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CERTIFYING ELECTION RESULTS FOR THE NOVEMBER 7, 2006 GENERAL ELECTION.

WHEREAS, Section 13 of the Charter requires the certified elections results be made a part of the record of proceedings of the City Council; and

WHEREAS, the election results from the November 7, 2006 General Election have been certified by the Office of the Clackamas County Clerk and Multnomah County Elections; now, therefore;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON THAT:

Section 1: The certified election results, attached hereto as Exhibit "A" and incorporated herein, are hereby made a part of the record of proceedings of the City Council.

Section 2: This resolution if effective immediately upon adoption.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon, on December 17, 2006.

_____
James Bernard, Mayor

ATTEST:

_____
Pat DuVal, City Recorder

APPROVED AS TO FORM:

_____
Ramis, Crew, Corrigan & Bachrach, LLP

CITY OF MILWAUKIE: Mayor
Vote For 1

	VOTES	PERCENT		VOTES	PERCENT
01 = James Bernard	4,817	93.03	03 = OVER VOTES	0	
02 = WRITE-IN	361	6.97	04 = UNDER VOTES	2,455	

	01	02	03	04
0051 51	517	31	0	289
0053 53	458	18	0	229
0054 54	430	33	0	174
0056 56	404	31	0	178
0057 57	517	68	0	280
0058 58	378	21	0	228
0060 60	587	38	0	270
0062 62	525	54	0	307
0063 63	491	35	0	243
0064 64	510	32	0	257

CERTIFIED COPY OF THE ORIGINAL
SHERRY HALL, COUNTY CLERK
BY:

RS 3.B. 3

CITY OF MILWAUKIE: Councilor, Position 2
Vote For 1

	VOTES	PERCENT		VOTES	PERCENT
01 = Greg Chaimov	2,299	40.58			
02 = Susan Stone	3,337	58.90	04 = OVER VOTES	1	
03 = WRITE-IN	30	.53	05 = UNDER VOTES	1,966	

	01	02	03	04	05
0051 51	283	332	3	0	219
0053 53	180	311	2	0	212
0054 54	174	309	7	0	147
0056 56	187	298	2	0	126
0057 57	259	398	6	0	202
0058 58	200	251	2	0	174
0060 60	259	405	1	0	230
0062 62	260	384	1	1	240
0063 63	246	313	4	0	206
0064 64	251	336	2	0	210

CERTIFIED COPY OF THE ORIGINAL
SHERRY HALL, COUNTY CLERK
BY:

General Election
Clackamas County, Oregon
November 7, 2006

RS 3.B. 4

CITY OF MILWAUKIE: Councilor, Position 4
Vote For 1

	VOTES	PERCENT		VOTES	PERCENT
01 = Deborah Barnes	4,168	96.82	03 = OVER VOTES	1	
02 = WRITE-IN	137	3.18	04 = UNDER VOTES	3,327	

	01	02	03	04
0051 51	432	16	0	389
0053 53	393	5	0	307
0054 54	377	13	0	247
0056 56	360	10	0	243
0057 57	449	28	0	388
0058 58	300	6	0	321
0060 60	511	15	0	369
0062 62	446	16	1	423
0063 63	452	11	0	306
0064 64	448	17	0	334

CERTIFIED COPY OF THE ORIGINAL
SHERRY HALL, COUNTY CLERK
BY:

RS 3.B. 5

NUMBERED KEY CANVASS

2006 General Election
Multnomah County Oregon
November 7, 2006

OFFICIAL FINAL RESULTS

RUN DATE:11/22/06 04:32 PM

REPORT-EL52 PAGE 0083

Mayor CITY OF MILWAUKIE
Vote For 1

	VOTES	PERCENT		VOTES	PERCENT
01 = James Bernard	0		03 = OVER VOTES	0	
02 = WRITE-IN	0		04 = UNDER VOTES	0	

	01	02	03	04
0601 601	0	0	0	0

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.

John Kauffman

John Kauffman, Director of Elections
Multnomah County, Oregon

RS 3.B. 6

NUMBERED KEY CANVASS

RUN DATE:11/22/06 04:32 PM

2006 General Election
Multnomah County Oregon
November 7, 2006

OFFICIAL FINAL RESULTS

City Council, Position 2 CITY OF MILWAUKIE
Vote For 1

	VOTES	PERCENT
01 = Greg Chaimov	0	
02 = Susan Stone	0	
03 = WRITE-IN	0	
04 = OVER VOTES	0	
05 = UNDER VOTES	0	

	01	02	03	04	05
0601 601	0	0	0	0	0

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.

John Kauffman

John Kauffman, Director of Elections
Multnomah County, Oregon

RS 3.B. 7

NUMBERED KEY CANVASS
RUN DATE:11/22/06 04:32 PM

2006 General Election
Multnomah County Oregon
November 7, 2006

OFFICIAL FINAL RESULTS
REPORT-EL52 PAGE 0085

City Council, Position 4 CITY OF MILWAUKIE
Vote For 1

	VOTES	PERCENT		VOTES	PERCENT
01 = Deborah Barnes	0		03 = OVER VOTES	0	
02 = WRITE-IN	0		04 = UNDER VOTES	0	

	01	02	03	04
0601 601	0	0	0	0

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.

John Kauffman, Director of Elections
Multnomah County, Oregon

RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DESIGNATING THE FIRST AND THIRD TUESDAYS OF EACH MONTH AS THE REGULAR CITY COUNCIL MEETING DATE, ESTABLISHING THE TIMES OF THE SAID MEETINGS, AND REPEALING RESOLUTION 55-2005.

WHEREAS, Section 20 of the Milwaukie City Charter requires the City Council to hold a regular meeting at least twice each month in the City at a time and at a place which it designates; and

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

WHEREAS, the City Council adopted Resolution 55-2005, which set the work session and the regular meeting on the first and the third Tuesday of each month;

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

Section 1: The regular City Council meeting will be held on the first and third Tuesday of each month at 7:00 P.M. in the Council Chambers at City Hall, 10722 SE Main Street or designated alternate location as required by the Public Meetings Laws of the State of Oregon.

Section 2. The City Council work session will be held on the first and third Tuesday of each month at 5:30 P.M. in the Conference Room at City Hall, 10722 SE Main Street or designated alternate location as required by the Public Meetings Laws of the State of Oregon.

Section 3. The City Council may recess and reconvene the work session after adjournment of the regular session if discussion of work session topics has not concluded; or the City Council may announce continuation of the unfinished item or items to a future work session.

Section 4. The City Council may schedule additional work sessions if deemed necessary by the members, and further the City Council may cancel any work sessions if there are insufficient agenda topics to warrant convening a meeting.

Section 5: The City Recorder is directed to provide notice to the public of all City Council meetings as required by law.

Section 6: Resolution No. 55-2005 adopted December 20, 2005 is repealed.

Section 7: This resolution is effective January 1, 2007.

Introduced and adopted by the City Council on December 19, 2006.

_____
James Bernard, Mayor

APPROVED AS TO FORM:
Ramis Crew Corrigan, LLP

ATTEST:

By: _____
City Attorney

_____
Pat DuVal, City Recorder

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING PAULETTE V. QUTUB TO THE MILWAUKIE PLANNING COMMISSION.

WHEREAS, a vacancy exists on the Milwaukie Planning Commission; and

WHEREAS, Milwaukie Municipal Code Section 2.16.020(A) provides for appointment of members of the Milwaukie Planning Commission "by the council;" and

WHEREAS, Paulette Qutub possesses the necessary qualifications to serve on the Milwaukie Planning Commission.

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

SECTION 1: That Paulette Qutub is appointed to the Milwaukie Planning Commission.

SECTION 2: That her term of appointment shall commence upon adoption of this resolution and shall expire on March 31, 2010.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on December 19, 2006.

_____
James Bernard, Mayor

ATTEST:

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

_____
Pat DuVal, City Recorder

_____
City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPOINTING GREGORY W. SEAGLER TO THE MILWAUKIE RIVERFRONT BOARD.

WHEREAS, a vacancy exists on the Milwaukie Riverfront Board; and

WHEREAS, Milwaukie Municipal Code Section 2.16.020(A) provides for appointment of members of the Milwaukie Planning Commission "by the council;" and

WHEREAS, Gregory W. Seagler possesses the necessary qualifications to serve on the Milwaukie Riverfront Board.

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

SECTION 1: That Gregory W. Seagler is appointed to the Milwaukie Riverfront Board.

SECTION 2: That his term of appointment shall commence upon adoption of this resolution and shall expire on October 30, 2010.

SECTION 3: This resolution takes effect immediately upon passage.

Introduced and adopted by the City Council on December 19, 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 and
Kenny Asher, Community Development and Public Works Director

From: Alex Campbell, Resource & Economic Development Specialist
Mike Clark, Water and Street Division Supervisor
JoAnn Herrigel, Community Services Director
Katie Mangle, Planning Director
Brenda Schleining, Associate Engineer
Gary Parkin, Engineering Director
Paul Shirey, PW Operations Director
Grady Wheeler, Public Information Officer

Subject: Adoption of a Street Surface Maintenance Program

Date: December 8 for December 19, 2006

Action Requested

Adopt a Street Surface Maintenance Program ("Program") per Milwaukie City Council Resolution No. 35-2006, adopted by City Council on July 18, 2006, which directed staff to *"design, in collaboration with Milwaukie neighborhoods and businesses, a City of Milwaukie Street Maintenance Program for Council action by December 31, 2006."* (See attachment 1 for Resolution 35-2006 and the associated report).

The requested action is to adopt the City of Milwaukie Street Surface Maintenance Program (attachment 2) as formulated by staff for the purpose of maintaining, repaving and rebuilding major City Streets over a ten year period, including all or portions of:

Harrison Street
Harvey Street
Home Avenue
Howe Avenue
International Way
King Road
Lake Road
Linwood Avenue
Logus Road
Mailwell Avenue
McBrod Avenue
Monroe Street
Oak Street
Railroad Avenue
River Road
Roswell Street
Washington Street
Wood Avenue
27th Avenue
37th Avenue
42nd Avenue
43rd Avenue

Funding for the Program is derived from three new revenue sources as pre-selected by Council in Resolution No. 35-2006:

- A Street Maintenance Fee assessed to residential and non-residential City of Milwaukie public utility payers
- A 1.5% Privilege Tax on PGE electricity assessed to City of Milwaukie residential and non-residential PGE utility payers
- A $0.02 per gallon motor vehicle fuel tax assessed to motor fuel pumping station businesses located in the City of Milwaukie

Estimated revenues from these sources would be sufficient to fulfill the program goals described in the Program document. The requested action requires Council action on three proposed ordinances, one for each funding source.

Please note: This staff report *supplements* material provided in the City of Milwaukie Street Surface Maintenance Program (attachment 2), but does NOT summarize that document. Council is urged to review all documents provided in this package.

Background

Milwaukie city officials are responsible for managing and maintaining public infrastructure and utilities, including the City's 138 lane miles of paved roadway.

The replacement value of Milwaukie's street system was estimated at $65 million in 2004.

A July 2004 report by the consulting firm Engineering Information Services (EIS Inc.) rated Milwaukie's overall street network condition as a 67 (out of 100), which placed the City's street network in the upper range of the "satisfactory" condition. (The report can be located at the end of attachment 2.)

That same EIS report concluded that the value of deferred street maintenance was growing rapidly and that the City was not allocating sufficient funds to address street maintenance needs. In fact, EIS projected that by 2006, absent a new street maintenance effort, the overall street network condition would fall from 67 to 63.

Maintaining streets is five times more cost-effective than re-building them after they have failed. As a result, the value of deferred maintenance can build up very quickly as deteriorating streets pass the point of effective maintenance or rehabilitation.

This information was presented to the Milwaukie City Council in April 2005 at a work session. At that time, Council raised points about the condition of King

Road, the use of funds for repaving projects, street lighting costs, gas tax revenues and the effect of utility cuts.[1]

In a February 2006 work session, the City Manager sought direction from Council regarding the deterioration of the system. The City Manager reminded Council that the Budget Committee and the Citizens Utility Advisory Board (CUAB) had expressed concern about the situation. The Chair of the CUAB testified that Council had an obligation to clearly (and quantitatively) communicate with citizens about declining infrastructure. Council responded by directing staff to solicit business and community input through a thorough and open-minded outreach effort, with the expectation that options would be presented to Council in July 2006.[2]

In July 2006, following a broadly supported staff recommendation, Council passed Resolution 35-2006, which directed staff to design a program that would, over time, raise the entire street network's Pavement Condition Index rating to the "Good" range and maintain it at that level.

Additionally, Resolution 35-2006 directed that program funding be drawn from possible combinations of a PGE Privilege Tax, Street Utility Fee, Local Gas Tax, and shifting the cost of street lighting out of the Street Fund. The resolution further directed that the program be structured to minimize negative impacts on the General Fund.

Upon completion of approximately 600 hours of staff work and approximately 90 meetings with local businesses, neighborhoods and boards, staff is now forwarding the City of Milwaukie Street Surface Maintenance Program to City Council for adoption. The Program complies with all aspects of Resolution 35-2006.

If adopted as recommended, Program implementation would commence in January 2007. The revenue mechanisms will go into effect on July 1, 2007 under provisions outlined in three ordinances attached to this report.

Ordinance Summary

A. Ordinance No. _____

Ordinance No. _____ has two parts. First, it establishes the City of Milwaukie Street Surface Maintenance Program, which includes program goals, staff responsibilities, project selection criteria, an annual reporting requirement, and implementation procedures. Second, this ordinance establishes a Street Maintenance Fee, which is dedicated to street surface maintenance only. The Street Maintenance fee is projected to contribute $700,000 towards the $1.2 million revenue target.

[1] See City Council Minutes, Work Session, April 5, 2005
[2] See City Council minutes, Work Session, February 21, 2006

The fee is based on an estimate of the number of motor vehicle trips generated by each city utility customer. The monthly rate for a single-family household would be fixed at $3.35. Fees for businesses would range from a minimum of $3.35 to $250 per month, based on building size and business type.[3]

The ordinance provides a method for customers to request a review of their Street Maintenance Fee to ensure that it accurately reflects actual trip generation patterns. This process is described more fully in the Program document.

B. Ordinance No. _____

The second ordinance places a PGE Privilege Tax of 1.5% on all electricity sold by PGE in the City. PGE would pass on the tax to customers as a line item on electricity bills. A typical residential electric bill would increase roughly $1 per month. The Privilege Tax is estimated to generate $300,000 annually.

In recognition of the annual cost burden placed on the Street Fund due to the Fund's payment of street lighting electricity costs, the ordinance commits PGE Privilege Tax revenues to the Street Surface Maintenance program exclusively. The Program does not require (nor does staff recommend) transferring payment for street lighting to the General Fund. This is in keeping with Council's direction in resolution 35-2006 to minimize negative impacts on the General Fund.

C. Ordinance No. _____

The third ordinance establishes a Local Gas Tax of $.02 per gallon tax on all motor vehicle fuel sold in the city. The annual revenue target for the Local Gas Tax is $200,000. The tax would be paid by local gas stations and funding would be passed through to the City on a quarterly basis. Revenues are dedicated to street surface maintenance.

This multiple mechanism approach was designed to distribute the burden of the program as widely and fairly as possible. The total cost to fund the Program for a typical Milwaukie household is approximately $60 per year.

Community Involvement and Input

Beginning in May 2006, staff gave presentations at the City's seven Neighborhood Association meetings and distributed information fliers and surveys at The Library Plant Sale and at Down-To-Earth Day. A letter was mailed to approximately 400 Milwaukie businesses, inviting their participation in the process. In June staff gave presentations to the Rotary Club and the Citizen Utility Advisory Board. Display materials were featured at the Farmers' Market Community Booth throughout May and June and information and surveys were posted on the city's website.

[3] For a detailed schedule of the various residential and non-residential fees, see pp. 11-13 of the Program (attachment 2). The method used to develop the fees is described in detail in Appendix A of the Program.

Staff presented the proposed Program to the Neighborhood Associations in October and information was sent to apartment owners and to business members of the North Clackamas Chamber of Commerce. In November a special transportation insert ran in the November Pilot, local church groups and PTA groups were provided information, and two Open Houses were held to gather additional input. Throughout the outreach campaign, articles ran in seven editions of The Pilot, messages were included in two utility bill cycles, and staff met with the Neighborhood Leadership group on three different occasions and met with more than 50 local businesses. (A timeline of outreach efforts is included as attachment 3. A list of comments received is provided in attachment 4.)

Concerns raised by both residents and business representatives have considerably shaped the Program design. The following modifications or additions to the program were made in the course of discussions with businesses and the community:

- All new revenues are dedicated exclusively to street surface maintenance by ordinance. Program funding is not subject to indirect charges by the City, nor will it be used to "match" federal grants.
- Projects are geographically distributed throughout the City, benefiting both neighborhoods and business districts.
- By ordinance, Program funding will be reduced or eliminated if and when new state, county or federal funding becomes available to fund local street maintenance in Milwaukie.
- A detailed annual report on the program will be provided to City Council and the public by the Community Development and Public Works Director.
- Procedures are included to ensure that best practices are employed in project selection and inspection.
- The Program initiates refinement of the City's policy to minimize damage from street cuts. Program projects are identified and coordinated with other utility projects well in advance of construction.
- The street fee calculation includes an ongoing process allowing businesses the opportunity to justify a reassignment of fees.
- The street maintenance fee is capped at $250 per property, indexed to the annual inflation rate.

Concurrence:

Community Services, Engineering, Streets, Planning, Community Development, and Finance worked together closely in the development of this proposal. PGE has been consulted on Privilege Tax implementation issues. ODOT Fuels Tax Group was consulted on local gas tax ordinances. The CUAB was briefed regularly and concurs with the recommendation. The Planning Commission, Budget Committee Chair, and all the NDAs were consulted and expressed support. In addition to the July 18 Regular Session, staff briefed Council at a November 9 work session. Metro staff was consulted on the status of new state-

level transportation funding efforts. Numerous jurisdictions around the state were consulted regarding their experiences with street maintenance programs.

Fiscal Impact:

The fiscal impacts of the Program are significant and positive. The Program is self-funding (no new sources of revenue are required other than those identified). *The program has been designed such that it can be managed with existing staff.*

Annual revenue estimates for the three ordinances are:

- Street Maintenance Fee: $600,000 to $700,000
- PGE Privilege Tax: $300,000
- Local Gas Tax: $125,000 to $200,000

These annual revenues are net positive to the city, in that they do not replace existing revenues, nor do they create additional expenses to be covered by other funds. The revenues will be accounted for in a new Street Surface Maintenance fund dedicated to street surface maintenance, against which materials, services and capital expenditures will be charged. The new fund will not be assessed with city overhead or indirect charges, nor will it be available for "match" money against state or federal grants and appropriations.

Staff believes there are two indirect positive fiscal impacts from the Program:

- Improved street surface maintenance in the City should support property value appreciation for all properties in the City, especially those located on newly resurfaced or reconstructed streets

- Improved street surface maintenance is a sound economic development strategy, in that improving (and maintaining) city infrastructure supports local business recruitment, retention and expansion. (Some businesses could conclude, however, that the additional costs associated with the program may outweigh the benefits.)

The set up and establishment of the program and its elements may have a small financial impact (less than $10,000 in the first year) due to the possibility of some custom programming to enable the city utility billing system to include the street maintenance fee.

Work Load Impacts:

Initial set up of the billing system, including assigning the street maintenance fees, will require contributions of staff time from Finance, Engineering, Planning and Community Development. *The program has been designed such that it can be managed with existing staff.*

On an on-going basis, the regular operation of the program will impact the workloads of the Streets Supervisor, PW Operations Director, Engineering Director, Community Development and Public Works Director, and Public Works and Engineering staff. Three activities, in particular, will be significant (lead staff in parentheses):

- The annual review and update of the maintenance work schedule (Streets Supervisor and Engineering Director).
- Annual report to Council and public of the program status and progress (Community Development and Public Works Director).
- Contracting and project management of maintenance and repair projects (Streets Supervisor, Engineering Staff, and contracted inspectors).

As the Program is implemented, the Community Development and Public Works Director will include in the annual report to Council, a report on staff workload impacts and related issues, if any.

Alternatives:

The process of creating the Street Surface Maintenance Program has been a continuous vetting of alternatives – with neighbors, businesses, governmental agencies and other interested parties. Council also helped consider and narrow the alternatives for the Program in their direction to staff in February and July 2006.

Staff strongly recommends that Council adopt the Program as proposed. The Program is built to raise the Pavement Condition Index of the entire street system to the "Good" range and to maintain it at that level. Not raising the condition of the network, and/or not maintaining it at that level, would continue the pattern of neglect that the Program, after many years, would finally reverse.

Attachments:

Attachment 1: Resolution 35-2006 and associated Staff Report
Attachment 2: Street Surface Maintenance Program
Attachment 3: Outreach Timeline
Attachment 4: Collected Public Comments
Attachment 5: Street Maintenance Program Ordinance
Attachment 6: PGE Privilege Fee Ordinance
Attachment 7: Local Gas Tax Ordinance
Attachment 8: Street Condition Map & Table

RESOLUTION NO. 35-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ESTABLISHING THE NEED FOR A STREET MAINTENANCE PROGRAM AND DIRECTING THE PREPARATION OF A PROPOSAL FOR SUCH A PROGRAM USING LOCAL FUNDS.

WHEREAS, the City of Milwaukie's local street system has been estimated to have a replacement value of more than $65 million; and

WHEREAS, numerous studies have consistently shown a deterioration of pavement condition throughout the city's street network; and

WHEREAS, the city's Street Fund and the state of Oregon have transportation revenues that are vastly insufficient to stabilize or reverse the continued degradation of Milwaukie's street system; and

WHEREAS, the nature of street maintenance compels the city to act sooner than later, given that street rehabilitation and reconstruction costs rise very rapidly over a short period of time if maintenance is neglected for too long; and

WHEREAS, the establishment of a Street Maintenance Program requires a combination of local funding sources;

NOW, THEREFORE, BE IT RESOLVED that staff is directed to design, in collaboration with Milwaukie neighborhoods and businesses, a City of Milwaukie Street Maintenance Program for Council action by December 31, 2006; and

BE IT FURTHER RESOLVED that funding for the Street Maintenance Program be adequate to reverse the overall decline of the system, such that over time, the system can achieve an overall Pavement Condition Index rating in the "Good" range and be maintained at that level; and

BE IT FURTHER RESOLVED that funding for the Street Maintenance Program be derived from any possible combination of a PGE Privilege Tax, Street Utility Fee, Local Gas Tax, and shifting the cost of street lighting out of the Street Fund; and

BE IT FURTHER RESOLVED that funding for the Street Maintenance Program be structured so to minimize negative impacts on the General Fund.

Introduced and adopted by the City Council on July. 18, 2006

This resolution is effective on July. 18, 2006

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

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

City Attorney

To: Mayor and City Council

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

From: Alex Campbell, Resource & Economic Development Specialist
Mike Clark, Water and Street Division Supervisor
JoAnn Herrigel, Community Services Director
Katie Mangle, Planning Director
Brenda Schleining, Transportation Engineer
Paul Shirey, Engineering Director
Grady Wheeler, Public Information Officer

Subject: Street Maintenance Program Recommendation

Date: July 6, 2006 for July 18, 2006 meeting

Action Requested

Direct staff to design, in collaboration with Milwaukie neighborhoods and businesses, a City of Milwaukie Street Maintenance Program ("Program") for Council action by December 31, 2006.

Report Organization

This report includes background information on Milwaukie's street maintenance problem, along with possible solutions, general sentiments heard from the community regarding the problem and possible solutions, a recommendation for moving forward, and a general description of goals for a proposed Street Maintenance Program.

I. Problem Definition & Possible Solutions
II. Community Outreach and Response
III. Recommendation
IV. Proposed Street Maintenance Goals

Council should note that several appendices are included. The staff report summarizes the many aspects of this study; however Council is encouraged to

consult the appendices for supporting detail. The appendices are arranged as follows:

Appendix 1: EIS Pavement Management Options Report
Appendix 2: Handout Materials (Conditions Summary)
Appendix 3: Street Fund Indirect Costs (Breakdown Summary)
Appendix 4: Comparison of Funding Options Studied
Appendix 5: Public Survey Results and Meeting Notes
Appendix 6: RTP Principles for Additional Street Funding
Appendix 7: Illustrative 10 Year Program Budget
Appendix 8: Maintenance Definitions

I. Problem Definition

Milwaukie city officials are responsible for maintaining the urban infrastructure that supports the daily life of Milwaukie residents and businesses. Specifically, Milwaukie's municipal infrastructure (i.e. infrastructure under City control) includes 138 lane miles of paved roadway.

At a Council work session in May 2005, staff presented a *Street Assessment and Maintenance Needs Analysis* by the consulting firm of EIS, Inc. At that time, the consultant gave Milwaukie's overall street network condition a 67 rating (out of 100), which placed the City's street network in the upper range of the "satisfactory" condition. The consultant noted, however, that the cost of the city's deferred street maintenance was growing at an exponential rate, and that the City was not allocating sufficient funds to address street maintenance needs (see Appendix 1).

The City of Milwaukie is not alone in this predicament. The 2004 Regional Transportation Plan describes the problem this way:

> Many jurisdictions in the region have traditionally relied on the State Legislature to increase the state gas tax a primary means of funding their transportation needs. As such, revenues from the State Highway Trust Fund, which is funded from the state gas tax revenues and related truck fees and vehicle registration fees, has become the primary source of transportation funding for many jurisdictions in the region. The problem the region is facing by relying primarily on this revenue source is that it is subject to two factors that reduce its purchasing power over time; inflation and increasing fuel efficiency. Therefore, the gas tax cost per mile driven in Oregon (in current $) has decreased from 2.6 cents per mile in 1970 to 1.3 cents per mile today[1].

In February 2006, City Council directed staff to study the street maintenance situation in Milwaukie and return in July 2006 with a recommendation that considered staff's "best sense of community acceptance or rejection of the options." A team made up of staff from Community Development, Engineering, Streets, Planning and Community Services began meeting in March 2006 to develop a problem statement and project strategy.

[1] Regional Transportation Plan, Chapter 5: Growth and the Priority System, page 5-34.

Staff examined previous citywide pavement management studies, budget histories, current street conditions, trends in revenue for street surface maintenance, and approaches taken by other Portland metro-area jurisdictions. The team arrived at the following problem statement, carefully crafted to frame the discussion with the community:

> *Milwaukie's local streets are in a state of rapid decline, some have already failed, and funding is not adequate to turn the situation around. If nothing is done, the roads will worsen and the cost to remedy the situation will skyrocket.*

With a clear and limited definition of the problem (i.e. the project would not address sidewalks, traffic congestion, connectivity, etc.), staff put together a work program for understanding and then communicating the condition of the street network and Street Fund. These conditions are summarized in the following sections, followed by a summary of the community's response, and the staff recommendation.

Existing Conditions: Street Network

The City of Milwaukie retained an engineering company to conduct a visual pavement assessment of each city street in 2004. The visual inspection index showed Milwaukie streets with an average condition of 67, using a scale of 0-100 with 100 being most favorable. According to the 2004 study (conducted by EIS Inc., included as Appendix 1), 60% of Milwaukie's streets were in good condition, 17% ware in satisfactory condition; and 22% were in fair to poor condition.

The 2004 data was combined with a 2006 staff score and the results of an earlier study to arrive at a "composite" condition score. (The earlier study, conducted in 1995, tested sub-surface conditions, which were not reflected in the 2004 assessment.) Pavement conditions were ranked again, based on the composite score, from one to ten and then divided into four groups, from poor to good. This ranking placed 55% of the street system in good condition, 18% in satisfactory condition, and 27% in the fair to poor category. (See page 4 of Appendix 2 for a complete list of the composite condition ranking for all Milwaukie streets.)

Good condition streets require the least costly preventive maintenance (crack sealing) in order to extend the useful life of the pavement surface. At the opposite extreme, many of the 27% of the streets in the fair to poor category require full reconstruction, which typically involves rebuilding the base and adding all new pavement. The 18% in satisfactory condition require rehabilitation, which typically involves grinding off the deteriorated top layer, adding a layer of "fabric," and a pavement overlay.

Based on the most recent bid prices for similar work in the City of Milwaukie, the estimated cost to crack seal good condition streets ranges from $1.50 to $3 per square yard. The cost to rehabilitate streets (grind, fabric, and pavement overlay) is estimated to cost $32 per square yard. The cost to fully reconstruct a

street is estimated from $32 to $70 per square yard, depending on the base depth, material, utility conflicts and need for curb replacement.

To reduce or eliminate the backlog of deferred maintenance would require a multi-year approach. A preliminary or illustrative 10 year program is described in Section IV. "Proposed Street Maintenance Goals" and appendix 7.

To substantially reduce the deferred maintenance backlog on major streets (including both rehabilitation and reconstruction projects), fully fund ongoing preventive maintenance, and monitor progress, staff estimates will cost approximately $10 million (in 2006 dollars).

Existing Conditions: Street Fund

The Oregon State Gas Tax, which is assessed per gallon on motor fuels sold statewide, is the Street Fund's primary revenue source for flexible funding. The tax has not been increased since 1993. In current, non-adjusted dollars, Gas Tax revenues have remained fairly flat for the City over the last decade. In 1995-1996, for instance, the City's share of Gas Tax revenues was $906,065; the projection for 2006-2007 is $959,646.

While Gas Tax funding has remained largely flat, the cost of road construction and maintenance has increased substantially, particularly in recent years. According to the Federal Highway Administration's surfacing price index, $128 worth of surfacing projects in 1995 would cost $215 today.[2] Clackamas County's recent construction bids are coming in at approximately 30% higher than just one year ago. (For details, and a history of significant budgetary changes, see page 5 of Appendix 2.)

The second source of flexible revenues for the Street Fund is franchise fees, which are collected from other City utilities (water, storm and wastewater). Franchise fees total about half of Gas Tax revenues ($490,198 in 2004-2005; $546,650 projected for 2006-2007).

In recent years, grant and loan proceeds for specific capital projects have grown substantially. In the 2006-2007 budget, these accounted for just over $1 million in revenue. Such funds are dedicated to specific projects and cannot be expended on maintenance.

On the expenditure side, a detailed examination of street expenditures in 2004-2005 (the most recent year for which actual figures were available) apportioned $2.2 million in Street Fund expenditures to "Programs." See page 2 of Appendix 2 and Appendix 3 for details.

[2] "Price Trends for Federal-Aid Highway Construction," Third Quarter 2005, U.S. Department of Transportation, Federal Highway Administration. Available on-line at: http://www.fhwa.dot.gov/programadmin/pt2005q3.pdf.

32% of the 2004-2005 budget was devoted to capital expenditures; 20% went to contributions to support or administrative functions (transfers to Engineering and CD Admin, and General Administrative Services Charge); 17% went to maintenance; 13% to street light electricity costs; 9% of expenditures went to overhead (the vast majority for vehicle fuel, maintenance, and replacement fee); and 8% to reserves for future capital projects.

With the 17% available for maintenance, the Street Department maintains multiple aspects of the street system. Based on FTE assignments and allocable materials and services costs, staff estimates that in 2004-2005, out of a total maintenance budget of $378,000: 24% went to right-of-way maintenance (mowing, removing branches, etc.); 23% was devoted to emergency street repairs (i.e., filling potholes and patching); 16% was spent on sign and signal maintenance; 15% went to street sweeping; 13% went to street marking and striping; and 8% was devoted to preventive surface maintenance.

The preventive surface maintenance expenditures do not include any rehabilitation or reconstruction projects, which the city cannot currently afford. In recent years, the city's CIP has included a $200,000 line item for overlay (rehabilitation) projects in the unfunded category. Though the $200,000 figure has been somewhat arbitrary, these past CIP's are a record of the City's ongoing recognition of the street network's unmet maintenance need.

Possible Solutions: Local Funding Options

Federal and state transportation funding programs are facing the same problems as Milwaukie's Street Fund: declining Gas Tax revenues in real dollars in the face of growing needs (i.e., more vehicle miles driven and higher maintenance costs). In addition, the region is facing significant pressures to fund capacity-expanding new highway projects. As a result, there are no state or federal grant programs available to fund regular maintenance for city or county roads. Cities and counties are forced to make due with their share of Gas Tax revenue and local funding where available.

The ubiquity of this problem, however, may be helping to create a critical mass of public concern. In the summer of 2006, ODOT is heading an effort to develop a list of "critical investments" that would form the basis of a business and legislative outreach and funding effort for a range of statewide transportation needs. The League of Oregon Cities is currently surveying its membership on city priorities to be included on the "critical investments" list. The street maintenance backlog issue appears to be high on the list of priorities. However, a number of very significant hurdles would remain were the state to identify a funding package that would address the issue (e.g., gas tax increase, vehicle registration fee increase, truck weight fee increase). Staff is following this process and has concluded that it cannot be relied on to address Milwaukie's street maintenance issue. Nevertheless, should the region persuade the legislature to make additional funding available for local street needs, staff will engage council in a discussion of how new funds could be put to best use in Milwaukie's Street Fund.

Absent an outside solution, staff focused on six local funding options: property tax levy; street utility fee; PGE privilege tax; removing the cost of street electricity from the Street Fund; Local Improvement Districts; and downtown parking revenues. Staff took a seventh option, a local gas tax, under consideration at the urging of the council. (See appendix 4.) Over five months, staff narrowed its focus to the street utility fee, the PGE privilege tax, shifting street lighting costs and a local gas tax. These were selected because historical evidence and community feedback suggested a property tax levy was politically unfeasible and the other options were unlikely to generate the scale of revenue required to redress the situation.

During the public outreach process, additional options were suggested, such as reducing overhead costs, increasing traffic ticket revenues, and prioritizing surface maintenance above other maintenance activities. Staff did further research in each of these areas.

Appendix 3 provides a detailed analysis of overhead/indirect costs. Staff concluded that most of these costs were not overhead in the truest sense of the word (i.e., resources consumed for purposes which are incidental to, but necessary for, a main business purpose), but are rather indirect costs that are the result of citywide budgeting decisions. These include transfers to other funds, some of which support the Streets Division (Engineering, Community Development), and some with a less direct line of support (General Services).

Consultation with the Police Department suggested that a proposal to generate street revenues from an additional assessment on traffic tickets would raise policy concerns and would not generate significant revenue. Staff also reviewed various policies and "self-mandates" the City has adopted, largely driven by public safety and liability concerns, regarding the other forms of maintenance performed.[3] The Street Department's staffing and effort in these areas is not substantially above the minimum required. Staff has therefore concluded that an internal reorganization or reprioritization of existing Street Fund expenditures and programs would not feasibly address the issue under study without diminishing other levels of service below an acceptable standard.

II. Community Outreach and Response

In an attempt to achieve the broadest public input possible in a short period of time, staff developed an outreach campaign that included the following presentations and outreach tools:

[3] The maintenance functions performed by the Street department (signage, markings, pavement repairs, crack sealing and, sweeping) are self mandated by the City of Milwaukie. The City has adopted standards in whole, or in part, from the School Trip Safety Program; Downtown Traffic Management Plan; Milwaukie Transportation System Plan; Manual of Uniform Traffic Control Devices (MUTCD); American Public Works Association (APWA); National Pollution Discharge Elimination System (NPDES); ODOT's Standard Specifications for Highway Construction; and Federal Highway Administration Standards. These documents are considered the industry standards for street maintenance.

Flier and Survey Distribution:

- Library Plant Sale (5/13)
- Farmers Market Community Booth (5/21, 5/28, 6/4, 6/11, 6/18, 6/25, 7/2, 7/9)
- Down To Earth Day @ Lewelling, Ardenwald and Linwood Elementary (5/6)

Direct Mail:

- Water bills mailed in May and June contained a street funding insert

Presentations:

- All seven NDAs (5/4-5/18)
- Planning Commission (5/9)
- Citizen Utility Advisory Board (with all other Boards/Commissions invited) (6/7)
- Milwaukie Rotary (6/6)

Meetings:

- Meeting of Milwaukie Businesses (300 invited – no attendees)
- Milwaukie Center (Center newsletter invite – no attendees)
- Ardenwald Parent Teacher Organization (cancelled by PTO)

Other venues:

- City web site carries the street funding information sheets and an on-line survey
- A video is currently under development for broadcast on the Public Access Channel in July

At each of the presentations a staff member was assigned to take detailed notes of all questions and comments generated by the presentation. These notes have been transcribed and collated (see appendix 4). Surveys were handed out at each of the presentations and were also distributed at the Farmers Market and on line. To date, staff has collated survey data from 92 individuals.

Community Response

In general, those attending the various meetings indicated verbally, and in their surveys, that they understood the issue, were very concerned about the condition of the City's streets and had a fairly high willingness to consider local funding to address this issue. 81% of the 92 survey respondents indicated that on a scale from 1 to 5, their level of concern was either a 4 or a 5. 72% of those surveyed also placed their willingness to consider local funding at either a 4 or a 5.

The survey also asked respondents to identify which local funding options they were willing to consider. As shown below, the distribution among the various options was fairly even, with the exception of Paid Parking.

Funding Option	**Percentage of respondents expressing approval of option**
Property Tax Levy	35%
Street Utility Fee	44%
PGE Privilege Tax	47%
Shift Street Light Cost to General Fund	38%
Paid Parking Downtown	23%

The final survey question dealt with which type of streets the public felt should be fixed first. Of those who indicated a preference between prioritizing major streets or local streets, 82% of respondents indicated that larger streets, such as King

Road, should be the City's first priority; 17% chose neighborhood streets as their priority.

The verbal input received from the audiences at the various presentations emphasized the following important public concerns:

- The equity of any funding option chosen is very important. The financial burden of any funding option should be distributed equally among, at the very least, the City's population. That is, property owners alone should not have to bear the full burden of maintaining the streets. Many even suggested that the City attempt to collect from all users including Tri Met, the School District and trucking companies.

- Any funding option should be closely associated with a work plan that prioritizes street projects and, to the extent possible, establishes a schedule for project completion.

- Street priorities should be equitably distributed around the City geographically. Some preference was expressed that funding be distributed from the "outside-in", starting with the outlying neighborhoods, rather than being concentrated in the downtown area of the City.

- Funds raised for street maintenance should be dedicated to street maintenance to avoid future diversion of these funds within the City budget.

III. Recommendation and Justification

The replacement value of Milwaukie's street system was estimated at $65 million in 2004 (EIS, Inc.) – a figure that is rapidly rising with the escalation of construction costs.

In recommending a Street Maintenance Program to City Council, staff is following the lead of the Budget Committee and Citizen's Utility Advisory Board, which have accurately recognized the city's street system as a capital asset worthy of the same asset management ethic as adhered to for the City's sewer, water and stormwater systems.

The issue, then, is clearly not one of need, but one of funding. According to the recently updated Oregon Transportation Plan:

The method of funding transportation in Oregon is uncertain and inadequate. The current structure is inflexible; funds are thinly spread around that state; and capital for privately owned infrastructure is difficult to obtain. An efficient, well-maintained transportation system benefits everyone, but transportation infrastructure in poor condition increases vehicular wear, accidents and costs, and reduces travel options.

The purchasing power of the motor vehicle fuel tax is eroding because of inflation. In the past, the Oregon legislature regularly increased the motor fuel tax to meet highway and roadway needs, but the last state motor fuel tax increase was in 1993 to $.24 per gallon. The same erosion

is occurring at the federal level since the federal motor vehicle fuel tax last increased in 1993 to $.184 per gallon. Over the next 25 years, inflation alone will reduce the tax's spending power by 40 percent. Gains in fuel efficiency and use of alternative fuels, while good for the environment and other goals, will further reduce revenues for state and local roads.[4]

Metro's adopted 2004 Regional Transportation Plan acknowledges that "funding the 2020 Priority System will require *additional* revenue sources (italics added)."[5] The RTP then describes a set of principles for decision-makers to evaluate in pursuing additional transportation funding (e.g. adequacy, flexibility, fairness, implementation of policy objectives). A copy of these principles is attached to this report as Appendix 6.

In view of the declining state of the streets, the statewide shortage of transportation funding, the willingness of some Milwaukians to consider a local funding option for street maintenance, and the hard reality that the status quo will only punish future users, taxpayers and decision-makers, staff has arrived at the following three-point recommendation:

1. That Council establish a Street Maintenance Program, adequate to reverse the overall decline of the local street system, such that over time the streets in the system can achieve an overall Pavement Condition Index rating in the "Good" range and be maintained at that level.

2. That funding for the Street Maintenance Program be derived from some combination of the following four or fewer sources:

    a. PGE Privilege Tax;
    b. Existing motor vehicle fuel tax revenue currently dedicated to paying for city streetlights;
    c. Street Utility Fee;
    d. Local Gas Tax.

3. That staff present for Council adoption, by December 31, 2006, a fully funded Street Maintenance Program proposal that demonstrates minimal impact to the city's general fund and demonstrable acceptance from the Milwaukie's residential and business communities.

To facilitate Council action on this recommendation, staff has endeavored to begin defining program goals now, as a way of starting the discussion of "what the Program would look like and what it would take to make it work."

The next section of this report describes staff-recommended Program goals, to be further tested and vetted with Milwaukie community and business leaders, as well as others from around the region who have successfully implemented local street maintenance programs.

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[4] Public Review Draft, Oregon Transportation Plan, Vol.1, November 17, 2005, ODOT Planning Section, Transportation Development Division, p. I-13

[5] 2004 Regional Transportation Plan, Chapter 5: Growth and the Priority System, p. 5-29

IV. Proposed Street Maintenance Program Goals

Staff is in the earliest stages of designing a Street Maintenance Program, assuming utilization of the funding sources listed in the Recommendation. Between the presentation of this report and the final proposal, staff may well elect to engage a consultant to assist with the program design, and will certainly make use of the modeling software purchased by the City in 2004 to move from general and estimated program goals, to a detailed and precise cost schedule and scope of work. (That software, which runs on the Windows XP operating system, has heretofore been unavailable to staff. The Street Department was recently converted to Windows XP and the software is now being installed).

To provide some definition to what the maintenance program would involve, staff developed the illustrative ten year budget attached as appendix 7. The budget is intended to show the progress that could be expected over the first ten years of the program. Due to the public preference for an emphasis on major routes, the program focuses on addressing deferred maintenance on major streets (streets classified as arterials, collectors, or neighborhood routes). The bulk of such deferred maintenance would be addressed by the end of the ten-year period.

The last "Rehabilitation Project" listed is "Ongoing Rehab TBD." It is difficult to predict with precision which "good" condition streets will require rehabilitation by this point in time, but some will almost certainly be close to the end of their useful life. (A responsible maintenance program would include some flexibility to delay reconstruction projects in order to prioritize overlay/rehabilitation projects that take on greater urgency due to changes in condition.)

By year 10 (or thereabouts) the program would have funds available to begin addressing local streets. Most local streets have sub-standard bases (or no base). Therefore, the recommended program does not devote resources to rehabilitation in these areas. However, a refined program might add rehabilitation of some local streets that do have an adequate base.

Staff has identified the following goals for the Program. These are subject to change as more information is collected, but are sound working assumptions on which the Program can be developed.

PCI Index Goals

Pavement Condition Index, or PCI, is a measurement of the health of the pavement network or condition and ranges from 0 to 100. A newly constructed street would have a PCI of 100 and failed street would have a PCI of 10 or less. The "Good" range is from 70 to 100. Staff's recommendation is to establish a Program to bring all major streets in the City into the "Good" range and be maintained at that level. Thus, the PCI Index Goal for the Program is to improve the condition of those streets to a PCI in the low 80's, and then sustain it at that level. This is consistent with the EIS recommendation from 2004 (see Appendix 1).

Deferred Maintenance Goals

The goal of the Program is to catch up on deferred maintenance and eliminate it from the City's CIP. Staff estimates that Milwaukie's major street deferred maintenance backlog is approximately $10 million in current dollars. Staff estimates that it will take $1.2 million a year for ten years to achieve the Program goal of eliminating the backlog in repairs to major streets. This includes both reconstruction projects and rehabilitation projects (overlays), with the Program focusing on fixing larger streets. Local streets would begin to be addressed in later years. See Appendix 7 for a proposed maintenance schedule.

Maintenance Goals

The Program's maintenance goal is to prevent any streets from falling to the point of requiring reconstruction. (Many of the City of Milwaukie streets that currently require reconstruction were not constructed with adequate bases). This requires an aggressive program of crack sealing and rehabilitation for specific streets as scheduled. (See Appendix 8 for a clarification of the maintenance terms used.) Staff estimates that it would take an average of $400,000 (in current dollars) annually to achieve this goal for all major streets. [6] The illustrative ten year budget includes this level of funding beginning in year 8 ("Ongoing Rehab TBD"). The cost to maintain major and local streets at this level is likely 50% more or higher, i.e. $600,000 or more.

Stopgap Goals

Stopgap refers to the dollar amount of repairs applied to maintain the pavement in a serviceable condition (e.g. pothole patching). These are temporary and do not extend the pavement life. Current funding allows the Streets Department to do this. The Program goal on Stopgap maintenance is to continue to adequately fund and repair trouble spots throughout the City, with the expectation that these will diminish as the network is improved. EIS notes that money for stopgap repairs is often taken from preventive maintenance budgets. The proposed Program would seek to correct this in Milwaukie.

Program Cost Goals

Based on staff work to date, the overall program cost, stated in 2006 dollars, is estimated at $1.2 million for the first ten years. The annual cost of maintaining only major streets thereafter could be achieved at roughly half that budget. A continuation of the higher level of funding would allow the City to address local streets as well. The Cost Goal is important, as it informs the recommendation on funding sources and gives the community a realistic sense of the magnitude of the problem that the Program must be designed to fix. Streets and Engineering staff believe that existing staffing levels are sufficient to oversee the proposed Program and that no additional staff would need to be retained (see Appendix 7).

As Council reviews the EIS, Inc., funding scenarios, it is important to note several important differences between those scenarios and the Program suggested here.

[6] The figure for maintenance of all major streets is based on the cost of overlays for all major streets on a fifteen-year cycle, plus preventive maintenance costs.

First, EIS, Inc., assumed construction costs appear to have been somewhat low in hindsight and have been rapidly become out of date due to the recent spike in construction costs. Second, EIS construction costs did not include the 20% contingency factor that staff has used in development of the Program. Third, EIS appears to have assumed that rehabilitation or reconstruction of small segments of roadway was feasible and practical, whereas staff has applied a more real-world approach of treating larger segments of roadway to achieve some economies of scale.

Funding Source and Use Goals

Staff recommends that a combination of four potential sources be looked to for program funding: removing the street lighting costs from the Street Fund, implementing the PGE Privilege Tax, implementing a Street Utility Fee, and implementing a local Gas Tax. An additional goal for program funding is to protect, to the fullest extent possible, any Program funding source from indirect fees typically assessed citywide, and "match" requirements for grant-funded capital projects.

Removing street lighting costs from the Street Fund is expected to free up approximately $350,000 of state Gas Tax revenue annually, which can be applied to the Program. The local Gas Tax and Street Utility Fee would fund the balance of the program as required.

Street Utility Fees are most commonly allocated based on a land use-based trip-generation estimates. Essentially, a jurisdiction calculates the total number of "expected" trips based on the mix of land uses within the area, and then divides the revenue target by that total. The result is the per trip charge, charged to each street utility user based on their share of the total expected trips.

Other allocation approaches that have been employed by localities in Oregon include: a fee based on the number of parking spaces a user owns (with a cap on the amount any single user can be charged); and a modification of the more common method that divides the total revenue target evenly between residential and commercial uses. Both methods were developed in order to alleviate what some business operators have perceived as an undue burden on large commercial businesses under the "standard" allocation method.

Staff development of the Program would include an evaluation of the various Street Utility Fee allocation methods (and other funding sources), to be shared with the neighborhood and business communities. Based on feedback and input received in this outreach effort, staff would tailor the allocation methodology as necessary, and develop a detailed fee structure (likely with the assistance of an external consulting firm which specializes in this type of work). A specific fee structure would then be offered for Council adoption by resolution when staff presents the Program proposal.

Fiscal Impact Goals

One of the staff recommendations is to prevent the Program from creating any significant negative impact on the General Fund. Therefore, staff recommends the establishment of a 1.5% PGE Privilege Tax, which would offset (within $50,000) the impact of shifting street lighting electricity costs back to the General Fund. As the Program is developed, this Program cost/Funding Source will be explained to the community, which will bear the cost – even though the Privilege Tax dollars will not directly fund Program activities. Staff from the City and PGE will carefully examine the details of the Privilege Tax and its implementation, and these findings will be a part of the staff proposal for Program adoption.

Concurrence

These recommendations have been prepared by staff from Community Development, Engineering, Community Services, Planning, and the Streets Department. It has been shaped by input from neighborhood associations, citizens, city commissions, business members and staff from other jurisdictions that have already implemented local funding or policy decisions to deal with street maintenance issues.

Concurrence has not been sought from Metro, ODOT or PGE, though representatives from each of these organizations have been alerted to the study. Pending Council approval of the Recommendation, concurrence may be sought from these parties, as each could have a role to play in implementing the proposed Program. The proposed Program will also include concurrence from the Finance Director, Milwaukie businesses and neighborhood associations.

Fiscal Impact

Staff anticipates that moving from Recommendation to Proposal could require up to $30,000 in consultant services (though staff does not expect to require this level of support). These funds are in the various budgets for the departments involved. There is no other fiscal impact associated with this action. Council should note, however, that this action sets the stage for adoption of a new municipal public works program that will require public funding on an ongoing basis. Staff will report on the Program's Fiscal Impact when the Proposal comes to Council for adoption, and Council can anticipate that the Program will certainly have fiscal impacts in the form of new revenues for street maintenance and potentially a small decrease in general fund revenue due to the proposed shift of street lighting from the Street Fund to the General Fund.

Work Load Impacts

Staff from the five departments will continue to work on the Proposal. The staff has already expended an estimated 400 hours on the project, and another 200 are anticipated in preparing the Proposal for Council adoption.

Alternatives

Council can elect to modify the recommendations in a number of ways. Council can ask that staff consider new or different facts or factors and return with a revised set of recommendations prior to making the Proposal. Council may wish

to give staff specific direction regarding the formation of the Proposal, based on the staff set of recommendations, or Council may direct staff to change course. In this last case, staff would seek time on an upcoming work session agenda to better understand Council's concerns and assess whether a reformulation of the recommendations appears feasible.

Attachments

Appendix 1: EIS Pavement Management Options Report
Appendix 2: Handout Materials (Conditions Summary)
Appendix 3: Street Fund Indirect Costs (Breakdown Summary)
Appendix 4: Comparison of Funding Options Studied
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Resolution

CITY OF MILWAUKIE

Street Surface Maintenance Program



December 2006

Authorized per City Council Resolution No. 35-2006
and Ordinances No. _____, _____ & _____

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1. Problem Definition

Milwaukie's local streets are in a state of rapid decline, some have already failed, and funding is not adequate to turn the situation around. If nothing is done, the roads will worsen and the cost to remedy the situation will skyrocket.

Milwaukie city officials are responsible for maintaining 138 lane miles of paved roadway. The replacement value of Milwaukie's street system was estimated at $65 million in 2004 – a figure that is rapidly rising with the escalation of construction costs.

A July 2004 report by the consulting firm EIS Inc. rated Milwaukie's overall street network condition as a 67 (out of 100), which placed the City's street network in the upper range of the "satisfactory" condition. However, EIS Inc. also concluded that the cost of the city's deferred street maintenance was growing rapidly and that the City was not allocating sufficient funds to address street maintenance needs. EIS projected that by 2006, absent a new maintenance effort, the overall street network condition would fall to 63. Because maintaining streets is much more cost-effective than rebuilding them after they have failed, deferred maintenance costs can build up very quickly as streets pass the point at which they can be rehabilitated.

The City of Milwaukie is not alone in this predicament. The 2004 Regional Transportation Plan describes the problem this way:

> . . . revenues from the State Highway Trust Fund, which is funded from the state gas tax revenues and related truck fees and vehicle registration fees, has become the primary source of transportation funding for many jurisdictions in the region. The problem the region is facing by relying primarily on this revenue source is that it is subject to two factors that reduce its purchasing power over time: inflation and increasing fuel efficiency. Therefore, the gas tax cost per mile driven in Oregon (in current $) has decreased from 2.6 cents per mile in 1970 to 1.3 cents per mile today.[1]

2. Existing Conditions

A. Street Network

Based on a 2004 visual inspection by EIS Inc., 60% of Milwaukie's streets were in good condition, 17% were in satisfactory condition; and 22% were in fair to poor condition. That 2004 data was combined with a 2006 staff score and the

[1] Regional Transportation Plan, Chapter 5: Growth and the Priority System, page 5-34.

results of an earlier study to arrive at a "composite" condition score. (The earlier study, conducted in 1995, tested sub-surface conditions, which were not reflected in the 2004 assessment.) Pavement conditions were ranked again, based on the composite score, and then divided into four groups, from poor to good. This ranking placed 55% of the street system in good condition, 18% in satisfactory condition, and 27% in the fair and poor categories.

Good condition streets require the least costly preventive maintenance (crack sealing) in order to extend the useful life of the pavement surface. At the opposite extreme, many of the 27% of the streets in the fair to poor category require full or partial reconstruction, which typically involves rebuilding the base and adding all new pavement. The 18% in satisfactory condition require rehabilitation, which typically involves grinding off the deteriorated top layer, adding a layer of "fabric," and a pavement overlay.

B. Street Fund

The Oregon State Gas Tax, which is assessed per gallon on motor vehicle fuel sold statewide, is the Street Fund's primary revenue source for flexible funding. The tax has not been increased since 1993. In 1995-1996, the City's share of Gas Tax revenues was $906,065; the projection for 2006-2007 is $959,646. The second source of flexible revenues for the Street Fund is franchise fees, collected from other City utilities (water, storm and wastewater). Franchise fees total about half of Gas Tax revenues ($490,198 in 2004-2005; $546,650 projected for 2006-2007).

While Street Fund revenues have remained largely flat, the cost of road construction and maintenance has increased substantially, particularly in recent years. According to the Federal Highway Administration's surfacing price index, $128 worth of surfacing projects in 1995 would cost $215 today.[2] Milwaukie's share of state gas tax proceeds are down nearly 40% over the past decade when adjusted for this inflation in costs. Clackamas County's 2006 construction bids are coming in at approximately 30% higher than just one year ago.

In recent years, the City has enjoyed success competing for grants and loans for specific capital projects. In the 2006-2007 budget, these accounted for just over $1 million in revenue. Such funds are dedicated to specific projects and cannot be expended on maintenance.

Street expenditures in 2004-2005 totaled $2.2 million. These expenditures broke down as follows:

- 32% to capital expenditures;

[2] "Price Trends for Federal-Aid Highway Construction," Third Quarter 2005, U.S. Department of Transportation, Federal Highway Administration. Available on-line at: http://www.fhwa.dot.gov/programadmin/pt2005q3.pdf.

- 20% to contributions to support or administrative functions (transfers to Engineering and Community Development Administration, and General Administrative Services Charge);
- 17% to maintenance;
- 13% to street light electricity costs;
- 9% to overhead (the vast majority for vehicle fuel, maintenance, and replacement fee); and
- 8% to reserves for future capital projects.

The Street Department maintains multiple aspects of the street system. Based on FTE assignments and allocable materials and services costs, staff estimates that in 2004-2005, out of a total maintenance budget of $378,000: 24% went to right-of-way maintenance (mowing, removing branches, etc.); 23% was devoted to emergency street repairs (i.e., filling potholes and patching); 16% was spent on sign and signal maintenance; 15% went to street sweeping; 13% went to street marking and striping; and 8% was devoted to preventive surface maintenance (crack sealing as needed).

The preventive surface maintenance expenditures do not include any rehabilitation or reconstruction projects, which the city cannot currently afford. In recent years, the city's CIP has included an "unfunded" $200,000 line item for overlay (rehabilitation) projects in the unfunded category. Though the $200,000 figure has been somewhat arbitrary, these past CIP's are a record of the City's ongoing recognition of the street network's unmet maintenance need.

3. Authority

City Ordinance No. ___ establishes the Street Surface Maintenance Program ("SSMP") and a Street Maintenance Fee. City Ordinance No. ___ establishes a one and one-half percent (1.5%) PGE Privilege Tax. Ordinance No. ___ establishes a local gasoline tax of two (2) cents per gallon. (Details on the operation of these revenues are below in Sectiona 10, 11, and 12, respectively.) The ordinances dedicate all revenues from these sources to street surface maintenance and repair and those activities necessary to carry out the program, such as condition assessment and inspection.

4. Program Goals

A. PCI Index Goals

Pavement Condition Index, or PCI, is a measure of the status of street surface, ranging from 0 to 100. A newly constructed street would have a PCI of 100 and failed street would have a PCI of 25 or less. The "Good" range is from 70 to 100.

An ideal (the most cost-effective) maintenance program is possible with a network average in the low 80's. The goal of the City of Milwaukie Street Surface Maintenance Program is to bring all major streets to a point where the cost-efficiencies of good preventive maintenance are enjoyed, approximately 75 or above, and maintain them at that level. Progress towards this goal will be assessed in the annual program report.

B. Deferred Maintenance Goals

The goal of the SSMP is to reduce the deferred maintenance backlog and, ultimately, to eliminate it. This requires both reconstruction projects and rehabilitation projects (overlays). Eliminating deferred maintenance on larger streets will be prioritized. Reconstructions on local streets would be addressed only after all Preventive Maintenance needs have been addressed and after larger streets are brought up to the "good" range.

C. Maintenance Goals

The SSMP's maintenance goal is to prevent any street from deteriorating to the point of requiring reconstruction. (Many Milwaukie streets that require reconstruction were not constructed with adequate bases). This requires an aggressive program of crack sealing and rehabilitation as required. These activities will be prioritized over reconstructions of already failed streets.

D. Stopgap Goals

"Stopgap" refers to emergency repairs to keep streets in a serviceable condition (e.g., pothole patching). These are temporary and do not extend the pavement life. Current Street Fund revenues are adequate to perform needed stopgap repairs. The SSMP stopgap goal is to continue to adequately fund and repair trouble spots throughout the City, with the expectation that this need will diminish as the network is improved.

E. Program Cost Goals

The overall revenue goal is $1.2 million per year for the first ten years, or $12 million total (2006 dollars). The program progress report will allow Council to reassess the level of revenue and activity annually.

5. Responsibilities

By ordinance, the following responsibilities are established within the city government:

The Engineering Director and the Streets Supervisor are jointly responsible for annually developing and updating a cost-effective 5-year SSMP project schedule. The Engineering Director is responsible for ensuring that the schedule is properly integrated into the CIP and that the schedule is coordinated with other City capital projects. The Engineering Director is responsible for sharing the CIP with non-city utilities and coordinating all City capital projects with the various private utilities to the extent possible.

The Engineering Director is responsible for the contracting of services to complete projects funded by the Program.

The Engineering Director is responsible for assigning non-residential utility customers to Trip Generation Categories, using his or her best professional judgment and the criteria provided for in the ordinance, and for ruling on requests for category adjustments. (See Sections 10 B and 10 C for more detail.)

The Engineering Director is responsible for implementation and enforcement of steps to minimize utility cut damage to streets, including a five-year moratorium on capital projects on recently reconstructed, rehabilitated, or newly built City streets. The Public Works Operations Director is responsible for City utility compliance with street cut repair policy

The Community Development and Public Works Director is required to provide an annual report on the Street Surface Maintenance Program to City Council and the public each spring. See Section 7 for the elements of that report.

The Finance Director is responsible for billing, collection, and dedicated allocation of Street Surface Maintenance Program revenues.

6. Project Selection

As part of the annual Capital Improvement Plan development process, the Public Works and Engineering departments update the SSMP project schedule for the coming five years. In addition, a more detailed schedule of crack sealing and similar preventive maintenance projects for the up-coming summer is developed. The project list development begins with the recommended maintenance program produced by a Pavement Management System (PMS) software application. The Engineering Director and Street Operations Supervisor select a

package of treatments that best match the recommendations generated by the PMS software with local knowledge of street condition, the cost benefits of grouping multiple projects (both coordinating with other utility projects and tackling adjacent streets where possible to minimize mobilization costs), and other project needs (for instance, recently built new projects that require overlays to match grades).

In allocating resources among projects, staff prioritizes projects with the greatest return (i.e., street life extension versus cost). Remaining funds are dedicated to reconstruction projects on significant routes. These routes are prioritized according to their functional classification within the City Transportation System Plan, with adjustments made by the project selection team based on school routes, freight routes, emergency routes, safety considerations, traffic patterns, and cost-effective contracting practices.

Table 1 provides a model for the first two 5-year SSMP project schedules. Staff anticipates refining and adjusting this plan based on continued research on best practices, unpredictable weather events, and shifting patterns of traffic.

By tracking and recording completed repair and maintenance projects in the PMS database, the Engineering Department maintains the quality of the data used to inform the project selection process. In addition, the entire database is updated every 3 to 5 years with the results of a complete visual inspection of the street network condition. Finally, on an occasional basis (every 10 –15 years) the City contracts for “deflection” testing to assess the sub-surface condition of streets.

Table1. Model SSMP Project Schedule, Years 1 – 5.

Year	Activity	2006 PCI	Activity Type	Cost Estimate
Year 1	Billing & Program Setup		SSMP Program Expense	$25,000
	Pavement Assessment (Deflection)		SSMP Program Expense	$80,000
	Oak Street (224 to Monroe)	55	Overlay/Rehab	$85,802
	37th Ave. (Lake to Wister)	53	Overlay/Rehab	$72,162
	Washington St (McLoughlin to Oak)	69	Overlay/Rehab	$181,098
	42nd (Harvey to JCB)	55	Overlay/Rehab	$137,283
	Logus (Stanley to 51st)	60	Overlay/Rehab	$55,019
	Crack/Slurry/Fog Seals		Preventive Maintenance	$125,000
			Total	*$761,364*
			Revenue Est (+ prev bal)	*$800,000*
			Balance	*$38,636*
Year 2	King Road (43rd to Hollywood)	40	Reconstruct	$770,816
	Crack/Slurry/Fog Seals		Preventive Maintenance	$125,000
			Total	*$895,816*
			Revenue Est (+ prev bal)	*$1,038,636*
			Balance	*$142,820*
Year 3	Linwood Ave. (Railroad to Monroe)	79	Overlay/Rehab	$334,423
	Lake Road (Shell Ln to Kuehn)	53	Overlay/Rehab	$311,491
	Roswell (32nd to 42nd)	52	Reconstruct	$252,165
	Crack/Slurry/Fog Seals		Preventive Maintenance	$150,000
			Total	*$1,048,079*
			Revenue Est (+ prev bal)	*$1,142,820*
			Balance	*$94,740*
Year 4	Washington Street (37th to 40th)	66	Overlay/Rehab	$27,878
	27th (Lake to Washington)	72	Overlay/Rehab	$103,545
	Harrison Phase 1 (McLoughlin to 42nd)	44	Reconstruct	$740,000
	Crack/Slurry/Fog Seals		Preventive Maintenance	$150,000
			Total	*$1,021,423*
			Revenue Est (+ prev bal)	*$1,094,740*
			Balance	*$73,318*
Year 5	Pavement Assessment (Visual)		SSMP Program Expense	$20,000
	Harrison Phase 2 (McLoughlin to 42nd)	44	Reconstruct	$200,000
	Railroad Ave Phase 1 (Harrison to Harmony)	44	Reconstruct	$531,000
	Crack/Slurry/Fog Seals		Preventive Maintenance	$175,000
			Total	*$926,000*
			Revenue Est (+ prev bal)	*$1,073,318*
			Balance	*$147,318*

Table 1 Continued. Years 6 -10

Year	Activity	2006 PCI	Activity Type	Cost Estimate
Year 6	43rd (King to Howe) and Howe (to 42nd)	73	Overlay/Rehab	$121,074
	River Road (McLoughlin to Lark)	76	Overlay/Rehab	$95,129
	Railroad Ave Phase 2 (Harrison to Harmony)	44	Reconstruct	$150,000
	Monroe Street Phase 1 (224 to City limit)	41	Reconstruct	$431,000
	Crack/Slurry/Fog Seals		Preventive Maintenance	$175,000
			Total	*$972,203*
			Revenue Est (+ prev bal)	*$1,147,318*
			Balance	*$175,115*
Year 7	International Way (37th to Harmony)	70	Overlay/Rehab	$373,000
	Monroe Street Phase 2 (224 to City limit)	41	Reconstruct	$300,000
	Crack/Slurry/Fog Seals		Preventive Maintenance	$200,000
			Total	*$873,000*
			Revenue Est (+ prev bal)	*$1,175,115*
			Balance	*$302,115*
Year 8	Harvey Street (32nd Ave past 42nd Ave)	26	Reconstruct	$303,000
	Home and Wood Avenues	48	Reconstruct	$688,351
	Crack/Slurry/Fog Seals		Preventive Maintenance	$200,000
			Total	*$1,191,351*
			Revenue Est (+ prev bal)	*$1,302,115*
			Balance	*$110,764*
Year 9	Pavement Assessment (Visual)		SSMP Program Expense	$30,000
	McBrod Avenue (17th to Ochoco)	27	Reconstruct	$370,000
	Major Route Overlays TBD		Overlay/Rehab	$400,000
	Crack/Slurry/Fog Seals		Preventive Maintenance	$225,000
			Total	*$1,025,000*
			Revenue Est (+ prev bal)	*$1,110,764*
			Balance	*$85,764*
Year 10	Major Route Overlays TBD		Overlay/Rehab	$400,000
	Mailwell Avenue (Main St. to Commerce Park)	28	Reconstruct	$190,000
	Crack/Slurry/Fog Seals		Preventive Maintenance	$225,000
			Total	*$815,000*
			Revenue Est (+ prev bal)	*$1,085,764*
			Balance	*$270,764*

Cost estimates include 4.2% inflation in construction costs per year. All reconstruction and rehabilitation costs include a 25% contingency and a 2% inspection cost.

7. Annual Reporting

The Public Works and Community Development Director provides an annual report to City Council. The report includes a narrative description of the overall condition of the street network, findings from new condition assessments, a detailed project schedule for the upcoming year, an updated 5-year project schedule, the project selection criteria, and a report on the previous years projects, projects underway, and the overall program's progress. The Public Works and Community Development Director is required to update Council on the feasibility of the program given trends in revenues and costs.

A summary of the report to Council will be distributed to the community through the website, the Pilot, and Neighborhood Associations.

8. Project Implementation

"In-house" preventive maintenance by City of Milwaukie street crews addresses scattered, relatively small-scale crack sealing needs. Larger projects, such as a street seal or reconstruction project, are contracted through a competitive bid process, as per City and State rules and regulations. Contract work is overseen and managed by Engineering and Streets department staff. Project inspection, including inspection of asphalt mixes, is carried out by City staff or independent, third party contractors. City staff provide contracting guidelines to ensure that requirements are clear, procedures for documenting and correcting unacceptable work are in place, and all performance requirements are reflected in contracts. Forthcoming City of Milwaukie Public Works Standards include a written policy specifying asphalt composition, proportions of mixtures, and required compaction. Adequate funds for contingency, engineering, and inspection are included in the cost estimates used to develop the five-year project schedule.

In order to extend the life of overlay and street reconstruction projects, the City is updating policies on utility cuts and other cuts in the right-of-way. The SSMP ordinance directs the Engineering Director to establish and enforce a moratorium of five years on utility capital projects beneath streets that have been rehabilitated, reconstructed, or newly built. The ordinance also makes clear that the Engineering Director is responsible for sharing the City's Capital Improvement Plan with private utilities on an annual basis. The following practices are under review, to be presented to Council in 2007 with the Public Works Standards and/or the fee schedule update:

- Utility cut permit applicants currently provide a deposit to guarantee patch quality for one year. The City will establish a policy making clear at what point such a deposit will be forfeit and used by the City to repair faulty patches. The amount and duration of the deposit will be reviewed and

corrected as part of the annual fee schedule update. A sliding fee based on cut size will be considered.

- The new Public Works Standards will include a higher standard of repair for any patch made to City streets in the moratorium period.

9. Dedication of Funds

As per the implementing ordinances, all new revenues are dedicated exclusively to street surface maintenance and repair. All new Program revenues will be accounted for in a new fund dedicated exclusively to street surface maintenance. PGE makes its franchise fee payments to the City on an annual (calendar year) basis, the first payment is due by April 2008 and will only include one-half of a year of revenue.

The ordinance requires a reduction of local SSMP fees and/or taxes to balance any new revenue streams dedicated to street maintenance created at the state, county, regional or any other governmental level.

Dedicated street surface maintenance and repair funds are available to pay for contracted services to maintain or improve street surface condition (such as street maintenance, rehabilitation and repair activities, including seal, overlay and reconstruction projects); services in support of that mission (including inspection of contracted work and utility cuts; regular street condition inspections; and training and other services necessary to make the most efficient use of available funds); and additional costs involved in setting up revenue mechanisms such as additional programming necessary to include the street maintenance fee on the City utility bill.

10. Street Maintenance Fee

A. Residential Street Maintenance Fee

By Ordinance No. ____, the street maintenance fee is fixed for single family residences ($3.35 per month) and multi-family apartments ($2.10 per month per dwelling unit).

Table 2. Residential Street Maintenance Fee Categories

Category	*Typical customer*	*Unit*	*Trips Per Unit*	*Monthly Bill Per Unit*
Single Family Residential	Detached house	dwelling units	9.57	$3.35
Multi-Family Residential	Apartment or condo	dwelling units	6.00	$2.10
Elderly Housing	Retirement community	dwelling units	4.00	$1.40
Congregate Care	Long term care facility	dwelling units	2.00	$0.70

B. Non-Residential Street Maintenance Fee

By Ordinance No. ____, the non-residential street maintenance fee is calculated based on the number of square feet of building area (or alternative unit, such as gas pumps, or members) and a charge per thousand square feet. Each non-residential customer is assigned a category based on the type of business or organization. The fee is based on building size and the number of trips that such an operation typically generates, based on the widely used figures reported in the most recent edition of the International Traffic Engineers (ITE) manual Trip Generation. See Table 3.

The monthly non-residential fee is capped at $250 per property, adjusted annually for inflation.

Table 3. Non-Residential Street Maintenance Fee Categories

Category	*Typical customer*	*Unit*	*Trips Per Unit*	Monthly Bill Per Unit
1	Elem/Middle School; Lodge	students	0.75	$0.26
		members	0.75	$0.26
2	Heavy Industrial; High School	k sq feet	2.00	$0.70
		students	2.00	$0.70
3	Manufacturing; Warehouse; Religious Institution	k sq feet	4.00	$1.40
4	Light Industrial; Office	k sq feet	8.00	$2.80
5	Hospital; Business Park; Auto Care	k sq feet	16.00	$5.60
6	Recreation Facility; Special Retail; Supermarket	k sq feet	32.00	$11.20
7	Govt Office; Restaurant; Gas Station	k sq feet	64.00	$22.40
8	Fast Food; Convenience Store; Bank	k sq feet	128.00	$44.80
9	Multipurpose recreational facility	acres	200.00	$70.00
10	Movie theater	screens	400.00	$140.00

k sq feet: thousand of square feet of building area

C. Street Maintenance Fee Review Process

After a preliminary trip category assignment is made using the ITE standards, a letter is mailed to the utility customer notifying them of the category assigned. Customers are notified that if they believe their categorization overstates actual trip generation, they can request a review of their account. The Engineering Director will conduct the review, considering all relevant evidence presented by the customer related to their actual trip generation patterns. Such evidence may include business records, parking lot usage, or traffic studies. The Engineering Department leads the fee review process, with assistance from Planning and Community Development. The Engineering Director makes the final determination based on the evidence provided.

Any customer that is not satisfied with the fee review outcome may appeal the categorization to Council, as provided for in the ordinance.

D. Street Maintenance Fee Billing

The Finance Department is responsible for including the street maintenance fee within the City utility billing system. It is included as a line item on each City utility bill, calculated based on building square feet and a per square foot charge (based on the category structure described above) or fixed according to the residential user rates. The fee goes into effect July 2007.

E. Low Income Exemption

The SSMP includes a complete exemption from the street maintenance fee for those households qualifying for the previously established “Low Income Utility Program”.

11. PGE Privilege Tax

By Ordinance No. ___, PGE begins collecting the additional 1.5% Privilege Tax in July 2007. To allow local businesses an adequate planning horizon, advance notice is to be provided upon adoption of the ordinance. Privilige Tax revenues are included in PGE’s annual franchise fee payment to the City, due prior to April 1 of the calendar year following collection.

12. Local Gas Tax

City ordinance No. ___ establishes a $.02 per gallon tax on gasoline sold within the City. The Oregon Department of Transportation Fuels Tax Group collects the tax from local dealers on behalf of the City of Milwaukie. ODOT collects the additional tax from distributors making bulk deliveries of fuel to service stations and other wholesale customers of motor vehicle fuel in the City. Payments are made to the City on a quarterly basis with a reduction for ODOT administrative costs.

TRANSPORTATION UTILITY FEE: THE OREGON EXPERIENCE

The City of Milwaukie Street Maintenance Fee calculation methodology was adopted from the "Parcel Level Trip Analysis" described in this paper.

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ABSTRACT

Ten Oregon agencies have adopted transportation utility fee (TUF) programs to augment shrinking roadway maintenance revenues. Four additional agencies are investigating the feasibility of TUF programs this year, which would generate roughly $6,000 per road mile annually through this new mechanism. Clackamas County (pop. 345,000) is in the process of investigating a transportation maintenance fee (TMF) program, and, if adopted, will become the largest agency in the state with this type of finance system. Initial annual revenue estimates were $20 million for eligible maintenance activities, but these were scaled back to $4.2 million through the public review process. If adopted, this funding shift could provide opportunities to transfer a portion of the gas tax funds to capital project investments, which are substantially under funded.

The TMF development process in Clackamas County included a convergence of traditional travel demand forecasting with near-term traffic impact techniques to create a road user nexus at a parcel level. To accomplish this, trip estimates were made using ITE methods with a crosscheck to the regional travel demand model. A major challenge was to make a reasonable assessment of travel activity for every building within the county. Each of the 97,000 residential tax lots and 7,000 non-residential tax lots was evaluated using tax assessment and state employment records to estimate travel activity and proportionately allocate fees. Lessons learned in this project include the trade-offs between road user fee 'market' value versus technical and legal defensibility, and justification for better inter-agency land use data organization.

INTRODUCTION

A Brief History of Oregon Gas Tax

The Oregon gas tax represents the largest component of motor vehicle revenues collected by the state. It applies to light vehicles (automobiles, pick-up trucks), while a separate tax for heavy vehicles are charged based on a weight-mile formula. The remaining component of the motor vehicle revenues comes from vehicle registration fees. During fiscal year 1999/2000, gas tax revenues accounted for 53 percent of the $728 million collected statewide, while weight-mile fees accounted for 31 percent and registration fees were 16 percent.

Today, road maintenance in Oregon relies on gas tax revenues as a primary funding source(1). Oregon was the first state in the union to adopt a gas tax back in 1918 at rate of 1 cent per gallon. Sixty-six years later, in 1984, it had risen up to 8 cents per gallon, and then, during the next nine years, it increased to 24 cents per gallon by 1993. This relatively rapid rise in state gas tax in the late 1980's and early 1990's appears to have adversely affected the public's perception of gas tax utility and equity. Since that date, the gas tax rate has not changed despite three unsuccessful attempts by the state legislature.

The gas tax rate is not indexed for annual inflation, so the state, county and city jurisdictions have effectively lost $0.23 per dollar in maintenance buying power over the past ten years. In addition, increasingly fuel-efficient vehicles have shaved off 8 percent of the average gas consumption since 1990. The gap in revenues versus usage is illustrated by comparing the growth rate in total motor vehicle revenues versus change in vehicle-miles-traveled. In the past 10 years, total revenues have grown by 13 percent statewide(2), while vehicle-miles-traveled have increased 21 percent. With greater reliance on trucks moving the nation's freight, the higher VMT also means a higher level of heavy truck impacts on regional facilities. The net effect for many jurisdictions, especially in urban areas, is decreasing maintenance dollars and increasing maintenance needs.

Organization of this Paper

The purpose of this paper is to examine how Oregon cities and counties have responded to insufficient state funding for roadway maintenance funds over the past decade. A few local agencies have attempted to raise their local share of gas taxes, but success has been rare. Others have enacted a local transportation utility fee program to augment gas tax funding. Initially, this TUF approach was taken by small cities, between 2,000 and 10,000 population. More recently, larger Oregon metropolitan cities and counties have considered TUF programs as an alternative solution to the funding shortfalls.

This paper presents the experience of ten Oregon cities that have adopted street utility fee programs, and explores the on-going efforts by one of the most populated counties, Clackamas County, to apply a TUF program to their jurisdiction. The concluding section identifies 'lessons learned' through the technical analysis, public review, and implementation of the proposed TUF program for Clackamas County.

Street Utility Fee Augments Funding Shortfall

A transportation utility fee (also known as transportation maintenance fee) allocates a portion of the recurring roadway maintenance costs to all development located within the jurisdiction limits on a monthly basis. The types of roadway services covered by this fee generally are limited to pavement maintenance, but some have included all manner of maintenance activities associated with roadway operations. In general, costs are assigned proportionately to road usage, based on trip intensity or estimated vehicle-miles traveled. A few smaller cities (under 5,000 pop.) have assigned a flat fee rate for all road users without distinction between land use type or size.

Table 1 summarizes a few basic facts about the Oregon communities that have adopted transportation utility fees. The list highlights the population, gross annual revenue collected by the TUF and basic averages that are convenient for comparisons between jurisdictions. The household monthly fees ranges from just under $2 up to $5. In terms of revenue per person, the range is $12 to $48 per year. The annual revenue per maintained road mile ranged from $2,000 up to $10,000 with an average of about $6,000. In addition to the jurisdictions shown, Gresham, Lake Oswego, Tigard, and Clackamas County are considering TUF (or TMF) ordinances this year.

CASE STUDY: CLACKAMAS COUNTY

During the past 10 years, Clackamas County voters have rejected initiatives to increase county gas taxes on two occasions. The first county initiative, in 1995, was for a three cent per gallon increase, and the second initiative in 1997 was for one cent per gallon for three years with an increase to three cents thereafter. In both cases, county voters defeated these initiatives. As a result, the county administrators and several local cities were left to seek out other means for fair and equitable funding to help span the funding gap before roadway maintenance deteriorated to a critical level. Clackamas County began to consider a transportation maintenance fee in 2002.

Clackamas County is located in the Portland-Vancouver metropolitan region with a population of 345,000 (2000 census) spanning an area about the size of the State of Delaware. The county maintains approximately 268 urban and 1157 rural road miles with an annual road maintenance budget of $14 million (2002). According to county staff, this budget is approximately $7 million below the level needed to cost effectively maintain these facilities. Local streets in unincorporated areas are typical targets for deferred maintenance in favor of investments in higher functional classes. Several local facilities have degraded to such a poor level as to be impassable by motor vehicle traffic.

The county worked with five local cities to develop a transportation maintenance fee (TMF) for their jurisdictions. The participating cities included Oregon City, Milwaukie, Gladstone, Happy Valley and Estacada. The county maintenance forces supply road maintenance services to these cities on a contract basis. Other cities within the county opted to not participate, or had a city-based TMF program already in place. The county led TMF development process involved the following three stages:

1. Screening existing maintenance activities for funding eligibility.
2. Estimating average weekday trip activity for each development within the county limits.
3. Establishing fee tiers to simplify implementation and administration.

Stage 1: Selecting Maintenance Fee Activities for Inclusion in the Utility

The principles for selecting maintenance fee elements are not specifically defined by Oregon Administrative Rules, as are capacity building fee programs, such as Traffic Impact Fees. Jurisdictions are left to select TUF elements based more on community consensus rather than legislative mandate. The City Council of Portland, Oregon adopted a TUF program in 2001, but it was withdrawn that same year after a successful voter referendum petition was filed. One of the criticisms of that TUF proposal was that some activities were too broad and not directly related to roadway maintenance. An example cited was tow charges for abandoned vehicles.

In response, Clackamas County TUF policy targeted activities and services with a clear and direct benefit to roadway users, to reduce the possibly of a voter referendum and to keep the fee rates comparable to other Oregon TUF jurisdictions. The county and five cities initially chose the following activities as core elements to the road maintenance program:

- Bridge Maintenance — The county and cities maintain over 170 bridges to ensure that the bridge structures operate at a safe level.

- Guardrails — This includes the maintenance, repair and new installations of guardrails along roads and bridges.
- Road Shouldering — This activity includes the repair and stabilization of road shoulders.
- Road Treatment — This includes preventative and corrective maintenance of all county and city roads.
- Street Lighting — This activity includes designing, installing, maintaining and operating streetlights.
- Traffic Operations — This activity includes installing, repairing, monitoring and maintaining traffic signals, signs and striping.
- Utility Billing — This activity is included to insure adequate funding for the administration of the fee. This is the only administrative activity included in the fee.
- Vegetation Control — This activity helps to ensure motorist and pedestrian/bicycle safety while lowering the cost of future maintenance activities.

The county budget for each of the above maintenance activities is summarized in Table 2 along with its percentage of the total operating maintenance budget. Overall, the selected county activity comprised $14.4 million. This represents half of the current department budget. Other activities, such as capital projects, planning, enforcement and general administration were excluded from the list to be funded by the TMF. Assuming the gas tax revenues remained generally constant (maintenance cost inflation has been about even with VMT growth), the initial additional revenues from the TMF would add $14 million, which would eliminate the maintenance funding gap. A portion of the gas tax revenue currently applied to road maintenance would be re-allocated to accelerate deferred capital projects or other high priority county investments.

In addition, each participating city jurisdiction reviewed past maintenance spending trends to identify amounts to be recovered by the fee for the above categories. Several cities lacked comprehensive assessment tools for determining the appropriate budget required to cost effectively maintain their road system. Absent clear quantitative guidelines for pavement management, many cities chose to just continue existing funding levels, despite the anecdotal evidence that this was substantially below levels needed to maintain the design life of the roadways. The five cities together identified $5.5 million annually for roadway maintenance. Together with the county funds, the initial annual total considered as the basis for fee rate calculation was $19.9 million.

Stage 2: Parcel Level Trip Analysis

The main collection component of the TUF administration will be a utility statement to every independent development within the county. This required that a trip generation analysis be conducted for each tax parcel in Clackamas County to assess the relative road usage for each development. There were 97,000 residential tax lots and 7,000 tax lots with commercial, industrial, or other non-residential uses. County staff conducted a comprehensive review of these tax assessment and other land development data to evaluate trip activity.

The basic approach used to estimate the relative road usage for each parcel in Clackamas County involved assessing the trip intensity, trip length, and truck usage. These three factors were identified by the technical advisory committee to establish a nexus between land use activity and road usage. Trip generation estimates were made on a daily basis using Institute of Transportation Engineers (ITE) published data(3). Trip intensity was computed for 86 land use categories reported by ITE. Trip length information was not applied explicitly to convert this to vehicle-mile-traveled. Instead, the trip length factors were expressed relative to residential trip lengths based on previous work done for the county. The land use categories selected for these relative trip length factors were schools, retail, day care, library (generally much shorter than typical

residential trips), and major recreational facilities (generally much longer than typical residential trips). All other land uses were not factored relative to residential uses.

The relationship between heavy truck trips and the rate of pavement damage is well established. However, a literature review of published truck trip generation showed very limited data at the level of detail suitable for parcel level estimates. Therefore, a separate truck factor was not included in the calculation.

Parcel Level Analysis Steps

The inventory and analysis process for tax parcels involved the following five steps. Refer to Figure 1 for the flow diagram of the parcel level trip generation analysis. The process is summarized with comments regarding specific applications made during the course of this study.

Step 1: Inventory Existing Buildings for Residential and Non-residential land use types
The number of housing units, gross building area, zoning, and tax lot acreage was tallied for all parcels. This work was done from tax assessor records, field inventories, and state employment data sources by county staff and interns.

Step 2: Assign Trip Generation Category Types
Each building was assigned an ITE land use category code based on local knowledge and field checking, where appropriate. For residential uses, this was a simple allocation. For many non-residential uses, there was a range of uses on a given site with identical zoning. The decision was made during the study to designate a given building or complex by the predominant land use type category. For example, a light industrial business center that included storage unit facilities, light manufacturing, and a retail pizza outlet was coded entirely as a light industrial facility. The primary reason cited was the administrative tracking system needed to follow tenant changes was not in place, plus, such a detailed tenant level assessment could create substantial fluctuations paid by the property manager. By using the general average rate for the development, the administrative duties were kept more reasonable and the utility fees paid by the property owners would be uniform from year to year. The same principal was applied to office complexes with restaurant or coffee shops within the buildings, and in larger shopping centers with outlying retail pads. A subsequent calculation was made to back-check that these types of estimates were comparable on a wide area basis to the travel demands estimated by the regional travel model.

Step 3: Compute Raw Trip Generation
Estimate daily trip generation based on designated land use type and ITE trip rate data. The daily trip generation level was considered more equitable as a measure of overall road usage than peak hour travel estimates, which are more commonly used for assessing system infrastructure expansion.

Step 4: Pass-By Trip Adjustment
Factor retail uses for 'pass-by' discount to account for linked trips. ITE research shows that categories with detailed 'pass-by' data were applied as appropriate. For those categories without specific studies, a general factor of 30% was applied to retail uses in the ITE code 800 and 900 series.

Step 5: Trip Length Adjustment
A trip length factor was applied to selected land use types to account for the relative VMT compared to residential uses. A previous study done for the county (4) as a part of their Transportation System Development Charge development broke out trip length estimates by land use categories consistent with ITE trip generation data. However, the process used to make these estimates was not clearly documented, so a partial application was made in this case. The trip length relative value was applied for categories that were substantially longer or shorter than the reported residential trip length (1.0). A relative adjustment factor of 0.5 was applied to retail,

school, day care, and library uses, and a 1.5 factor was applied to major recreational facilities. All other uses had a trip length factor of 1.0.

Trip Generation Findings

Using the above method, the total trip generation for Clackamas County was 2.35 million daily vehicle trips. This was compared to the regional travel model daily trip estimates as a back-check. The Clackamas County total daily trips according to the Portland Metropolitan Area Regional Model for Year 2000 was 2.38 million vehicle trips, representing a difference of less than 2 percent. Residential trips accounted for 1.0 million and non-residential trips were 1.4 million. This comparison validates the selected trip calculation methodology as a reasonable approach for use in implementing the TMF. The trip totals by jurisdiction in Clackamas County based on the above methodology is listed in Table 3.

Stage 3: Fee Tier Allocations

Trip rate and trip quantity information was used to develop the rate tiers for fee administration. The concept is that each of the land uses within a given tier would be charged based on a common trip rate, rather than specific rates as defined by ITE. Grouping trip rates helps to correct for cases where ITE data for a given land use is limited, and it greatly simplifies fee administration. The fee tiers approach was approach taken in other Oregon cites of Lake Oswego, Eugene, Springfield and Tigard.

The residential land use categories were grouped into four tiers, based on their relative trip rates. These tiers were single-family, multi-family, elderly housing, and congregate care. Manufactured homes were grouped with elderly housing based on similar trip rates.

The non-residential trip generation estimates for Clackamas County derived from the ITE methodology were sorted by land use category based on the net weekday trip rate (trips per land unit) – see Figure 2. Trip rates increase from left to right as shown by the solid line, with values ranging from 1 to 450 on the right vertical axis. In a few cases, the trip rates were normalized to an equivalent land coverage basis by applying density assumptions where the land use unit was not KSF (1,000 gross square feet of building area). For example, a trip rate based on number of employees was converted to an equivalent basis by factoring for the assumed number of employees per KSF. By making these adjustments, the net trip rate is more comparable across all ITE categories. The ITE code categories are listed on the x-axis of the chart, and the estimated weekday trips by ITE category are shown in bars. The tallest bars represent categories with the highest aggregate trip totals across the county. These top trip quantity categories are: Specialty Retail (ITE Code 814) with 151,000 daily trips, Shopping Center (ITE Code 820) with 118,000 daily trips, Supermarket (ITE Code 850) with 75,000 trips, and Warehouse (ITE Code 150) with 73,000 daily trips.

Boundaries between the ten non-residential tiers were selected to minimize the ratio between tier rates and ITE rates for a given land use category. Initially, five non-residential tiers were used, but the number was doubled after the business community comments on the draft fee program. They stated a preference for smaller gaps between tiers, and less deviation between ITE rates and fee rates. The tier trip rates were reconciled against the trip calculation using individual ITE category rates to ensure that the countywide totals were consistent. The final tier trip rates and adjusted ITE trip rates are listed in Table 4 for the land use categories applied in Clackamas County.

Initial Transportation Maintenance Utility Fee Schedule

The initial cost per vehicle trip was calculated based on $20 million eligible annual costs, which yielded about $1.50 per daily vehicle trip that originates or ends within the county. A

preliminary cost for each land use category was developed based on the tier trip rates and unit cost per trip, which yielded the following sample monthly fee schedule:

Sample Land Use Type	Monthly Fee
Single Family Detached Dwelling Unit:	$15
Neighborhood Shopping Center (50,000 square feet lease area):	$3,000
Apartment Complex (200 units):	$1,800
Elementary School (500 students)	$550

This initial estimate was approximately three times higher than the rates found in comparable Oregon communities. Therefore, further technical review was conducted to identify the appropriate mix of maintenance activities to reduce the fee closer to current 'market' costs. State law requires that a fee system have a clear nexus between actual maintenance costs and the fee collected. However, an initial finding of this study showed that, although the county could collect up to $15 per single family dwelling unit, it may be better received by the community if only a portion of those eligible costs were recovered through this fee system.

IMPLEMENTATION ISSUES

The technical analysis of road use by parcel level was a challenge for the Clackamas County community. However, the administrative and policy-making issues associated with implementing a comprehensive new fee system for two-thirds of the county's population was a larger effort in many ways. The following sections highlight the most notable technical and administrative implementation issues encountered during the Clackamas County study.

Resolving Basis for Cost Assumptions

While the larger jurisdictions had comprehensive cost management tools for evaluating transportation maintenance activities, many of the smaller cities lacked detailed historical records that identified both the actual expenses and the system needs. With deferred maintenance of the roadway system being a common solution for many jurisdictions, the actual funding required to maintain minimum system performance measures (e.g., pavement integrity) often was unknown. The preferred starting point for the cost basis discussion was a comprehensive pavement management system and regular pavement inspection.

Specificity of Parcel Level Trip Generation versus Available Activity Data

Residential trip generation estimation was a straightforward exercise based on readily available data. However, many of the public records for non-residential uses lacked sufficient details to match variables reported in the ITE *Trip Generation Manual*. A team of student interns was assigned the tasks of uncovering essential details about 7,000 industrial, commercial, school and other non-residential generators. This work spanned several months and included field visits, phone calls to businesses and property managers, and reviews by aerial photographs. The resulting data set describing building floor area, employees, and business type was incorporated into an expanded information management system to be maintained by the county.

Nexus versus Market Forces

The Clackamas County TMF continues through refinement at this date. A part of the on-going discussion involved how the fees would be collected from multiple jurisdictions since the cost basis (roadway maintenance cost per road mile) varied between jurisdictions. To date, the discussion has led to funding the least common denominator between all jurisdictions, which had the lowest fee rate. Instead of $15 monthly per single-family dwelling unit (as a comparative

indicator), the latest rate (5) would charge $2.17 for the same unit. The final data and process description for the Clackamas TMF is illustrated in Figure 3.

Billing Administration and Multiple Jurisdictions

One of the initial concepts for TMF administration would have used a central billing agency (the county) to build on a billing system used for tax assessment. However, participating cities were not satisfied with the sole responsibility of fee collection and distribution to reside with the county, primarily because of possible misperceptions by city elected officials about fairness and equity on the county's behalf. A range of administration schemes was considered that included the least, average and highest cost denominators and uniform and area-specific fee programs (i.e., each city would establish and maintain their own fee program). Under the highest common denominator scheme, several of the participating cities would 'over collect' relative to their local needs, and the balance would be distributed to the members with higher unit maintenance costs.

A major policy choice was to avoid the need for re-distributing fees collected in one jurisdiction for application in another. These types of policies choices were very important in shaping the level and form of the current fee rate program being considered by Clackamas County, which, as presently defined, would use existing utility program billing systems (water, sewer) for the transportation utility fee administration rather than a countywide tax billing system.

A final billing issue was: exactly who is charged? Residential customers are generally identified by tax records, and these accounts can be readily monitored. Tax records typically have non-residential landowners, but not necessarily the business operators or landlords. An on-going policy decision involves choosing between tax lot owners and business operators as the basis for fee collection. A general preference was stated by the elected officials reviewing the program to target business operators that are responsible for management at given business location, and accountable for these types of recurring costs of operation. However, the information system for monitoring changes in business operators around the county (business licenses and permits, etc.) is not well coordinated with other more comprehensive systems maintained by the tax assessors office. There is a clear need for re-organization of these data management systems to make the fee collection and administration costs effective.

Public Outreach

A separate advisory committee from the community was formed after the draft program policies and rates were identified to present and refine the TMF program. This advisory body re-evaluates the policy and cost implications to their respective constituents of the business, educational, and development community, and provides feedback to county staff leading the program development. Their recommendations will be forwarded to the county commissioners for their review of the TMF program ordinances for possible adoption.

CONCLUSIONS

The TUF (or TMF) program is an important potential contribution to a jurisdiction's revenue system to recover maintenances costs that are increasingly not covered by declining revenue streams such as state gas taxes. This type of supplemental funding scheme enables a local jurisdiction to collect maintenance fees on a recurring monthly basis according to proportional usage of the road facilities. For most of the jurisdictions that have enacted a TUF program, the funds are applied for road maintenance exclusively. Revenue collected by adopted Oregon TUFs range from $12 to $48 annually per capita.

In Oregon, these fees can be implemented by administrative action, without direct affirmation by vote; however, the public still has opportunity to refer actions to a general vote. This past year, two of the larger jurisdictions to enact TUF programs (Eugene, Springfield)

withdrew their adopted ordinances in the same year based on potential voter referendum actions. Eight jurisdictions remain with intact TUF programs.

By contrast, local gas tax increases have a much broader range of applications, and they require a majority vote at a general election to be affirmed. Oregon voters have consistently not supported increases in local or state gas taxes. Many local agencies do not consider increases to their share of the gas tax as a viable solution for transportation funding because of the poor general public support. The latest statewide legislative efforts are targeting a 1-cent increase to the 24-cent tax, with the more important addition of an index that adjusts for inflation. If this increase is passed by the legislature and affirmed by Oregon voters, it would mark the first change in ten years.

The technical information needed to produce a comprehensive nexus analysis requires extensive and well-coordinated data sets that may extend beyond the limits of existing information systems. For example, the experience in Clackamas County showed that substantial new surveys and data collection was required to sufficiently define land use at parcel levels so that they could be associated with data categories reported by ITE *Trip Generation* research. The general administrative burden of the TUF approach is substantially greater than a comparable gas tax approach.

The Clackamas County experience also demonstrated that the larger aspect of implementing their proposed TUF was the associated policy choices and public education required to implement the program. The foremost policies related to which maintenance activities were to be funded, the minimum levels of services provided, and fee collection methods. Furthermore, the purpose and need for the TUF was a moderately complex message to explain to average potential users. The public groups that were the most challenging to educate were those that would pay the highest fee levels, larger retail and business centers. The education message was further compounded by the diversity in the maintenance needs and fees required by the participating city jurisdictions.

On November 5, 2004, the proposed Clackamas County TMF appeared on the general election ballot, and it was defeated by a margin of 2:1. Compared to the last gas tax increase vote, which failed 5:1, a modicum of progress in winning public support to transportation funding was made.

ACKNOWLEDGEMENTS

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TABLE 1: Transportation Utility Fees Adopted in Oregon (as of July, 2003)

City	Population	Gross Annual Revenue	Monthly Fee for Single Family Detached Unit	Average Revenue Per Road Mile	Annual Revenue Per Capita
Ashland	19,490	$734,000	$5.12	$3,966	$37.66
Eagle Point	4,665	$80,000	$3.00	$1,958	$17.15
Eugene *	140,000	$5,700,000	$2.90	$10,000	$40.71
La Grande	12,885	$200,000	$4.00	$2,326	$15.52
Medford	59,990	$2,900,000	$4.64	$9,767	$48.34
Phoenix	3,970	$60,000	$1.55	$3,294	$15.11
Springfield *	52,000	$1,000,000	$1.75	—	$19.23
Talent	5,065	$62,400	$1.96	$3,120	$12.32
Tualatin	21,345	$620,000	$2.92	$10,532	$29.05
Wilsonville	12,985	$482,713	$4.48	$9,851	$37.17
Average				$6,090	$27.23

Notes: — denotes sufficient data not available to calculate this rate.
* Eugene and Springfield repealed their TUF rates in July 2003 due to pending voter referendum initiatives.

TABLE 2: Clackamas County Roadway Maintenance Activities Selected for TMF

Maintenance Activity	2002-2003 Budget Total ($1,000)	Percent of Annual Budget
Bridges	$725	5.0%
Guardrail	91	0.6
Road Shoulder	869	6.0
Roadway Treatments	10,298	71.5
Traffic Operations (excluding traffic counts, traffic calming and ITS)	1,315	9.1
Vegetation Control	715	5.0
Subtotal Activities Allocated to TMF	$14,014	97.3%
All Other Activities and Services	386	2.7
Total Activities Allocated to TMF	$14,400	

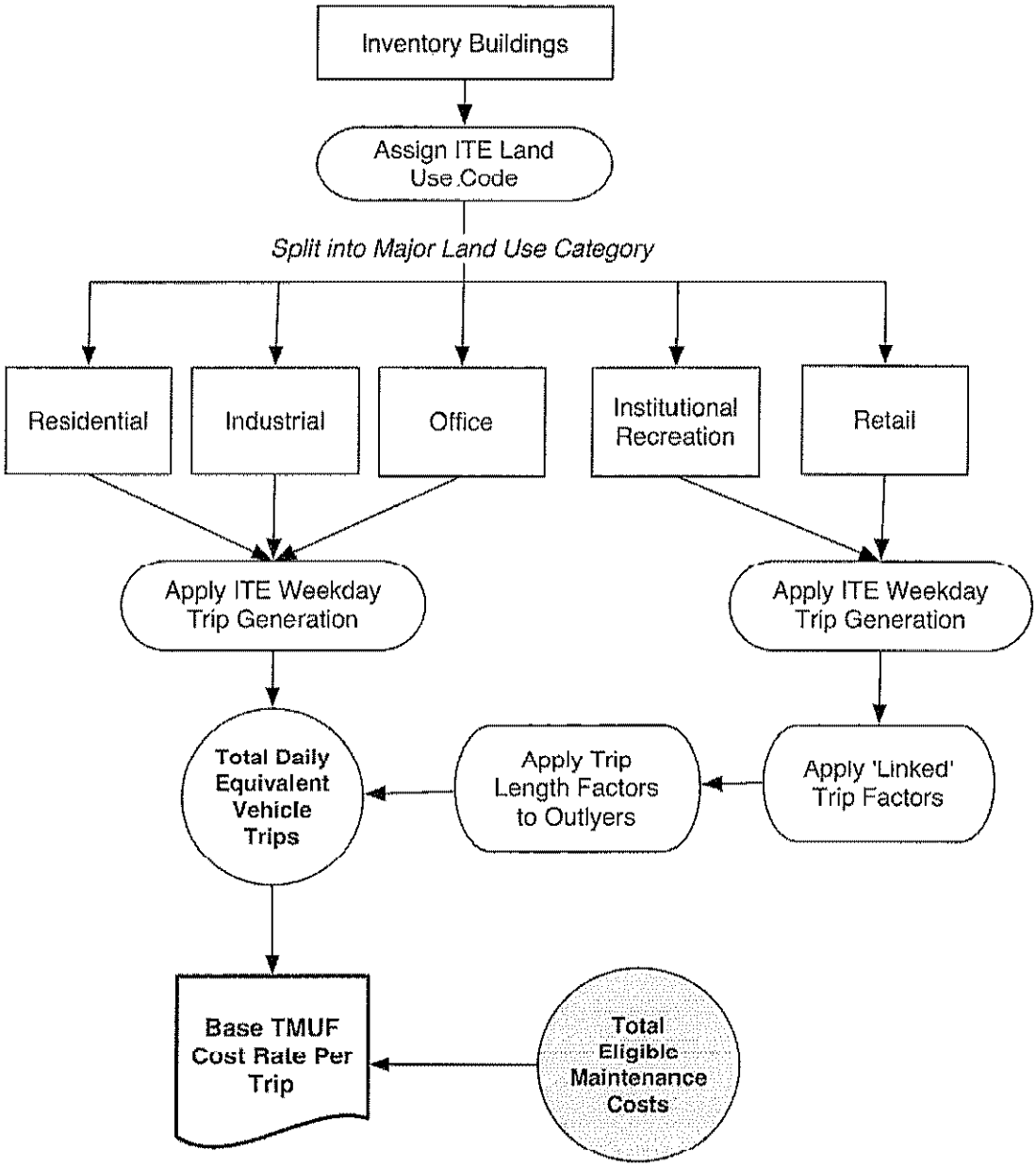


FIGURE 1: Parcel Level Trip Generation Process *DKS Associates*

TABLE 3: Estimated Daily Vehicle Trips by Jurisdiction in Clackamas County, Oregon

Jurisdiction	Residential Trips	Non Residential Trips	Total Daily Vehicle Trips
Barlow	382	1,314	1,696
Canby	31,635	65,425	97,060
Clackamas Urban	211,479	497,666	709,145
Clackamas Rural	287,480	93,331	380,811
Estacada	6,015	21,455	27,470
Gladstone	28,665	35,336	64,001
Happy Valley	18,172	6,454	24,626
Lake Oswego	106,191	144,218	250,409
Milwaukie	58,724	126,264	184,988
Molalla	13,747	27,170	40,917
Oregon City	69,281	153,129	222,410
Portland (portion of)	2,458	104	2,562
River Grove	1,081	840	1,921
Sandy	14,475	37,713	52,188
Tualatin	6,947	24,991	31,938
West Linn	70,470	49,103	119,573
Wilsonville	31,588	111,361	142,949
All Cities	459,831	804,877	1,264,708
All Unincorporated	498,959	590,997	1,089,956
Jurisdiction Total	958,790	1,395,874	2,354,664

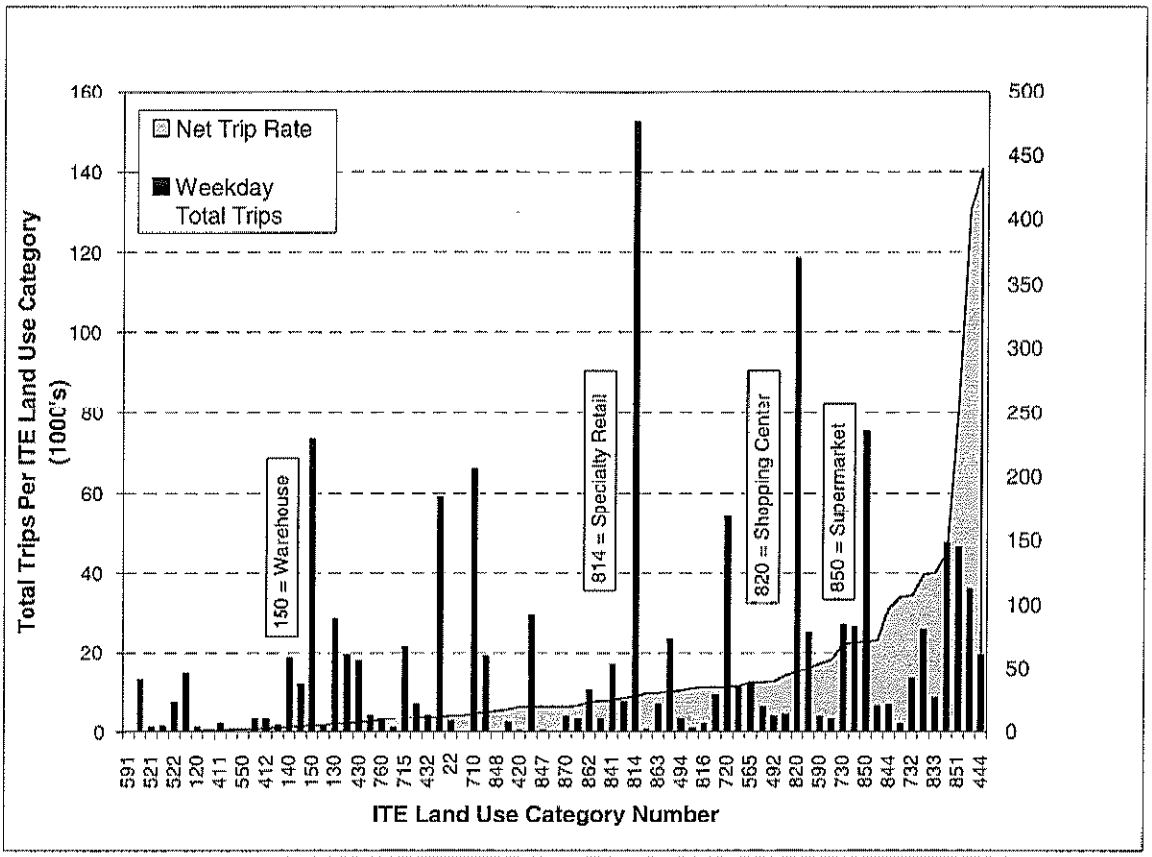


FIGURE 2: Trip Generation Rate and Net Trips Sorted by Land Use Category

Table 4: Adjusted Weekday Trip Generation Rates by ITE Category (Sorted by Tiers)

ITE Code	Description	Land Use Unit	Tier	Tier Trip Rate	Adj. ITE Rate	Rate Ratio
Non-Residential Uses						
413	State Park	Acre	0	0.75	0.65	0.87
520	Elementary School	Student	0	0.75	0.51	0.68
521	Private School (K-12)	Student	0	0.75	0.65	0.87
522	Middle School	Student	0	0.75	0.73	0.97
591	Lodge/Fraternal Organization	Member	0	0.75	0.29	0.39
120	General Heavy Industrial	KSF	1	2	1.50	0.75
151	Mini-Warehouse	KSF	1	2	2.50	1.25
411	City Park	Acre	1	2	1.59	0.80
530	High School	Student	1	2	1.79	0.90
540	Junior/Community College	Student	1	2	1.54	0.77
550	University/College	Student	1	2	2.38	1.19
890	Furniture Store	KSF	1	2	2.38	1.19
140	Manufacturing	KSF	2	4	3.82	0.96
150	Warehouse	KSF	2	4	4.96	1.24
170	Utilities	KSF	2	4	5.00	1.25
412	County Park	Acre	2	4	3.42	0.86
560	Church	KSF	2	4	4.56	1.14
620	Nursing Home	KSF	2	4	3.60	0.90
110	General Light Industrial	KSF	3	8	6.97	0.87
130	Industrial Park	KSF	3	8	6.96	0.87
320	Motel	Room	3	8	8.45	1.06
430	Golf Course	Acre	3	8	7.56	0.95
710	General Office	KSF	3	8	11.01	1.38
715	Single Tenant Office Building	KSF	3	8	11.57	1.45
750	Office Park	KSF	3	8	11.42	1.43
760	Research & Development Center	KSF	3	8	8.11	1.01
836	Drinking Place	KSF	3	8	10.50	1.31
22	General Aviation Airport	Employee	4	16	14.24	0.89
310	Hotel	Room	4	16	12.35	0.77
432	Golf Driving Range	Tees	4	16	12.50	0.78
566	Cemetery	Acre	4	16	18.92	1.18
610	Hospital	KSF	4	16	16.78	1.05
770	Business Park	KSF	4	16	12.76	0.80
818	Nursery (Wholesale)	KSF	4	16	21.00	1.31
840	Automobile Care Center	KSF	4	16	21.00	1.31
847	Self-Service Car Wash	Wash Stall	4	16	21.00	1.31
848	Tire Store	KSF	4	16	17.91	1.12
849	Wholesale Tire Store	KSF	4	16	14.25	0.89
861	Discount Club	KSF	4	16	21.74	1.36
870	Apparel Store	KSF	4	16	21.00	1.31

ITE Code	Description	Land Use Unit	Tier	Tier Trip Rate	Adj. ITE Rate	Rate Ratio
420	Marina	Acre	5	32	31.10	0.98
491	Tennis Courts	Courts	5	32	31.04	0.97
492	Racquet Club	Courts	5	32	40.53	1.27
493	Health Club	KSF	5	32	40.00	1.25
494	Bowling Alley	KSF	5	32	33.33	1.04
495	Recreational Community Center	KSF	5	32	45.00	1.41
565	Day Care	KSF	5	32	39.63	1.24
590	Library	KSF	5	32	27.00	0.84
630	Clinic	KSF	5	32	31.45	0.98
720	Medical-Dental Office Building	KSF	5	32	36.13	1.13
812	Building Materials & Lumber	KSF	5	32	27.80	0.87
813	Discount Super Store	KSF	5	32	32.87	1.03
814	Specialty Retail	KSF	5	32	28.47	0.89
815	Discount Store	KSF	5	32	47.00	1.47
816	Hardware/Paint Store	KSF	5	32	35.90	1.12
817	Nursery/Garden Center	KSF	5	32	25.26	0.79
820	Shopping Center	KSF	5	32	28.33	0.89
832	High Turnover Sit-Down Rest.	KSF	5	32	37.15	1.16
837	Quick Lubrication Vehicle Stop	Service Position	5	32	35.00	1.09
841	New Car Sales	KSF	5	32	26.25	0.82
845	Gas/Service Station with Convenience Market	Fueling Positions	5	32	35.81	1.12
850	Supermarket	KSF	5	32	35.68	1.12
862	Home Improvement Superstore	KSF	5	32	24.54	0.77
863	Electronics Superstore	KSF	5	32	31.53	0.99
844A	Fuel Pumps with Grocery Store	Fueling Positions	5	32	31.88	1.00
24	Airport Facilities	Employee	6	64	56.96	0.89
730	Government Office Building	KSF	6	64	68.93	1.08
831	Quality Restaurant	KSF	6	64	50.37	0.79
844	Gas Station	Fueling Positions	6	64	48.88	0.76
846	Gas/Service Station with Convenience Market, Car Wash	Fueling Positions	6	64	53.49	0.84
854	Discount Supermarket	KSF	6	64	70.00	1.09
732	United States Post Office	KSF	7	128	108.19	0.85
833	Fast Food w/o Drive-Thru	KSF	7	128	125.00	0.98
834	Fast Food With Drive-Thru	KSF	7	128	124.03	0.97
851	Convenience Market	KSF	7	128	125.46	0.98
911	Walk-In Bank	KSF	7	128	109.54	0.86
912	Drive-In Bank	KSF	7	128	140.56	1.10
435	Multipurpose Recreational Facility	Acre	8	256	203.36	0.79
444	Movie Theater with Matinee	Screens	9	512	440.00	0.86
Residential Uses						
210	SF Detached	DU	10	9.57	9.57	1.00

ITE Code	Description	Land Use Unit	Tier	Tier Trip Rate	Adj. ITE Rate	Rate Ratio
	Low-Rise Residential					
231	Condo/Townhouse	DU	10	9.57	9.01	0.94
220	Apartment	DU	11	6	6.63	1.11
221	Low-Rise Apartment	DU	11	6	6.59	1.10
230	Condo/Townhouse	DU	11	6	5.56	0.93
240	Mobile Home	DU	12	4	4.81	1.20
253	Elderly Housing	DU	12	4	3.48	0.87
252	Congregate Care	DU	13	2	2.15	1.08

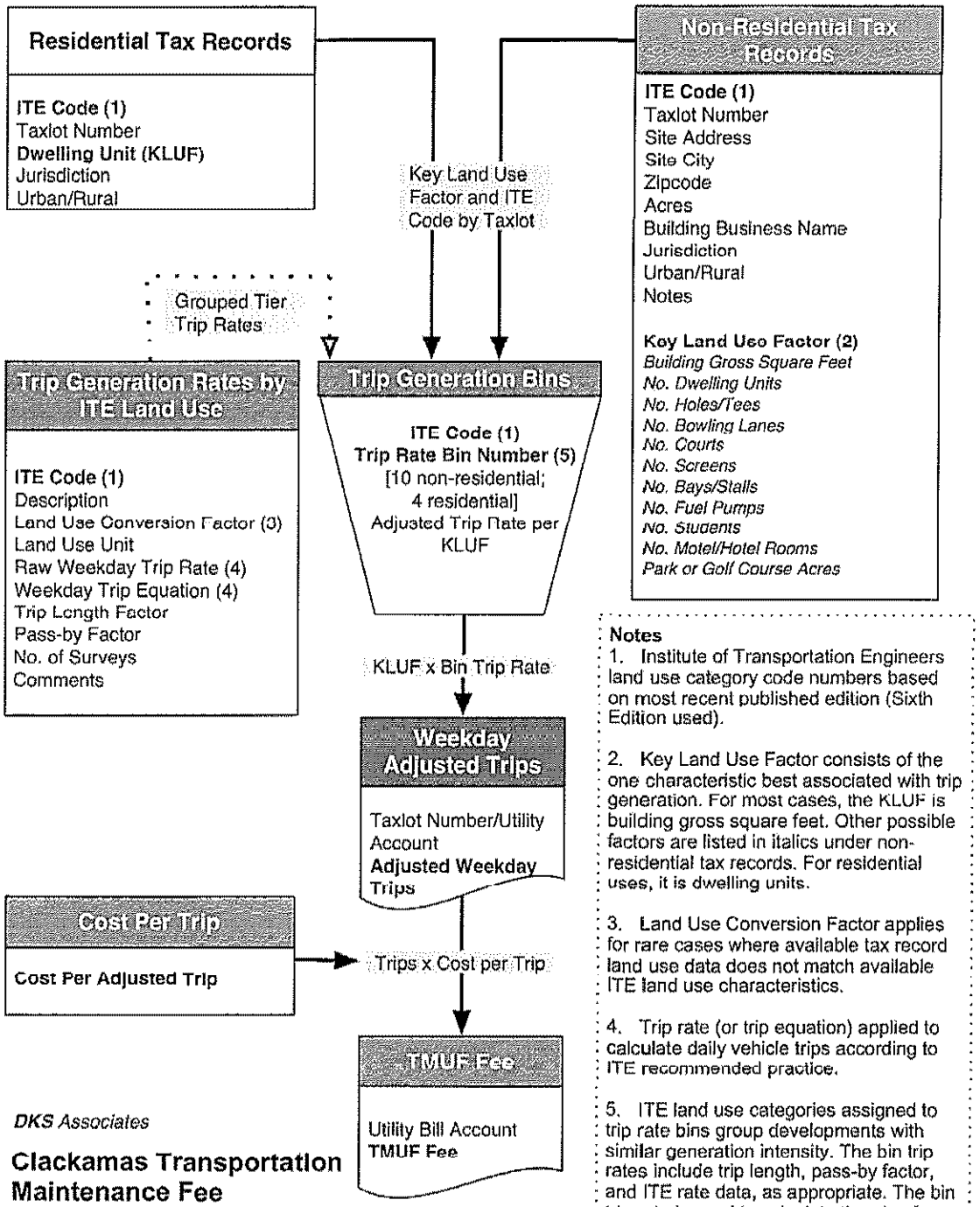


FIGURE 3 : TMF Data and Process Description

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(1) Oregon Legislative Revenue Office, "Oregon Public Finance: Basic Facts", 2001, page G3. Roadway maintenance sources include gas tax for light vehicles, weight-mile tax for heavy vehicles, and vehicle registration fees. Total motor vehicle tax revenues for grew on average 9.3% between 1982 and 1993, grew at 2.2% over the past 10 years.

(2) Oregon Department of Transportation, Oregon VMT for state owned facilities, http://www.odot.state.or.us/tdb/traffic_monitoring/vmt.htm. Accessed April 2, 2003.

(3) Institute of Transportation Engineers, "Trip Generation", Sixth Edition, 1998. Pass-by trip data for retail uses published in companion report entitled "Trip Generation Handbook: An ITE Proposed Recommended Practice", October 1998.

(4) Don Ganer & Associates, "Clackamas County: Countywide Transportation System Development Charges Methodology Update Report", September 18, 2001.

(5) "Clackamas County Transportation Fee Analysis and Utility Formation Study", Financial Consulting Solutions Group, April 2003.

Appendix B

Pavement Management Budget Options Report
City of Milwaukie

Prepared by:
Engineering Information Services, Inc.

EIS inc.
engineering information services

July 2004

Engineering Information Services, Partners In Government Efficiency

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EXECUTIVE SUMMARY

Engineering Information Services, INC. of Salem, Oregon was contracted by the City of Milwaukie Community Development to Provide Pavement Management Technical Services for the City of Milwaukie to 1) Conduct a visual pavement assessment of each City street and, 2) Determine the impact of funding levels on the network pavement condition. The Metropolitan Transportation Commission, MTC, Pavement Management Program (PMP) was used for this evaluation. This system strives to develop a maintenance strategy that first, will improve the overall condition of the street network to an optimal Pavement Condition Index, PCI, in the low to mid 80's and second, maintain it at that level.

A visual inspection of The City of Milwaukie streets showed an average PCI of 67. Using a 0-100 scale, with 100 being most favorable, a rating of 67 places the City's street network in the upper range of the 'satisfactory' condition category. In order to determine funding levels to maintain current infrastructure, the City's street network replacement value is estimated at 65 million. Using this estimate and the MTC program, an unrestricted funding level of $5.9 million over the next six-year period is needed to achieve a PCI in the low to mid 80's. Of this total, approximately $2.3 million is needed in the first year alone, primarily to repair streets in the 'fair' to 'poor' range, those streets with a PCI of 0-49, which is about 22% of Milwaukie's total network. This amount exceeds Milwaukie's current funding level by $4.7 million, thus creating a backlog in deferred maintenance.

In order to achieve a PCI of 74 over a six-year period, an annual investment level of $3.6 million would need to be allocated over the next six years. Using this budget amount, the cost of deferred maintenance backlog in 2009 would be approximately $2.8 million. Utilizing the same analysis period of six years with Milwaukie's current maintenance and rehabilitation funding of $1.2 million shows the PCI decreasing to 62 in 2009-with deferred maintenance being just over $4.7 million. Current funding allocation of $1.2 million is not sufficient to address the City of Milwaukie's street maintenance needs. Additionally, long–term surface management planning at an investment level of $6.0 million over a ten (10) year period shows that the PCI will gradually increase reaching 77 over the analysis period. This allows for 88.2% of the street network to be in the 'good' condition category, or higher, with deferred maintenance costs showing a steady decrease to approximately $2.1 million by the year 2013.

Purpose

This report is intended to assist the City of Milwaukie with identifying street maintenance priorities specific to the City.[1] The City's street network replacement value is estimated at $65 million and represents a significant asset for City officials to manage. This asset valuation is assessed by the assumption of replacing the entire street network at today's dollars. The estimated replacement value is an average cost, which was arrived by surveying Oregon local agencies for their unit cost experience for pavement preservation and rehabilitation programs.[2] The report examines the overall condition of the street network and highlights the impacts of funding levels on the network pavement condition and deferred maintenance funding short falls. Conducting 'what-if' analysis using the City of Milwaukie pavement management system database were examined based on conducting the 'what-if' analysis a over six-year period.

Definitions

The *pavement condition index*, or PCI, is a measurement of the health of the pavement network or condition and ranges from 0 to 100. A newly constructed street would have a PCI of 100, while a failed street would have a PCI of 10 or less. The PCI is calculated based on pavement distresses identified in the field.

Network is defined as a complete inventory of all streets and other pavement facilities in which the City has jurisdiction and maintenance responsibilities. To facilitate the management of streets, they are subdivided into management sections identified as a segment of street, which has the same characteristics.

Urban arterial street system carries the major portion of trips entering and leaving the urban area, as well as the majority of through movements desiring to bypass the central City. In addition, significant intra-area-travel such as between central business districts and outlying residential areas.

Urban Collector Street provides both land access service and traffic circulation within residential neighborhoods, commercial, and industrial areas. It differs from the arterial system in that facilities on a collector system may penetrate residential neighborhoods.

Urban Local Street system comprises all facilities not one of the higher systems. It serves primarily to provide direct access to abutting land and access to the higher systems.

Functional Classification Other has been designated as a placeholder for the inventory of City maintained alley facilities.

Preventive Maintenance refers to repairs applied while the pavement is in "good" condition. Such repairs extend the life of the pavement at relatively low costs, and prevent the pavement from deteriorating into conditions requiring more expensive treatments. Preventive maintenance treatments include slurry sealing, crack sealing, and deep patching. Treatments of this sort are applied before pavement deterioration has become severe and usually cost less than $1.50/sq. yd.

[1] Private streets (those **not** owned by the City) are excluded from analysis and not accounted for in this report.

[2] Replacement cost includes only the paved roadway (consisting of all labor and materials associated with construction) from curb to curb.

Deferred Maintenance refers to the dollar amount of maintenance and rehabilitation work that should have been completed to maintain the street in "good" condition, but had to be deferred due to funding deficiencies for preventative maintenance and/or pavement rehabilitation programs. The actual repairs that are being deferred are often referred to as "backlog."

Stop Gap refers to the dollar amount of repairs applied to maintain the pavement in a serviceable condition (e.g. pothole patching). These repairs are a temporary measure to stop resident complaints, and do not extend the pavement life. Stop-gap repairs are directly proportional to the amount of deferred maintenance. Money spent on stopgap repairs are often taken from preventive maintenance budgets.

Existing Pavement Condition

The City of Milwaukie is responsible for the repair and maintenance of 8.31 lane miles of Arterial, 24.34 lane miles of Collector, and 105.95 for a total of 138.60 lane miles of asphalt concrete and Portland cement concrete pavements. Figure 1 displays the average PCI by functional classification. To assist with the overall management of the street network, the City's Street Systems have been subdivided into 536 individual units identified as management sections.

The current average PCI for the City of Milwaukie is 67, placing the network in the upper-range of the 'satisfactory' condition category. Table 1 summarizes by functional classification the condition of the street network in the City of Milwaukie.

Figure 1. Weighted Average PCI by Functional Classification

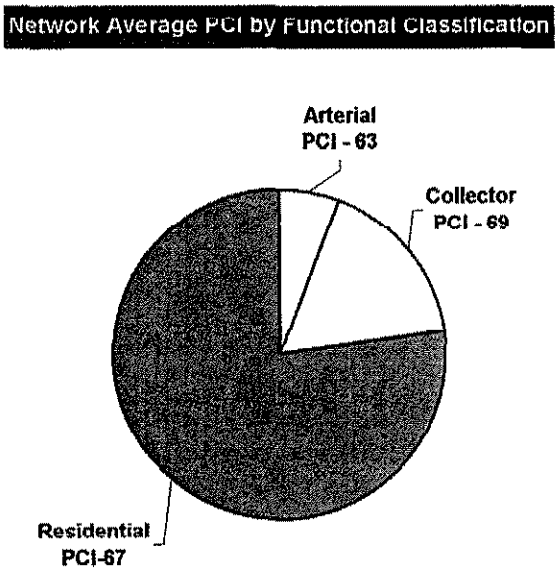


Table 1. Pavement Condition Summary for the City of Milwaukie

Condition Category	PCI Range	2004Percent of Network
Good *	70 - 100	60%
Satisfactory	50 - 69	17%
Fair	25 – 49	15%
Poor	< 25	7%

*2004 Overall Network Pavement Condition Index 67

Present Cost to Repair the Street Network

The MTC Pavement Management Program (PMP) is designed to achieve an optimal network PCI somewhere between the low and mid 80's, which is in the middle of the good condition category. In other words, the system will recommend maintenance treatments in an attempt to bring all of the streets in the City of Milwaukie to a 'good' condition, with the majority of the streets falling in the low to mid 80's PCI range. Streets with a PCI in the 80's (as opposed to 70's) will likely remain in the "good" condition category for a longer period of time in this range where relatively inexpensive preventive maintenance treatments will be the main strategy to keep these streets in that category. Once the PCI falls below 70, more expensive rehabilitation treatments will be needed.

The Budget needs module of the PMP estimates a funding level of $5.9 million over the next six-year period for the City's pavement preservation and rehabilitation programs to maintain the street network PCI in the low to mid 80's. Of this total, approximately $2.3 million is needed in the first year alone, primarily to repair the streets in the "fair" to "poor" range. These costs exceed the City of Milwaukie's planned funding level by approximately $4.7 million.

As mentioned earlier, the average PCI for the City of Milwaukie streets is 67, which is in the upper-range of the 'satisfactory' condition category. Why then, does it cost so much to repair the Milwaukie's streets, and why bother improving them?

First, how much it costs to repair and maintain a pavement depends on its current PCI. In the good category, it costs very little to apply preventive maintenance treatments such as crack and surface seals which can extend the life of a pavement by correcting minor faults and reducing further deterioration. Treatments of this sort are applied before pavement deterioration has become severe and usually cost less than $1.25/sq. yd. Over half of the City of Milwaukie's street network would benefit from these relatively inexpensive, life-extending treatments.

Approximately 17% of the City of Milwaukie street network falls into the 'satisfactory' condition category. Pavements in this range show some form of distress caused by traffic load related activity or environmental distress that require more than a life-extending treatment. At this point, a well-designed pavement will have served at least 75 percent of its life with the quality of the

pavement dropping approximately 40%. The street surface may require a slurry seal application or a thin overlay. These treatments typically range in cost from $1.50 to $12.00/sq. yd.

The remaining 22% of the City of Milwaukie street network falls into the fair or poor PCI ranges. These pavements are near the end of their service lives and often exhibit major forms of distress such as potholes, extensive cracking, etc. At this stage, a street usually requires either a thick overlay or reconstruction. The costs for these treatments range from $12.00 to $51.00/sq. yd. One of the key elements of a pavement repair strategy is to keep streets in the good or satisfactory categories from deteriorating. This is particularly true for streets in the satisfactory range, because they are at the point where pavement deterioration accelerates if left untreated. On the other hand, the deterioration rate for pavements in the 'fair' to 'poor' range is relatively flat; the condition of these streets will not decline significantly if repairs are delayed. As more 'good' streets deteriorate into the 'satisfactory' and 'poor' categories, the price tag of deferred maintenance will continue to increase. The price tag of deferred maintenance backlog will stop increasing only when enough funds are provided to prevent streets from deteriorating into a worse condition category, or the whole network falls into the "poor" category (i.e. can not deteriorate any further).

Future Expenditures for Pavement Maintenance

It is estimated that the City of Milwaukie will spend $1.2 million of tax revenues on pavement maintenance rehabilitation during the next six years (FY 2003-04 through FY 2008-09), assuming current funding levels.

Table 2. Projected Pavement Budget for FY 2003-04 to FY 2008-09

	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	Total
City Estimate	$200,000	$200,000	$200,000	$200,000	$200,000	$200,000	$1,200,000

Budget Needs

Based on the principle that it costs less to maintain streets in good condition than bad, the MTC PMP strives to develop a maintenance strategy that will first improve the overall condition of the network to an optimal PCI somewhere between the low and mid 80's, and then sustain it at that level. Although the average PCI for the City of Milwaukie is 67, which is in the 'satisfactory' condition category, a moderate area of the network suffers from load-related distresses. In addition, there is a backlog of more than $4.7 million in deferred maintenance. If these issues are not addressed, the quality of the street network will inevitably decline. In order to correct these deficiencies, a cost-effective funding and maintenance and rehabilitation strategy must be implemented.

The first step in developing a cost-effective maintenance and rehabilitation strategy is to determine, assuming unlimited revenues, the maintenance "needs" of the City of Milwaukie's street network. Using the PMP budget needs module; street maintenance needs are estimated at $5.9 million over the next six years. If the City follows the strategy recommended by the program, the average network PCI will increase to 82. If, however, no maintenance is applied over the next

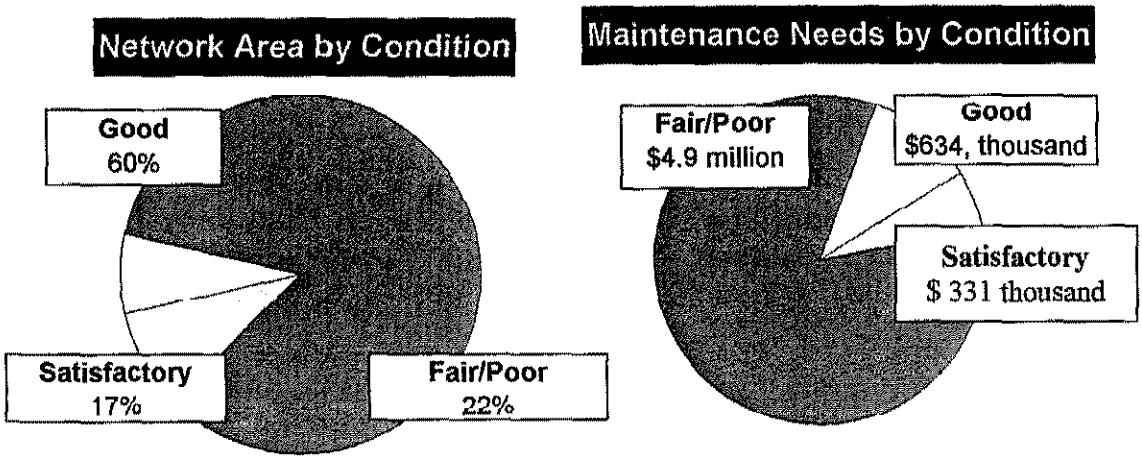
six years, already distressed streets will continue to deteriorate, and the network PCI will drop to 56. The results of the budget needs analysis are summarized in the table below.[3]

Table 3. Summary of Results from Needs Analysis

	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
PCI with Treatment	80	81	82	82	83	82
PCI no Treatment	67	65	63	61	59	56
Budget Needs	$2,350,706	$1,094,311	$650,201	$740,452	$887,901	$217,114
Preventive Maintenance	$477,876	$42,294	$65,960	$23,242	$23,888	$966
Rehabilitation	$1,872,790	$1,051,761	$584,089	$670,721	$808,488	$196,294

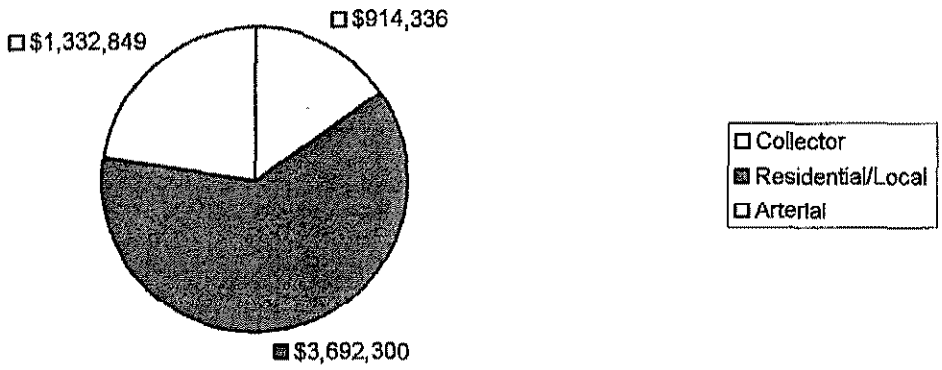
Table 3 shows the level of expenditure required to raise the City of Milwaukie's pavement condition to an above the optimal network PCI of above 80 and eliminate the current maintenance and rehabilitation backlog. The results of the budget needs analysis represent the ideal funding strategy recommended by the MTC PMP. Of the $5.9 million in maintenance and rehabilitation needs shown, approximately $634 thousand or 9% is earmarked for preventive maintenance or life-extending treatments, while $5.3 million or 91% is allocated for the more costly rehabilitation and reconstruction treatments. The cost-effectiveness of preventive maintenance treatments is demonstrated in Figure 2, which compares the current condition of the network, and the maintenance needs estimated by the program. The portion of the network in good condition, 9% requires approximately $634 thousand of work over the next six years, whereas 84 % in fair to poor condition needs $4.9 million in expenditures.

Figure 2. Cost-Effectiveness of Treatments



[3] Actual program outputs are shown in Appendixes A through D

Figure 3. Budget Needs Funding
Distribution by Functional Classification



Budget Scenarios

Having determined the maintenance and rehabilitation needs of the City of Milwaukie's street network, the next step in developing a cost-effective maintenance and rehabilitation strategy is to conduct 'what-if' analyses. Using the PMP budget scenarios module, the impact of various budget scenarios can be evaluated. The program projects the effects of the different scenarios on pavement condition PCI and deferred maintenance (backlog). By examining the effects on these indicators, the advantages and disadvantages of different funding levels and maintenance strategies becomes clear. For the purpose of this report, the following scenarios were run for a six (6)-year period for the purposes of this report.

1. *Unconstrained (zero "deferred" maintenance)* — The annual amounts identified in the budget needs analysis were input into the budget scenarios module. The preventive maintenance split for each year in the analysis period, as recommended by the budget needs module, was used.
2. *Unconstrained Scenario Equal Budget Distribution* — An annual budget of $989,914 was evaluated to determine the effects of the budget needs funding ($5.9 million) distributed equally over the six-year analysis period. A 2% preventive maintenance split was used. The Equal application of the budget needs total over the period eliminates the front load cost in the first year and provides a more realistic alternative.
3. *Current Investment Level Budget* — A six-year funding level of $200,000 per year for a total budget of $1.2 million was evaluated to determine the effects of continuing a current budget level. A 2% preventive maintenance split was used.
4. *Recommend Investment Level* — A six-year investment level of $600,000 in each year for a total of $3.6 million was evaluated to determine the effects at this funding level. A 2% preventive maintenance split was used for the purpose of this analysis. This proposed funding level increases the PCI to 74 over the duration of the six-year analysis period.

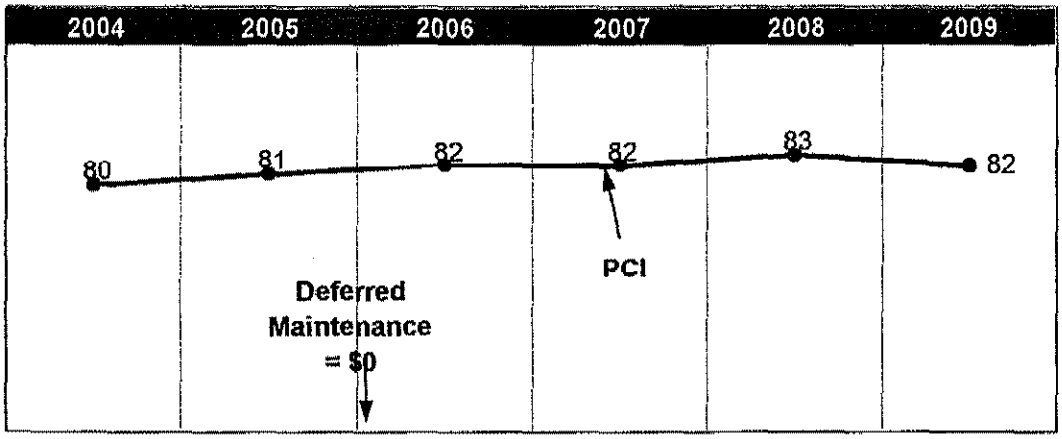
Scenario 1 — Unconstrained *(zero deferred maintenance)*

This scenario shows the effects of implementing the ideal funding strategy (as recommended by the MTC PMP needs module). Because it is more cost-effective in the long run to eliminate the deferred maintenance backlog as quickly as possible, the bulk of the maintenance needs are addressed in the first year of the six-year program raising the PCI to 82. The PCI remains at 82 through the year 2009 and continues in the optimal range over the analysis period. By the year 2009 90.1% of the network falls into the good condition category as shown in both table 4 and figure 4.

Table 4. Summary of Results from Scenario 1 — Unconstrained

	2004	2005	2006	2007	2008	2009	Total
Budget	$2,350,706	$1.094,311	$650,201	$740,452	$887,901	$217,114	$5,820,631
Rehabilitation	$1,872,790	$1,051,761	$584,089	$670,721	$808,488	$196,294	$5,184,144
Preventive Maintenance	$477,876	$42,294	$65,960	$23,242	$23,888	$966	$634,227
Stop Gap	$0	$0	$0	$0	$0	$0	---
Deferred Maintenance	$0	$0	$0	$0	$0	$0	---
PCI	80	81	82	82	83	82	---

Figure 4. Summary of Results from Scenario 1 — Unconstrained



Scenario 2 — Unconstrained Scenario Equal Budget Distribution Investment Level

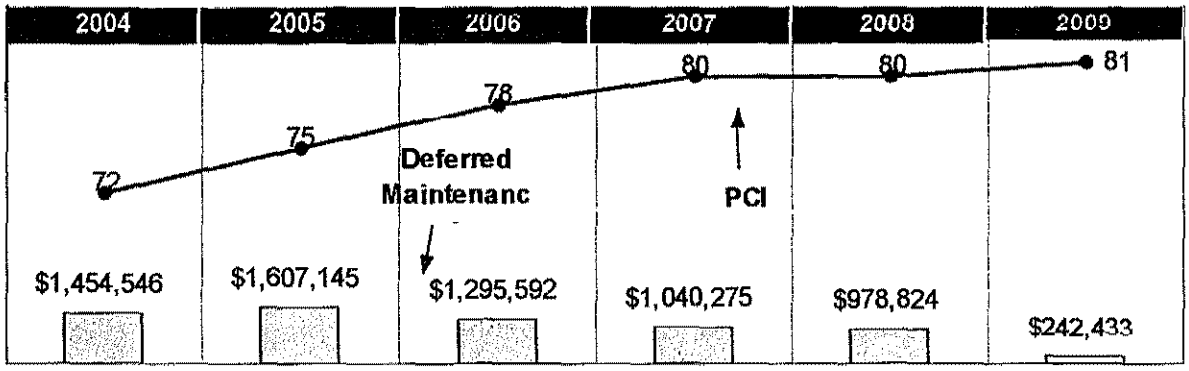
A six-year budget of $5.9 million was evaluated to determine the affects of continuing with an annual budget strategy of $989,914 per year. Program outputs indicate that the price tag of deferred maintenance in the year 2009 [4]will be reduced approximately $242 thousand with a PCI increase to 81. Both table 5 and figure 5 summarize these results.

[4] Actual results of this scenario are contained in Appendix C

Table 5. Summary of Results from Scenario 2 — Unconstrained Scenario Equal Budget Distribution Investment Level

	2004	2005	2006	2007	2008	2009	Total
Budget	$989,914	$989,914	$989,914	$989,914	$989,914	$989,914	$5,970,839
Rehabilitation	$967,303	$966,615	$953,543	$944,998	$914,804	$804,316	$5,551,579
Preventive Maintenance	$0	$5,289	$32,797	$43,477	$73,899	$185,414	$340,876
Stop Gap	$22,611	$17,898	$3,308	$1,159	$982	$0	$45,957
Deferred Maintenance	$1,454,546	$1,607,145	$1,295,592	$1,040,275	$978,824	$242,433	---
Surplus PM	$0	$112	$267	$280	$229	$184	
PCI	72	75	78	80	80	81	---

Figure 5. Summary of Results from Scenario 2— Unconstrained Scenario Equal Budget Distribution Investment Level



Scenario 3 — Current Investment Level Budget

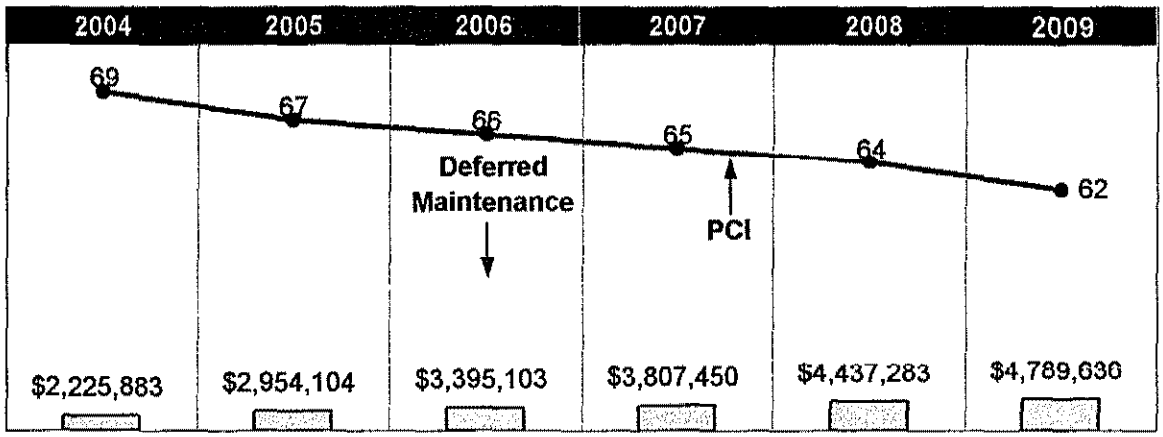
A six-year budget for a total of $1.2 was evaluated to determine the affects of continuing with the current budget strategy. Program outputs indicate that the deferred maintenance bag log in the year 2009 will be in exceed $4.7 million and thc PCI will decrease to 62 at the conclusion of the six years.[5] . By the year 2009, 66.9% of the network falls into the good condition category as shown in both table 6 and figure 6.

[5] Actual results of this scenario are contained in Appendix C

Table 6. Summary of Results from Scenario 3 — Current Investment Level Budget

	2004	2005	2006	2007	2008	2009	Total
Budget	$200,000	$200,000	$200,000	$200,000	$200,000	$200,000	$1,200,000
Rehabilitation	$195,416	$195,222	$195,501	$195,173	$194,694	$195,603	$1,171,609
Preventive Maintenance	$0	$0	$0	$0	$0	$0	$0
Stop Gap	$4,584	$4,778	$4,499	$4,827	$5,306	$4,397	$28,391
Deferred Maintenance	$2,225,883	$2,954,104	$3,395,103	$3,807,450	$4,437,283	$4,789,636	---
Surplus PM	$0	$0	$0	$0	$0	$0	---
PCI	69	67	66	65	64	62	---

Figure 6. Summary of Results from Scenario 3— Current Investment Level Budget



Scenario 4 — Recommended Six and Ten year Investment Level

This scenario shows the effects of considering an annual budget level of $600,000 in each year of the six-year period for a total of $3.6 million. Program outputs indicate that the cost of deferred maintenance in the year 2009 will total approximately $2.8 million and the PCI will increase reaching 71 in the first year. Examining this funding level over a ten (10) year period shows that the PCI will be at 77 through 2013. A PCI of 77, which is the lower range of the good condition category, is an acceptable service level and target PCI to maintain long term. This level stabilizes the rate of pavement deterioration, places the funding at a reasonable budget amount, and maintains the street system at a condition were low cost maintenance alternatives are viable options. In addition, this funding level is sufficent to show a continued decrease to the deferred maintenance backlog through the year 2013. [6] Summaries of these results are illustrated in figure 7.

[6] Actual results of this scenario are contained in Appendix C

Figure 7. Summary of Results from Scenario 4— Recommended Six and Ten Year Investment Level

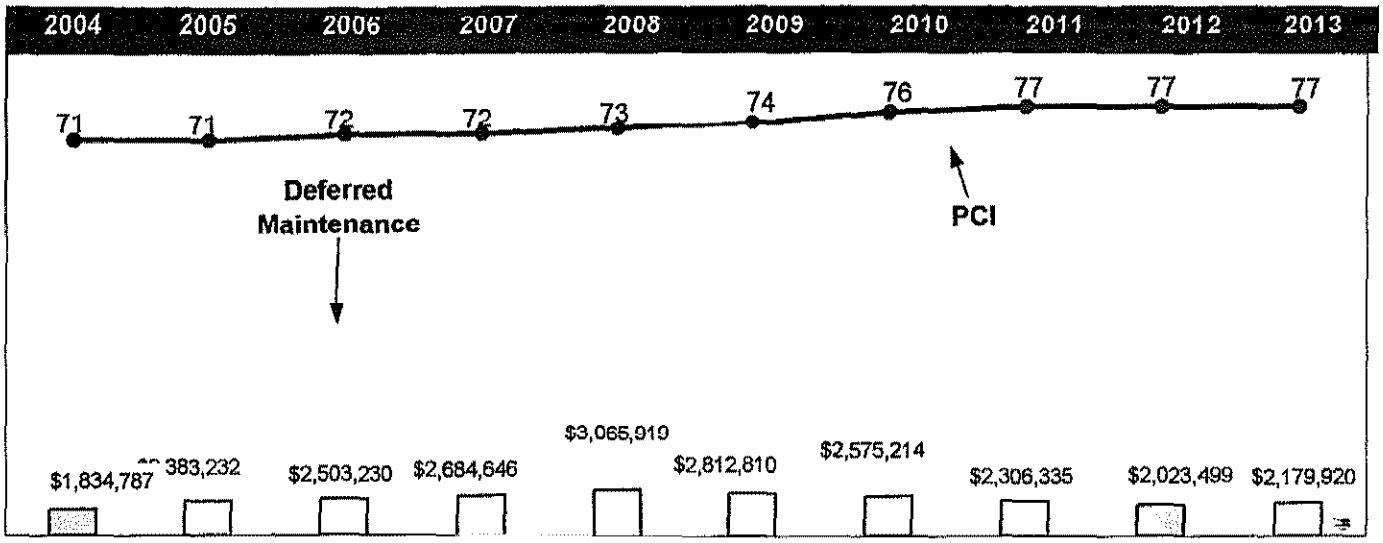
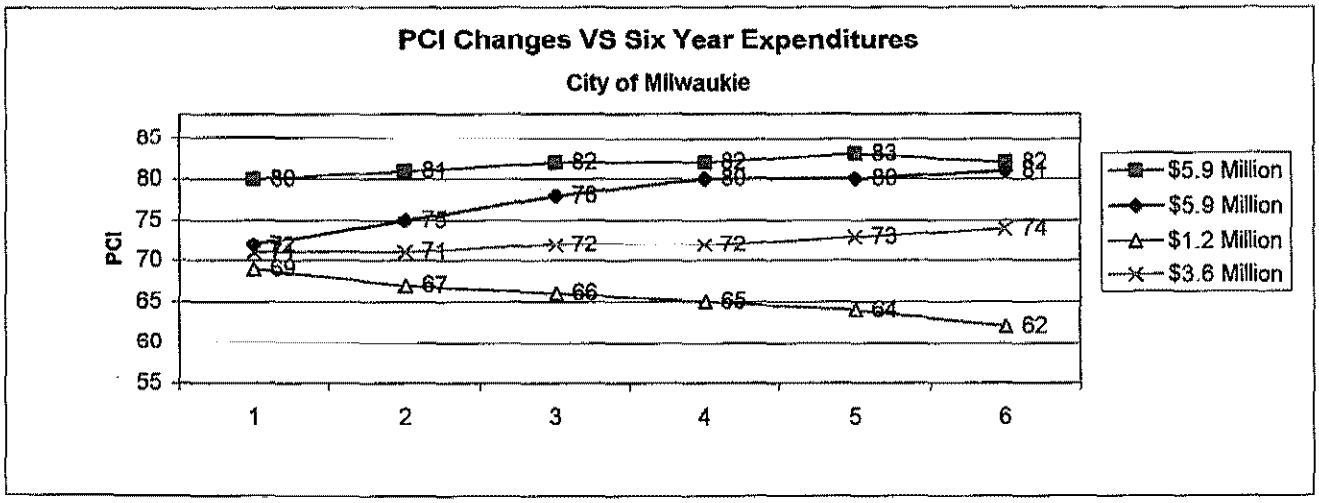


Figure 8. Shows the affects on the PCI at the funding levels analyzed



Recommendations

Of the various maintenance and funding options considered, the *ideal* strategy for the City of Milwaukie is presented in Scenario 1, with a six-year expenditure total of $5.9 million. Not only does this surface management plan improve the network PCI above the optimal of 81, it also eliminates the entire deferred maintenance backlog in the first year. As examined scenarios deviate from this strategy, the cost to Milwaukie will increase in the long term. The amount of funds to be dedicated up front approximately $5.9 million, may make this strategy unrealistic for the City of Milwaukie; however, this scenario can be used as a base line for comparing other scenarios.

A six-year (6) year annual budget scenario at $989,914 allows for an increase in the network PCI over the course of the analysis period. At the conclusion of this analysis, the network PCI will reach 81 which is the projected PCI based on the results of this funding level. In addition, 89.6% of the streets will be in the Good Condition Category with a deferred maintenance price tag decreasing will be completely addressed in the year 2009- results of this scenario are contained in Appendix C.

Continuing with the current six-year (6) year annual budget scenario of $200,000 per year for a total of $1.2 million causes a decrease in the network PCI over the course of the analysis period. At the conclusion of this analysis, the network PCI will be 56 which is the projected PCI based on the results of this funding level. In addition, 66.9% of the streets will be in the Good Condition Category with a deferred maintenance price tag increasing to approximately $4.7 million in the year 2009- results of this scenario are contained in Appendix C.

Finally, a ten-year (10) year budget scenario consisting of $600,000 per year per year for a total budget of $6.0 million was evaluated. This funding level allows for the network PCI to increase to 77 over the course of this investment level scenario. At the conclusion of the ten-year period, 70.6% of the streets will be in the Good Condition Category with a deferred maintenance will experience a reduction to approximately $2.1 million by the year 2013.

As demonstrated in the different scenarios, the City of Milwaukie needs to spend a significant amount of money on expensive rehabilitation and reconstruction projects. This will reduce the deferred maintenance backlog, increase the network PCI and allow money to be spent for less capital-intensive treatments such as cape seals, slurry seals, and overlays.

The City should continue to apply for federal funds (e.g., Surface Transportation Program) that may be available for pavement repair and maintenance programs. These federal funds are usually available on a cyclical basis as the Oregon Transportation region prepares its Transportation Improvement Program.

Preparation of a budget options report is just one step in using the MTC PMP to build an effective street maintenance program. Some additional steps that should be taken are:

- Link major street repairs with utility maintenance schedules to prevent damage to newly paved street surfaces.

- Obtain detailed subsurface information on selected sections before major rehabilitation projects are contracted. Costs for large rehabilitation projects are extremely variable and estimates can sometimes be reduced following project-level engineering analysis. It is possible that only a portion of a street recommended for reconstruction actually requires such heavy-duty repair.

- Evaluate the specific treatments and costs recommended by the PMP, and modify them to reflect the actual repairs and unit costs that you expect to use.

- Test other budget options with varying revenues and preventive maintenance and rehabilitation splits.

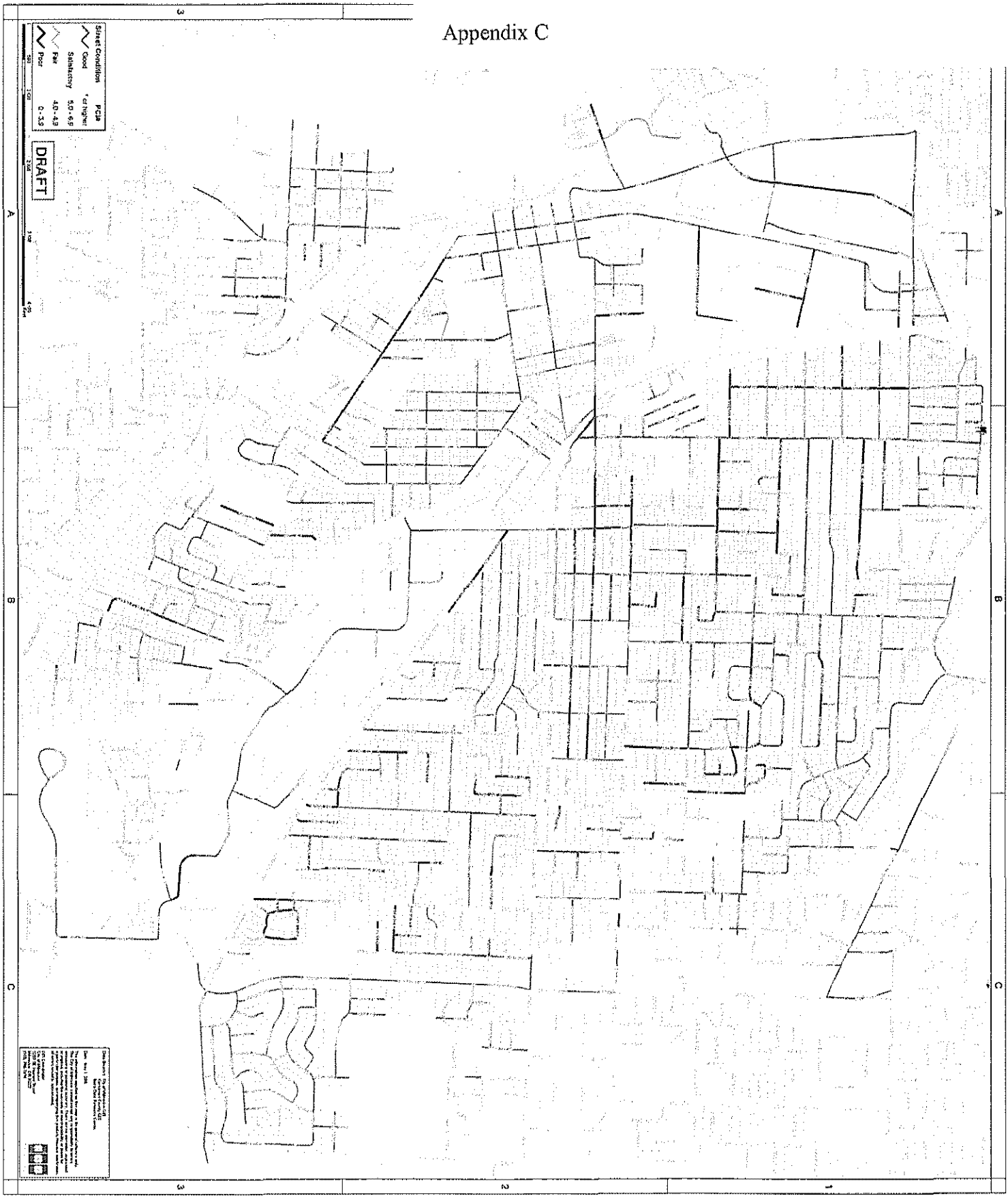
- Prepare a brief memo to City Officials outlining the recommended six-year maintenance program. The memo should include the amount of revenues available for pavement repair, a list of streets to be repaired, and the type of repair to be completed (listed in order of the year the treatment is scheduled), as well as any requests for specific budgetary actions.

In addition to performing cyclic pavement condition inspections, unit cost information for the applications of various maintenance and rehabilitation treatments should be updated annually in the PMP 'Decision Tree Module'. If this data is not kept current, the City runs the risk of understating actual funding requirements to adequately maintain the street network.

The City of Milwaukie has completed the foundation work necessary to execute a successful pavement management plan. The street system is in good condition and the City has consistently applied the funds necessary to maintain this monumental investment. However, to improve the condition of the street system and reduce the maintenance backlog requires additional revenues and support from various decision-making bodies.

As more "good" streets deteriorate into the satisfactory and poor categories, the price tag of deferred maintenance will continue to increase. The price tag of deferred maintenance backlog will stop increasing only when enough funds are provided to prevent streets from deteriorating into a worse condition category, or when the whole network falls into the "poor" category (i.e. can not deteriorate any further). At that time, the network will need to be replaced at a cost exceeding $65 million.

Appendix C


Street Condition
Good
Satisfactory
Fair
Poor
PCR
7 or higher
5.0 - 6.9
4.0 - 4.9
0 - 3.9
DRAFT

STREET FUNCTIONAL CLASS	A: Arterial C: Collector L: Local	PAVEMENT CONDITION INDEX (PCI) :	>8: Good, no treatment 7-8: Good, crack seal @ $1.50/sq. yd 5-6.9: Fair, overlay @ $30/sq. yd	4-4.9: Poor, mix of overlay and reconstruct @ $50/sq. yd 0-3.9: Poor, reconstruct @ $70/sq. yd

STREET	CLASS	PCI	STREET	CLASS	PCI	STREET	CLASS	PCI	STREET	CLASS	PCI
17TH AVE	C	7.5 - 7.9	ADAMS ST	L	2.1 - 7.8	HARVEY ST	L	2.1 - 8.1	RAILROAD AVE	C	2.3 - 7.9
19TH AVE	L	8.8 - 9.0	ANGELA WY	L	8.9	HAZEL ST	L	7.2	RAINBOW CIR	L	8.6
20TH AVE	L	4.1 - 5.5	APPENINE WY	L	2.9 - 9.0	HEMLOCK ST	L	8.2	RAINBOW LN	L	8.2
21ST AVE	C/L	6.4 - 8.3	APPLE ST	L	8.5	HILLSIDE CT	L	5.2	REDWOOD AVE	L	8.3
22ND AVE	L	7.2 - 7.3	ARDEN ST	L	7.0	HOME AVE	C	2.4 - 5.1	REGENTS CIR	L	8.5
23RD AVE	L	7.4 - 8.6	ASH CT	L	6.5	HOWE LN	L	7.5	REGENTS DR	L	8.4
24TH AVE	L	7.7	ASPEN ST	L	8.8	HOWE ST	L	1.9 - 9.0	RHODESA ST	L	6.2
25TH AVE	L	2.3 - 8.4	B ST	L	8.6	HUNTER CT	L	2.7	RIO VISTA ST	L	7.8 - 7.9
26TH AVE	L	1.9 - 9.0	BALFOUR ST	L	1.7	INTERNATIONAL WY	C	3.7 - 7.6	RIVER RD	A	6.3 - 7.2
27TH AVE	L	8.8	BARBA ST	L	8.8	JACKSON ST	L	3.1 - 8.4	ROBERTA LN	L	7.6
28TH AVE	L	4.2 - 8.2	BECKMAN AVE	L	8.6	JEFFERSON ST	L	6.5 - 8.1	ROCKVORST ST	L	9.0
28TH PL	L	5.5	BETA ST	L	8.4	JOBES CT	L	1.5	ROCKWOOD ST	L	3.8 - 7.7
29TH AVE	L	2.6 - 8.2	BIRK ST	L	3.9	JOHNSON CREEK BLVD	L	9.1	ROSWELL ST	L	4.5 - 8.9
30TH AVE	L	3.0 - 9	BLUEBIRD ST	L	7.5 - 9.0	JUNIPER AVE	L	8.8	RYAN CT	L	2.8
31ST AVE	L	2.6 - 9.0	BOB WHITE ST	L	4.3	KATHRYN CT	L	8.8	SCOTT ST	L	6.4
32ND AVE	C/L	4.4 - 9	BOSS LN	L	8.9	KEHRLI DR	L	5.8	SELLWOOD ST	L	8.9 9.0
33RD AVE	L	6.7 - 9.0	BOWMAN ST	L	8.4	KELVIN ST	L	4.0	SEQUOIA AVE	L	8.5
34TH AVE	C/L	5.0 - 8.8	BOYD ST	L	7.3	KENT ST	L	1.9	SEQUOIA PL	L	8.0
34TH CT	L	7.5	BRAE ST	L	7.4	KING RD	A/L	3.4 - 7.6	SHELL LN	L	2.3
35TH AVE	C	8.3 - 9.0	BROOKSIDE DR	L	7.0 - 8.4	LAKE RD	A	2.9 - 8.2	SHERRETT ST	L	7.1
35TH CT SE	L	9.0	C ST	L	8.2	LAMPLIGHTER AVE	L	3.3	SHERRY LN	L	4.2
36TH AVE	L	2.0 - 8.9	CAMPBELL ST	L	6.4 - 8.1	LARK ST	L	6.3 - 6.5	SOMEWHERE DR	L	9.0 - 9.5
37TH AVE	L	3.7 - 9.0	CEDARCREST DR	L	8.4	LAVA DR	L	2.1	SPARROW ST	L	7.7 - 9.0
38TH AVE	L	2.1 - 8.4	CHELSEA ST	L	8.2	LEONE LN	L	1.5	STANLEY AVE	C	3.2 - 6.9
39TH AVE	L	4.0 - 5.2	CHESHIRE LN	L	10	LICYNTRA CT	L	8.3	STANLEY CT	L	2.1
39TH CT	L	9.0	CLATSOP ST	L	7.7	LICYNTRA LN	L	8.9 - 8.9	STUBB ST	L	3.1 - 8.1
40TH AVE	L	1.3 - 9.0	CONWAY ST	L	2.2	LINWOOD AVE	A	7.3 - 7.4	SUNDIAL CT	L	6.2 - 8.0
41ST AVE	L	3.5 - 8.6	COVELL ST	L	7.3	LLEWELLYN ST	L	2.8 - 8.4	TAMBARA ST	L	6.7
41ST CT	L	1.9 - 8.8	CRITERION CT	L	7.8	LLOYD ST	L	1.7 - 5.6	THOMAS CT	L	7.8
42ND AVE	L	5.6 - 8.1	D PL	L	8.7	LOGUS RD	L	6.8 - 7.3	VAN WATER ST	L	4.4 - 4.7
42ND CT	L	5.1	D ST	L	8.6	MADISON ST	L	8.5	VERNIE AVE	L	7.2
43RD AVE	C/L	5.3 - 8.6	DAPHNE CT	L	8.3	MADRONA DR	L	7.6	VERNIE CT	L	8.9
43RD CT	L	1.8	DEERING CT	L	8.3	MAILWELL DR	L	2.8	VERNIE LANE	L	8.4
44TH AVE	L	3.9 - 8.6	DERDAN CT	L	8.7	MAIN ST	C	8.1 - 8.4	VIVALDI CIRCLE	L	3.0
44TH CT	L	9.1	DEWEY CT	L	6.4	MALCOLM ST	L	3.7 - 4.7	WAKE CT	L	1.5
45TH AVE	L	4.4 - 8.5	DICK ST	L	4.0	MALLARD WY	L	9.2	WAKE ST	L	2.8 - 3.1
46TH AVE	L	3.4 - 8.4	DRAKE ST	L	1.3 - 9.0	MAPLE CT	L	1.3	WASHINGTON PL	L	6.3
46TH CT	L	8.2	DREFSHILL ST	L	8.6	MAPLEWOOD CT	L	10	WASHINGTON ST	C/L	6.1 - 8.1
47TH AVE	L	7.2 - 8.6	DWYER DR	L	9.8	MARY CT	L	9.0	WAVERLY CT	L	4.7
48TH AVE	L	7.8 - 9.0	EAGLE ST	L	6.1	MASON CIR	L	8.5	WAYMIRE ST	L	8.7
49TH AVE	L	1.3 - 8.3	EDISON ST	L	6.8	MASON HILL DR	L	6.3 - 8.9	WEEDMAN CT	L	9.0
50TH AVE	L	2.6	ELK ST	L	4.1	MASON HILL LN	L	9.3	WEEDMAN ST	L	8.9
51ST AVE	L	1.0 - 3.5	ELSEWHERE LN	L	4.9	MASON LN	L	8.4 - 8.7	WEIKO WY	L	8.0
52ND AVE	L	1.8 - 6.6	ELSEWHERE LN	L	9.5	MCBROD AVE	L	1.9 - 7.7	WHERE ELSE LN	L	2.7 - 9.0
52ND CT	L	1.8	EUNICE ST	L	7.5	MEADOWCREST CT	L	7.9	WHERE ELSE LN	L	3.7
53RD PL	L	8.4	FIELDCREST DR	L	4.3	MEEK ST	L	7.9	WHITE LAKE RD	L	7.0 - 8.5
54TH CT	L	10	FIELDCREST RD	L	2.0	MELODY LN	L	8.7	WICHITA CT	L	1.8
54TH PL	L	4.7	FILBERT AVE	L	8.8	MILPORT RD	L	6.5 - 7.9	WILLARD ST	L	4.7 - 5.5
55TH AVE	L	4.7 - 7.4	FLOSS ST	L	8.3	MINTHORN LP	L	8.1	WILLOW ST	L	1.9 - 8.9
56TH AVE	L	1.7 - 9.2	FOXFIRE ST	L	2.7	MONROE ST	C/L	4.5 - 8.3	WILMA CIR	L	8.9
59TH AVE	L	2.2 - 8.4	FRANKLIN ST	L	5.1	MONTGOMERY DR	L	8.1	WINSOR CT	L	8.9
60TH AVE	L	5.8 - 7.4	FREEMAN RD	L	7.1 - 9.0	MOORES ST	L	6.9 - 8.2	WINSOR DR	L	8.3 - 9.0
60TH CT	L	8.4	FREEMAN WY	C	7.1 - 7.9	MULLAN ST	L	6.5	WINWORTH CT	L	1.8
63RD AVE	L	8.4	FURNBERG ST	L	8.2 - 8.7	MYRTLE ST	L	7.7	WISTER ST	L	7.7 - 8.7
63RD CT	L	8.7	GARRETT CIRCLE	L	5.7	NASE CT	L	9.0	WOOD AVE	L	1.9 - 7.5
64TH AVE	L	6.8 - 8.5	GARRETT DR	L	4.5 - 8.1	NORTHRIDGE CT	L	5.0 - 8.7	WOOD CT	L	4.1
64TH CT	L	8.5	GINO LN	L	9.0	OAK ST	C	6.0 - 8.4	WOODHAVEN ST	L	1.6 - 4.2
65TH CT	L	8.5	GROGAN ST	L	8.4	OATFIELD RD	C	6.6 - 6.9	WREN ST	L	1.9 - 9.0
66TH AVE	L	7.3	GROVE CT	L	4.6	OCHOCO ST	L	3.2 - 8.0			
67TH AVE	L	8.7	GROVE LP	L	2.0	OLSEN ST	L	4.0 - 8.9			
67TH CT	L	8.3	GUIDO BOCCI DR	L	9.0	OMARK DR	L	2.1			
69TH CT	L	8.3	GUILFORD DR	L	8.4 - 8.7	PARK ST	L	4.1 - 9.0			
70TH AVE	L	6.8 - 8.9	HANNA HARVESTER DR	L	2.0 - 9.6	PENNYWOOD CT	L	8.6			
71ST AVE	L	8.4	HARLENE ST	L	4.2	PENNYWOOD DR	L	8.5 - 8.8			
A ST	L	8.6	HARLOW ST	L	6.0	PENZANCE ST	L	7.8 - 8.9			
ADA LN	L	7.5 - 8.6	HARRISON ST	A/L	2.1 - 8.5	PLUM DR	L	8.7			

CITY OF MILWAUKIE

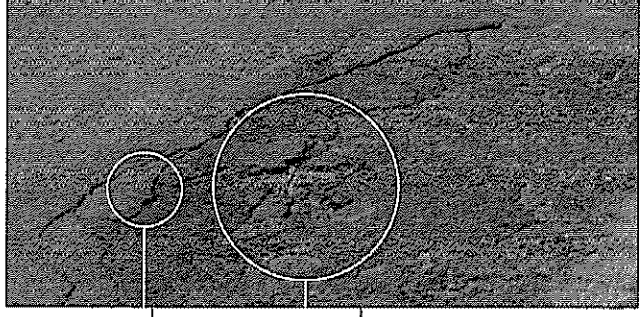
CITY COUNCIL DISCUSSION: JULY 18, 2006

A LOOK AT MILWAUKIE'S STREETS

Milwaukie's street network is worth more than $65 million and is one of the City's most valuable assets. In 2004 an engineering study found that the cost of the maintenance backlog will continue to grow unless enough funds are provided to repair and maintain our streets.

Source: EIS Inc., July 2004

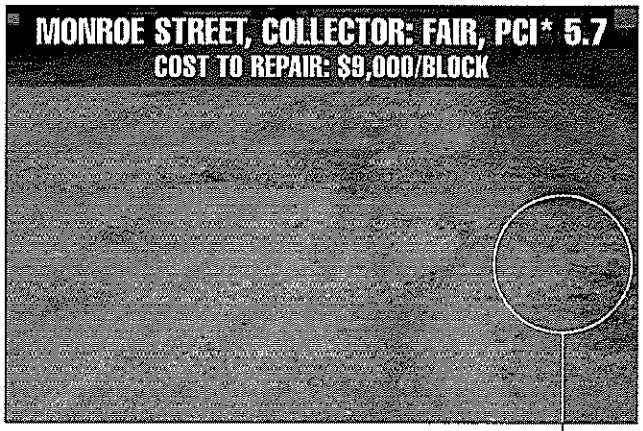
LAKE ROAD, ARTERIAL: POOR, PCI* 2.9
COST TO REPAIR: $31,500/BLOCK



Cracks due to aging.

Large holes due to aged asphalt, poor base material and sub-base failure. Base failure creates soft spot that is pushed down by traffic.

MONROE STREET, COLLECTOR: FAIR, PCI* 5.7
COST TO REPAIR: $9,000/BLOCK



Poor shoulder drainage contributes to deterioration of aging asphalt. As asphalt is eroded, gravel is exposed and released.

ROSWELL STREET, LOCAL: FAIR, PCI* 5.5
COST TO REPAIR: $13,500/BLOCK



Water enters sub-base through cracks and, over time, the asphalt becomes brittle and breaks away.

"Alligator" cracks caused by heavy vehicle traffic on aged asphalt.

JACKSON STREET, LOCAL: POOR, PCI* 3.5
COST TO REPAIR: $18,667/BLOCK

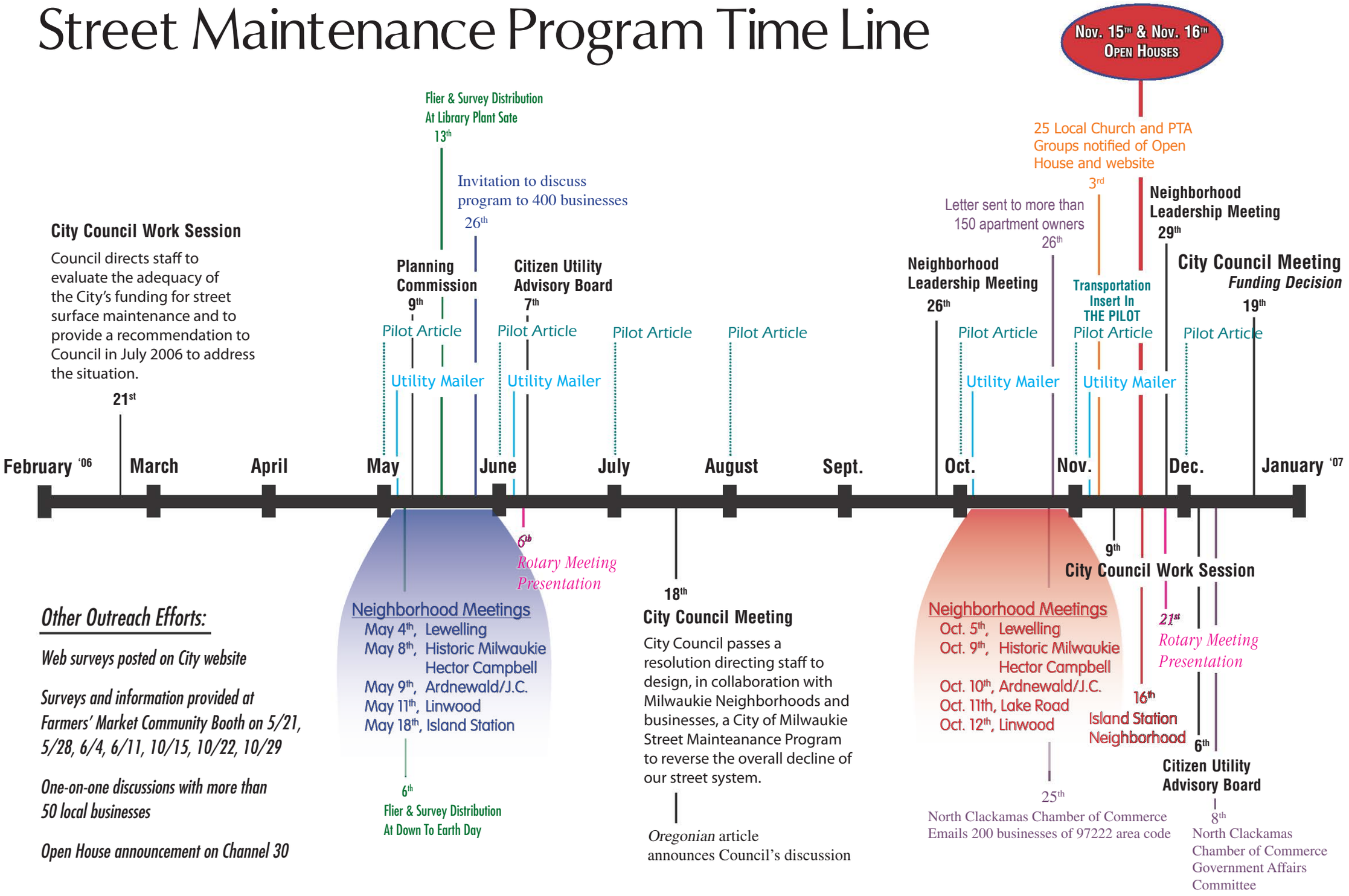


Poor drainage allows water to saturate base and sub-base.

Roadway releases gravel from asphalt mix.

*PCI: Pavement Condition Index is a rating between 1 to 10 describe street surface quality and condition.

Street Maintenance Program Time Line



City Council Work Session

Council directs staff to evaluate the adequacy of the City's funding for street surface maintenance and to provide a recommendation to Council in July 2006 to address the situation.

21st

Neighborhood Meetings
May 4th, Lewelling
May 8th, Historic Milwaukie
Hector Campbell
May 9th, Ardnewald/J.C.
May 11th, Linwood
May 18th, Island Station

City Council Meeting

City Council passes a resolution directing staff to design, in collaboration with Milwaukie Neighborhoods and businesses, a City of Milwaukie Street Mainteanance Program to reverse the overall decline of our street system.

Oregonian article announces Council's discussion

Neighborhood Meetings
Oct. 5th, Lewelling
Oct. 9th, Historic Milwaukie
Hector Campbell
Oct. 10th, Ardnewald/J.C.
Oct. 11th, Lake Road
Oct. 12th, Linwood

North Clackamas Chamber of Commerce Emails 200 businesses of 97222 area code

North Clackamas Chamber of Commerce Government Affairs Committee

Other Outreach Efforts:

Web surveys posted on City website

Surveys and information provided at Farmers' Market Community Booth on 5/21, 5/28, 6/4, 6/11, 10/15, 10/22, 10/29

One-on-one discussions with more than 50 local businesses

Open House announcement on Channel 30

ATTACHMENT 4

Comments have been edited for clarity. Identical comments are not repeated.

NDA Comments

General comments
You're on the right track. The streets are community assets that are worthy of public investment.
I don't want to pay more taxes.
Look at a "Sunset" clause after 10 years.
What guarantee do we have that these funds don't get diverted to the General Fund?
Too much City spending is wasteful.

Revenue comments
Use storm utility fee for roads.
I'm concerned about adding too much to utilities that people can't live without.
I don't want to rely on a gas tax.
Have a Buy Local campaign for gas, if the City passes the gas tax.
Be careful about the impact on those who pay the most.
Gas tax could harm local stations.
Leave schools out of funding requests.
Gas tax might drive customers out of Milwaukie.
Look at annexation as a means to increase the tax base.
Gas stations would be triple-taxed under this proposal.
Exempt gas stations from the maintenance fee if you are going to charge a gas tax.

Program comments
Coordinate with TriMet routes. Use extra heavy-duty construction on bus routes.
Make sure small streets in neighborhoods get fixed up.
Think about using solar power for street lights.
King Road definitely needs resurfacing.
Make King Road & Harrison top priorities to fix.
Please look at reducing street light wattage & replacing lights with more efficient types.
Prioritize street repair by condition. (Poor conditions may be pushing more traffic onto King & Harrison)
Ensure that these funds do go to the streets
Consider safety in prioritizing repairs. Move Railroad up.
Complete the work as designated!
Explore alternatives to fossil-fuel based construction materials.
Do the roads right the first time. Lake-Harmony seems to have the same work over and over again.
Railroad should be a first priority.
Consider local roads as well, such as Grove Loop.
Fix King Road first, not Lake Rd.
The City should use smaller pickups for Public Works to save money on fuel.
Don't make the same mistakes Portland has been making.
Include more work on neighborhood streets.

Planning Commission
Start ASAP!
Have strict rules and procedures to do effective quality control on asphalt.
Provide running feedback each year on projects planned & completed.

OTHER COMMENTS

Business Comments		
Look at ways to increase resident share.	I am concerned about the Priv. Tax. Where does it end?	Street maintenance fee must have a workable appeal method.
Add a weighting factor for distribution/warehousing.	A 2 cent gas tax means I would close, lay off 15 people.	Parking is a more serious issue.
We continually evaluate the cost basis of our operations, compared to Arizona typically.	Businesses shouldn't have to pay for neighborhood streets.	Gas tax is very worrisome, it is a price-sensitive market.
I cannot pass on new costs in the marketplace.	Need appeal process for maintenance fee.	I understand the problem. We are willing to pay our share.
City keeps adding more costs, but not doing anything for me.	I prefer to see it property tax based.	Add a "ratchet back" if additional revenues come available.
Fix McBrod!	Burden on top payers seems to high.	Roads are not my priority.
PGE wants a 10% rate increase, these costs are major and we can't pass them along. Competitive facilities are being built in SW Washington.	Fee should be based on actual trips. My business is not purely retail, includes some office and also a recreation facility.	Oregon Petroleum Association opposes any local gas taxes. We would be likely to move to refer it to the ballot.
PGE Privilege tax is unfair to energy-intensive industry.	City should re-prioritize rather than add new fees.	Charge on customer volume and not on size of building.
Make better use of the financial resources you already have.	Don't charge street fee on vacant units.	Look to developers to pay.

General Public Comments (Open House, Call-ins or Website)		
Gas prices are high enough. Prefer street fee and PGE tax.	Gas tax could discourage consumption.	Charge a studded tire permit fee.
I oppose any new taxation or fees.	Look at ways to charge non-residents.	Reduce allowed weight on city streets.
Local Gas Tax is the best way to fund as it distributes cost to more than just Milwaukie residents.	Resurfacing King Road is #1 priority. More emphasis on side streets. Add sidewalks.	We should vote on these proposals.
Taxes are high enough in Milwaukie.	What is follow-up or enforcement on utility repairs?	Fixed-income seniors cannot afford the maintenance fee.
Look at a fee on studded tires.	Wood Ave should be a priority.	Make street condition #1 factor.
Wood St. is listed as in Good to Satisfactory condition and Woodhaven and 52nd Court as Poor. In driving those streets everyday, I would suggest it is the opposite.	Adding more and more fees is not a good way to address these types of issues.	Many transportation funding programs already exist. Why aren't they paying for these costs?
Prefer a 3 cent gas tax	Do not make us drive to get our gas.	If this is such a high priority, find the funds in the General Fund.
Monroe from 42nd heading east is in really bad shape. Needs to be prioritized.	Consider adding extra 15" of pavement on each sides for bike routes (e.g. Monroe).	Move Monroe and Wood Ave. to higher priorities.

Campbell, Alexander

From: Millendstr@aol.com
Sent: Tuesday, November 14, 2006 9:55 AM
To: campbella@ci.milwaukie.or.us
Subject: (no subject)

Dear Mr. Campbell,

You have used ITE guides for determining trips to each retail business. The ITE manual reflects retail uses in high volume retail centers. Older properties most often have lower rents especially when they are located in secondary markets.

The ITE manual does not categorize all of the uses correctly, specialty stores stores are not listed by product. Fabric specialty is not jewelry. If the city uses the ITE manual and the owner disputes the classification litigation will result which will cost the city more than the proposed tax.

The Volume is determined by the location and the product. i.e. McDonalds has many more customers than Chopsticks on Main Street.

I believe that the Sq. FT. of a building does not correctly reflect the traffic generated by the business located in that building. The volume of Business is the correct measurement.

It would seem that a business owner could submit to the city traffic count information on their business and should be charged on actual count information vs. ITE guidelines.

It is clear that this is not a fee but a tax on business.

Howard Dietrich

Campbell, Alexander

From: John Rupp [jrupp@pacifier.com]
Sent: Tuesday, November 14, 2006 4:59 PM
To: 'Campbell, Alexander'
Subject: RE: street surface maintenance program update

Alex: From my point of view, the idea of adding a percentage to the cost of electricity for companies in Omark Park is absolutely outrageous! The City of Milwaukie, who we as property owners pay hundreds of thousands of dollars each year in taxes has not done any road repair on our streets for more than 20 years and always tell us that they might get to working on our street in 11 or 12 years. The idea of raising electricity rates on the businesses in this park only makes it harder for these businesses that maintain their own streets to survive and compete. The fact is that rate increases in one area just causes people to move. Not tomorrow, but when leases run out. Just like lessees are running from the City of Portland and Multnomah county. I would like to know what the City actually does, in detail, with the money they already have. John Rupp

-----Original Message-----
From: Campbell, Alexander [mailto:CampbellA@ci.milwaukie.or.us]
Sent: Tuesday, November 14, 2006 3:20 PM
To: Campbell, Alexander
Subject: street surface maintenance program update

Staff presented the proposed Program to City Council in a work session last
Thursday. Council had reviewed the Program, including the three revenue sources. Staff also presented the outreach efforts undertaken to date and a
summary of feedback received, both from residents and local businesses. Council expressed appreciation for the work done to date and agreed that new
revenues are required to address the issue. Staff was advised to make some
adjustments to how the program is presented (e.g., to provide a single estimate of total costs to a typical household of the entire package). Staff
was also directed to include explicit language that would provide for a reduction in fees if and when any new State or County funding mechanisms were established to cover the costs of local street maintenance. Council members also raised a few questions, including a request for an estimate of
the cost to taxpayers of a property tax-based program.

Several Council members expressed an interest in attending one of the two
up-coming Open Houses on this issue:

Open House 1: 12 p.m. to 2 p.m., tomorrow, Wed., November 15, Public Safety
Building, 3200 Harrison
Open House 2: 6 p.m. to 8 p.m., Thur., November 15, Public Safety Building,
3200 Harrison

A formal presentation to City Council, for possible adoption, is scheduled
for December 19.

Please contact me with any questions,

Sincerely,
Alex Campbell

Alex Campbell
Resource & Economic
Development Specialist
City of Milwaukie
Community Development
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206
Office: 503 786.7608
Cell: 971 227.4193
campbella@ci.milwaukie.or.us

PUBLIC RECORDS LAW DISCLOSURE:
This e-mail is a public record of the City of Milwaukie and is subject to public disclosure unless exempt from disclosure under Oregon Public Records law. This email is subject to the State Retention Schedule.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MUNICIPAL CODE BY ADDING A NEW CHAPTER 3.25 – STREET SURFACE MAINTENANCE PROGRAM, ADOPTING A STREET MAINTENANCE PROGRAM AND REQUIRING PAYMENT OF A STREET MAINTENANCE FEE.

WHEREAS, the purchasing power of revenue received by the City as its share of state gas tax revenues has been decreasing; and

WHEREAS, revenue from other sources, combined with the City's share of gas tax revenues, has been insufficient to allow the City to both develop new transportation infrastructure as needed and maintain existing streets; and

WHEREAS, regular maintenance of streets is cost-effective because deteriorated streets are significantly more expensive to repair and maintain; and

WHEREAS, poorly maintained streets may create safety problems; and

WHEREAS, a properly maintained street system is cost-effective, provides for increased safety, supports property value appreciation, prolongs the life of public and privately owned motor vehicles, and contributes to a more attractive community; and

WHEREAS, the City has prepared a Street Maintenance Program, attached as Exhibit A; and

WHEREAS, the City needs additional revenue streams to properly maintain its street system on a timely basis;

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

Section 1. The Milwaukie Municipal Code is amended by adding a new Chapter 3.25 – Street Surface Maintenance Program, to read as shown on the attached Exhibit B.

Section 2. This ordinance shall take effect 30 days after passage.

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

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

Signed by the Mayor on _____.

_____
Jim Bernard, Mayor

ATTEST:

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

_____ _____

Pat DuVal, City Recorder

City Attorney

Chapter 3.25

STREET SURFACE MAINTENANCE PROGRAM

Sections:

3.25.010 Definitions
3.25.020 Administrative Officers
3.25.030 Dedication of Revenues
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3.25.010 Definitions.

As used in this Chapter, unless the context requires otherwise:

(A) “Developed Property.” A parcel or portion of real property on which an improvement exists or has been constructed. Improvement on developed property includes, but is not limited to buildings, parking lots, landscaping and outside storage.

(B) “Dwelling Unit.” As defined in Section 19.103.

(C) “Gross Square Footage.” The area of all structures, located on a developed property, measured along the exterior walls of the structures, and including but not limited to enclosed courtyards and stairwells, but not including fences and parking areas which are not enclosed within a building.

(D) “Multi-unit Residential Property.” Residential property consisting of two or more dwelling units. For the purposes of this ordinance, condominiums and individual mobile home units are also classified as multi-unit residential properties.

(E) “Non-Residential Property.” Any property that is not residential property.

(F) “Residential Property.” A property that is primarily for personal, domestic accommodation, including single single-family, multi-unit residential property and group homes, but not including hotels and motels.

(G) “Responsible Party.” The person or persons who by occupancy or contractual arrangement are responsible to pay for utility and other services provided to an occupied unit. Unless another party has agreed in writing to pay and a copy of the writing is filed with the City, the person(s) paying the City’s water and/or sewer bill for an occupied unit shall be deemed the responsible party as to that occupied unit. For any occupied unit not otherwise required to pay a City utility bill, “responsible party” shall mean the person or persons legally entitled to occupancy of the occupied unit, unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the City. Any person who has agreed in writing to pay is considered the responsible person if a copy of the writing is filed with the City.

(H) “Single Family Residential.” Residential property that has only detached dwelling units.

(I) “Street”. A public street or right-of-way within the City that is under the jurisdiction or control of the City. For purposes of this ordinance, county, state and federal roads are excluded.

(J) “Street Surface Maintenance Program.” Program established by this chapter to maintain, repair and reconstruct City of Milwaukie streets. Activities include the administration of the Street Maintenance Fee; preventive maintenance, rehabilitation and reconstruction projects; design and inspection of such projects; street condition monitoring and assessment, including inspection of street repairs; and staff training and consultant services in support of the above activities.

(K) “Trip Generation.” The average number of vehicle trips, as determined by reference to the Manual entitled, Trip Generation, published by the Institute of Transportation Engineers (ITE) (“ITE Manual”), 7th edition.

(L) “Use Category or Category of Use.” The Code number and resulting trip generation estimate determined with reference to the ITE Manual, and applicable to a particular developed property.

3.25.020 Administrative Officers

(A) Except as provided in subsections (2) and (3) of this section, the Engineering Director shall be responsible for the administration of this ordinance. The Engineering Director shall be responsible for developing administrative procedures for the ordinance, and consideration and assignment of categories of use subject to appeal to the City Council.

(B) The Engineering Director and the Streets Supervisor shall be jointly responsible for annually developing and updating a five-year Street Surface Maintenance Program project schedule. The Engineering Director is responsible for ensuring that the schedule is properly integrated into the CIP and that the schedule is coordinated with other City capital projects.

(C) The Community Development and Public Works Director shall provide an annual report on the Street Surface Maintenance Program to City Council.

(D) The Engineering Director shall be responsible for implementation and enforcement of steps to minimize utility cut damage to streets, including a five-year moratorium on capital projects on recently reconstructed, rehabilitated, or newly built City streets. The Public Works Operations Director is responsible for City compliance with street cut repair policy.

(E) The Finance Director shall be responsible for the administration and collection of fees under this ordinance.

3.25.030 Dedication of Revenues

(A) All funds and all proceeds from funds collected pursuant to this chapter shall be used for the Street Surface Maintenance Program.

(B) Upon the establishment of County, regional, State or other programs providing monies to the City for street maintenance at rates or annual amounts greater than those in effect at the time of adoption of this ordinance, local fees or taxes shall be reduced in an equal amount to the additional monies made available to the City for street maintenance. The dollar-for-dollar reductions shall be made first in the local fee or tax most similar to the newly established fee or tax. If the City share of the new fee or tax exceeds the annual revenue of the reduced local fee or tax, the City shall reduce another fee by the excess amount. The selection of the second fee to reduce shall be at the discretion of Council. Revenues from the Motor Vehicle Fuel Tax established under Chapter 3.40 and any utility privilege tax, including the Electric Utility Privilege Tax under Chapter 3.30 shall not be considered additional monies or new revenue. Annual variations in the City share of State Gas Tax revenues absent a change in the allocation method or tax rate shall not be considered additional monies or new revenue. Any reduction in the Street Maintenance Fee shall be shared proportionally across all billing categories, residential and non-residential. The fee per trip

charge shall be reduced for all non-residential bills and the residential bills shall be reduced by the same percentage.

3.25.040 Annual Street Surface Maintenance Program Report

(A) Each spring the Community Development and Public Works Director shall prepare and present to Council the "Annual Street Surface Maintenance Program Report."

(B) The report shall include a narrative description of the overall condition of the street network, the findings of any new condition assessments, a detailed project schedule for the upcoming year, an updated 5-year project schedule, the project selection criteria employed, and a report on the previous year projects, workload impacts, and overall program progress. The report shall include revenues received relative to revenue projections, project cost inflation trends, and any other new developments that impact the adequacy of the program funds to meet program goals.

3.25.050 Street Maintenance Fee

(A) A Street Maintenance Fee is imposed and levied upon the responsible party for all developed property within the City. The fee shall be based on the direct and indirect use of or benefit derived from the use of public streets generated by the developed property, to be calculated as described in Section 3.25.050.

(B) The Street Maintenance Fee is also imposed and levied on the property owner of the developed property in the event of non-payment by the responsible party.

3.25.060 Determination of Street Maintenance Fee

(A) Residential Fees.

1. Single Family Residences shall be charged $3.35 per month.

2. Multi-Family Residences, except for Elderly Housing, mobile home parks, and Congregate Care, shall be charged $2.10 per month for each dwelling unit.

3. Elderly Housing and mobile homes parks will be charged $1.40 per month for each dwelling unit.

4. Congregate Care facilities will be charged $.70 per month for each dwelling unit.

(B) Non-residential fees.

1. Category Assignment. Each Non-Residential Developed Property in the City shall be assigned to a Category of Use according to the land use type listed in sub-section C.

2. Upon request of the customer, the Engineering Director shall review the Category of Use assignment. The Engineering Director shall consider evidence provided by the customer that relates to the actual trip generation patterns of the property in question. The determination of Category of Use shall not be considered a land use decision as that term is defined in ORS 197.015.

3. Fee calculation. The Street Maintenance Fee shall be calculated by multiplying the number of Units (listed in subsection C) by the trip rate per unit for that assigned Category of Use and then by the monthly per trip charge of $0.35 to establish the monthly fee to be billed.

4. Fee maximum. The maximum monthly Street Maintenance Fee for non-residential accounts shall be $250 per property. The maximum shall be adjusted for inflation annually according to the Consumer Price Index published by the Bureau of Labor Statistics. The adjustment for inflation shall be included in the annual fee schedule update beginning in 2008.

5. Fee minimum. The minimum monthly Street Maintenance Fee for non-residential accounts shall be $3.35.

(C) Category of Use.

1. Category 1 shall be estimated at 0.75 trips per Unit. Land Uses include elementary and middle schools, private schools (K-12), and lodge/fraternal organizations. ITE Codes 520, 521, 522 and 591.

2. Category 2 shall be estimated at 2 trips per Unit. Land Uses include general heavy industrial, mini-warehouses, city parks, high schools, colleges, and furniture stores. ITE Codes 120, 151, 411, 530, 540, 550 and 890.

3. Category 3 shall be estimated at 4 trips per Unit. Land Uses include manufacturing, warehouses, utilities, county parks, religious institutions, and nursing homes. ITE Codes 140, 150, 170, 412, 560, and 620.

4. Category 4 shall be estimated at 8 trips per Unit. Land Uses include general light industrial, industrial park, motels, golf courses, general office, single tenant office buildings, office parks, research and development centers, and drinking places. ITE Codes 110, 130, 320, 430, 710, 715, 750, 760, and 836.

5. Category 5 shall be estimated at 16 trips per Unit. Land Uses are hotels, cemeteries, hospitals, business parks, wholesale nurseries, automobile care centers, self-service car washes, tire stores, discount clubs, and apparel stores. ITE Codes 310, 432, 566, 610, 770, 818, 840, 847, 848, 849, 861, and 870.

6. Category 6 shall be estimated at 32 trips per Unit. Land Uses include marinas, tennis courts, racquet clubs, health clubs, bowling alleys, recreational community centers, day care, libraries, clinics, medical-dental office buildings, building materials and lumber, discount stores, specialty retail, hardware/paint stores, nursery/garden centers, shopping centers, high turnover sit-down restaurants, quick lubrication vehicle stops, new car sales, gas stations with convenience market, supermarkets, home improvement superstores, and electronics superstores. ITE Codes 420, 491, 492, 493, 494, 495, 565 590, 630, 720, 812, 813, 814, 815, 816, 817, 820, 832, 837, 841, 844A, 845, 850, 862, and 863.

7. Category 7 shall be estimated at 64 trips per Unit. Land Uses include government office buildings, quality restaurants, and gas stations. ITE Codes 730, 831, 844, 846, and 854.

8. Category 8 shall be estimated at 128 trips per Unit. Land Uses include US Post Offices, fast food restaurants, convenience markets, and banks. ITE Codes 732, 833, 834, 851, 911, and 912.

9. Category 9 shall be estimated at 200 trips per Unit. Land Use is a multipurpose recreational facility. ITE Code 435.

10. Category 10 shall be estimated at 440 trips per Unit. Land Use is a movie theater. ITE Code 444.

(D) Units. The Unit used in calculating the Non-Residential Street Maintenance Fee shall be one (1) thousand square gross square feet of building area, with the following exceptions. The Unit for parks, golf courses, cemeteries, marinas, and multi-purpose recreational facilities shall be one (1) acre. The Unit for schools and colleges shall be one (1) student. The Unit for lodges shall be one (1) member. The Unit for hotels or motels shall be one (1) room. The Unit for self-service car washes shall be one (1) wash stall. The Unit for tennis courts or racquet clubs shall be one (1) court. The Unit for quick lubrication vehicle stops or gas stations shall be one (1) fueling or service position. The Unit for movie theaters shall be one (1) screen.

(E) Unlisted uses. In the event that a property is occupied by a use that is not expressly listed in any of the above categories, the Director of Engineering shall determine which category the property should be placed in, based on similarity in expected trip generation. If no category is appropriate, the Director

of Engineering shall determine the trips per unit shall be based on a transportation study, the Trip Generation Manual, or any other method of determining trips. Any determination by the Director of Engineering under this section may be reviewed under the procedure described in section 3.25.100, sub-section (B). The result of the review may be appealed to the City Council by filing a notice of appeal within 10 days of the date notice of the result of the review is mailed to the property owner.

3.25.070 Administration of Street Maintenance Fee.

(A) Under the supervision of the Finance Director, the "Street Maintenance Fee" shall be billed and collected with and as part of the monthly water and sewer bill for those lots or parcels utilizing City water and sewer, as provided for in Section 13.04.100, and billed and collected separately for those Developed Properties not utilizing City water and sewer. In the event of non-payment, the City may bill the property owner or take other action as authorized by law to collect from the responsible party.

(B) In the event funds received from City utility billings are inadequate to satisfy in full all of the water, sanitary sewer, storm sewer and Street Maintenance fees, credit shall be given first to the Street Maintenance fee, second to the sanitary and storm sewer service charges and third to the charges for water service.

(C) Notwithstanding any provision herein to the contrary, the City may institute any necessary legal proceedings to enforce the provisions of this ordinance, including, but not limited to injunctive relief and collection of charges owing. The City's enforcement rights shall be cumulative.

3.25.080 Waiver of Street Maintenance Fee in Case of Vacancy

(A) When any property within the City becomes vacant and water service is discontinued, a waiver of the Street Maintenance Fee may be granted by the Finance Director upon written application of the person responsible, including a signed statement, affirming under penalty of perjury that the property is vacant, and upon payment of all outstanding water, sanitary sewer, storm sewer and street maintenance charges.

(B) For purposes of this section, "vacant" shall mean that an entire building or utility billing unit has become vacant or continuously unoccupied for at least 30 days. "Vacant" shall not mean that only a portion of a property without a separate water meter has become vacant or unoccupied.

(C) Fees shall be waived in accordance with this section only while the property remains vacant. The person responsible shall notify the City within 5 days of the premises being occupied, partially occupied or used, regardless of whether water service is restored.

3.25.090 Relief for Low Income Residential Customers from Street Maintenance Fee

The Street Maintenance Fee shall not be billed to those households included in the “Low Income Utility Program.”

3.25.100 Street Maintenance Fee Appeal Procedure

(A) Any owner who disputes any interpretation given by the City as to the Category of Use assigned to such owner’s property pursuant to this ordinance may request a review and appeal such interpretation, but only in accordance with this section. The dispute must first be presented to the Engineering Director for review and thereafter may be appealed to the City Council in accordance with this section. Failure to appeal an interpretation made under this ordinance within the time and in the manner provided shall be sufficient cause to deny the relief requested. Except in cases of hardship as determined by the Council, disputes which result in changes in the Street Maintenance Fee charged under this ordinance shall become effective with the next billing cycle.

(B) A utility customer may request a review of the Category of Use assigned. The Engineering Director shall conduct the review, considering all relevant evidence presented by the customer related to their actual trip generation patterns. Such evidence may include business records, parking lot usage, or traffic studies. The Engineering Director shall make a determination based on the evidence provided and provide notice the customer.

(C) An owner who disputes an interpretation made by the Engineering Director as to the assigned Category of Use under this ordinance, shall submit a written appeal to the City Manager within 10 days from the date of notice of the City Engineer’s determination under subsection B of this section, together with a filing fee in the amount of $300. The application for appeal shall specify the reasons therefore and include an engineering study prepared by a licensed professional engineer in conformance with the methodology outlined in the ITE Manual. Appeals shall be limited to the issue of whether the appropriate Category of Use has been assigned to the property.

(D) The City Manager shall schedule the matter for City Council review and notify the appellant not less than 10 days prior to the date of such Council review. The Council shall conduct a hearing during a public meeting and determine whether there is substantial evidence in the record to support the interpretation given by the Engineering Director. The Council may continue the hearing for purposes of gathering additional information bearing on the issue. The Council shall make a tentative oral decision and shall adopt a final written decision together with appropriate findings in support. The decision of the Council with respect to the Category of Use shall be limited to whether the appellant has been assigned to the appropriate Category of Use. If the Council

should determine that a different Category of Use should be assigned, it shall so order, provided no refund of prior Street Maintenance Fees shall be given. Only where the Council decision results in a change in Category of Use will the filing fee on the appeal be re-funded. The Council decision shall be final.

3.25.110 Exceptions to Street Maintenance Fee

The following shall not be subject to the Street Maintenance Fee:

(A) City-owned parking lots.

(B) Publicly owned parkland, open spaces, and greenways, unless public off-street parking designed to accommodate the use of such areas is provided.

(C) Areas encompassed by railroad and public rights-of-way, except for developed railroad property such as maintenance areas, non-rolling storage areas and areas used for the transfer of rail-transported goods to non-rail transport, which areas shall be subject to Street Maintenance Fees.

3.25.120 Street Maintenance Project Selection

The Engineering Director and Public Works Operations Director shall annually update a five year schedule of street maintenance projects and include that schedule in the City Capital Improvement Plan.

3.25.130 Street Maintenance Project Schedule and Narrative

The street maintenance project schedule shall include a narrative description of street conditions, the project selection criteria, and a history of projects completed as part of the Street Surface Maintenance Program. The street maintenance project schedule and narrative is a public record. The street maintenance project schedule and narrative shall be prepared annually and presented to City Council as part of the Community Development and Public Works Director’s annual report on the program.

3.25.140 Severability

In the event any section, subsection, paragraph, sentence or phrase of this chapter is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the chapter shall continue to be effective. If a court of competent jurisdiction determines that this ordinance imposes a tax or charge, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions from the imposition of the Street Maintenance Fee shall be created and the remainder of the ordinance and the fees imposed thereunder shall continue to apply to the remaining properties without interruption. Nothing

contained herein shall be construed as limiting the City’s authority to levy special assessments in connection with public improvements pursuant to applicable law.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MUNICIPAL CODE BY ADDING A NEW CHAPTER 3.30 – PRIVILEGE TAX AND IMPOSING A PRIVILEGE TAX ON ELECTRIC UTILITIES.

WHEREAS, electric utility franchisees benefit from the use of City rights of way and impact those rights of way by using a portion of the right of way and by regular use of the rights of way by trucks and other equipment installing, moving and repairing the franchisees' facilities; and

WHEREAS, the City has prepared a Street Maintenance Program, attached as Exhibit A:

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

Section 1. The Milwaukie Municipal Code is amended by adding a new Chapter 3.30 – Electric Utility Privilege Tax to read as follows:

CHAPTER 3.30

ELECTRIC UTILITY PRIVILEGE TAX

(A) An electric utility privilege tax is imposed on all electric utilities having or required to have a franchise in the City. The privilege tax is one and one-half percent of the electric utility's adjusted gross revenues, as defined by the ordinance granting the franchise to the utility. The City Manager shall notify its current franchisee in writing of the adoption and terms of the Electric Utility Privilege Tax. Payment of all Privilege Tax proceeds collected by an electric utility shall be paid to the City on the same schedule as the utility's franchise fee payments.

(B) All proceeds of the electric utility privilege tax shall be used for the street surface maintenance program established under Chapter 3.25.

Section 2. This ordinance shall take effect 30 days after passage, but the tax imposed by Section A shall be payable only on revenues received for service after July 1, 2007.

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

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

Signed by the Mayor on _____.

_____
Jim Bernard, Mayor

ATTEST:

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

_____
Pat DuVal, City Recorder

_____
City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CREATING AND IMPOSING A TAX ON MOTOR VEHICLE FUEL DEALERS; PROVIDING FOR ENFORCEMENT, ADMINISTRATION AND COLLECTION OF THE TAX; AND AMENDING THE MUNICIPAL CODE BY ADDING A NEW CHAPTER 3.40.

WHEREAS, Milwaukie is an Oregon home-rule municipal corporation having the authority and power under the terms of its Charter to exercise all the powers and authority that the constitution, statutes and common law of the United States and Oregon expressly or impliedly grant or allow as though each such powers were specifically enumerated therein; and

WHEREAS, the City's authority and power includes the authority to impose a tax on the sale of motor vehicle fuel sold within the City; and

WHEREAS, the City has prepared a Street Maintenance Program, attached as Exhibit A; and

WHEREAS, the City Council wishes to exercise that power and to limit the use of any revenues generated by the tax to purposes associated with the administration, construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads and streets within the city;

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

Section 1: The Milwaukie Municipal Code is amended by adding a new Chapter 3.40 to read as shown in the attached Exhibit A.

Section 2: This ordinance shall be effective 30 days after passage. The taxation imposed by Section 1 shall commence July 1, 2007.

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

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

Signed by the Mayor on _____.

_____
Jim Bernard, Mayor

ATTEST:

_____
Pat DuVal, City Recorder

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

_____
City Attorney

Chapter 3.40 MOTOR VEHICLE FUEL TAX ORDINANCE

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3.40.240 Records to be Kept by Dealers and Fuel Handlers
3.40.250 Records to be Kept Three Years
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3.40.270 Administration
3.40.280 Severability

3.40.010 Short Title

This chapter shall be known as the "Motor Vehicle Fuel Tax Ordinance."

3.40.020 Definitions

As used in this chapter, unless the context requires otherwise:

(A) "City" means City of Milwaukie and any person, agency or other entity authorized by the City to act as its agent related to administration of the Motor Vehicle Fuel Tax Ordinance or collection of the Motor vehicle fuel tax.

(B) "Dealer" means any person who:(1) Supplies or imports motor vehicle fuel for sale, use or distribution in, and after the same reaches the City,

but "dealer" does not include any person who imports into the City motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is permitted as a dealer hereunder and who assumes liability for the payment of the applicable motor vehicle fuel tax to the City; or (2) Produces, refines, manufactures or compounds motor vehicle fuels in the City for use, distribution or sale in the City; or(3) Acquires in the City for sale, use or distribution in the City motor vehicle fuels with respect to which there has been no motor vehicle fuel tax previously incurred.

(C) "Motor Vehicle Fuel-Handler" means any person who acquires or handles motor vehicle fuel within the City through a storage tank facility with storage tank capacity that exceeds 500 gallons of motor vehicle fuel.

(D) "Distributor" means, in addition to its ordinary meaning, the deliverer of motor vehicle fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks or motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer.

(E) "Motor Vehicle" means all vehicles, engines or machines, moveable or immovable, operated or propelled by the use of motor vehicle fuel.

(F) "Motor Vehicle Fuel" Includes gasoline, diesel, and any other flammable or combustible gas or liquid, by whatever name that gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles. Propane fuel and motor vehicle fuel used exclusively as a structural heating source are excluded as a taxable motor vehicle fuel.

(G) "Person" includes every natural person, association, firm, partnership, or corporation.

(H) "Service Station" means and includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

3.40.030 Tax Imposed

A motor vehicle fuel tax is hereby imposed on every dealer operating within the corporate limits of Milwaukie. The City of Milwaukie motor vehicle fuel tax imposed shall be paid monthly to the City.

(A) A person who is not a permitted dealer or permitted motor vehicle fuel-handler shall not accept or receive motor vehicle fuel in this City from a person who supplies or imports motor vehicle fuel who does not hold a valid motor vehicle fuel dealers permit in this City. If a person is not a permitted dealer or permitted motor vehicle fuel-handler in this City and accepts or receives motor vehicle fuel, the purchaser or receiver shall be responsible for all taxes, interests and penalties prescribed herein.

(B) A permitted dealer or fuel-handler who accepts or receives motor vehicle fuel from a person who does not hold a valid dealer or fuel-handler permit in this City, shall pay the tax imposed by this Ordinance to the City, upon the sale, use or distribution of the motor vehicle fuel.

3.40.040 Amount and Payment

(A) Subject to subsections (B) and (C) of this section, by law, every dealer engaging in his own name, or in the name of others, or in the name of his representatives or agents in the City, in the sale, use or distribution of motor vehicle fuel, shall:(1) Not later than the 25th day of each calendar month, render a statement to the City or to its authorized agent, of all motor vehicle fuel sold, used or distributed by him in the City as well as all such fuel sold, used or distributed in the City by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable motor vehicle fuel tax during the preceding calendar month.(2) Pay a motor vehicle fuel tax computed on the basis of two (2.0) cents per gallon of such motor vehicle fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this ordinance.

(B) In lieu of claiming refund of the tax as provided in Section 3.40.200, or of any prior erroneous payment of motor vehicle fuel tax made to the City by the dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.

(C) The motor vehicle fuel tax shall not be imposed wherever it is prohibited by the Constitution or laws of the United States or of the State of Oregon.

3.40.050 Permit Requirements

No dealer or fuel handler, shall sell, use or distribute any motor vehicle fuel until he has secured a dealer or fuel-handler permit as required herein.

3.40.060 Permit Applications and Issuance

(A) Every person, before becoming a dealer or fuel handler in motor vehicle fuel in this City shall make an application to the City or its duly authorized agent, for a permit authorizing such person to engage in business as a dealer or fuel-handler.

(B) Applications for the permit must be made on forms prescribed, prepared and furnished by the City or its duly authorized agent.

(C) The applications shall be accompanied by a duly acknowledged certificate containing:(1) The business name under which the dealer or fuel-handler is transacting business. (2) The place of business and location of distributing stations in the City and in areas adjacent to the City limits in the State of Oregon. (3) The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.

(D) The application for a motor vehicle fuel dealer or fuel-handler permit having been accepted for filing, the City, shall issue to the dealer or fuel-handler a permit in such form as the City or its duly authorized agent may prescribe to transact business in the City. The permit so issued is not assignable, and is valid only for the dealer or fuel handler in whose name issued.

(E) The City Recorder's Office shall keep on file a copy of all applications and/or permits.

(F) No fee(s) shall be charged by the City for securing said permit as described herein.

3.40.070 Failure to Secure Permit

(A) If any dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and securing the permit required by Section 3.40.060, the motor vehicle fuel tax shall immediately be due and payable on account of all motor vehicle fuel so sold, distributed or used.

(B) The City shall proceed forthwith to determine, from the best available sources, the amount of such tax, and it shall assess the tax in the amount found due, together with a penalty of 200 percent of the tax, and shall make its certificate of such assessment and penalty, determined by City Manager or the City's duly authorized agent. In any suit or proceeding to collect such tax or penalty or both, the certificate is prima facie evidence that the dealer therein named is indebted to the City in the amount of the tax and penalty therein stated.

(C) Any fuel-handler who sells, handles, stores, distributes, or uses any motor vehicle fuel without first filing the certificate and securing the permit required by Section 3.40.060, shall be assessed a penalty of $250.00 unless modified by Section 3.40.270(a), determined by the City Manager or the City's duly authorized agent. In any suit or proceeding to collect such penalty, the certificate is prima facie evidence that the fuel-handler therein named is indebted to the City in the amount of the penalty therein stated.

(D) Any tax or penalty so assessed may be collected in the manner prescribed in Section 3.40.110 with reference to delinquency in payment of the tax or by Court action.

3.40.080 Revocation of Permit

The City shall revoke the permit of any dealer or fuel-handler refusing or neglecting to comply with any provision of this Ordinance. The City shall mail by certified mail addressed to such dealer or fuel-handler at his last known address appearing on the files, a notice of intention to cancel. The notice shall give the reason for the cancellation. The cancellation shall become effective without further notice if within 10 days from the mailing of the notice the dealer or fuel-handler has not made good its default or delinquency.

3.40.090 Cancellation of Permit

(A) The City may, upon written request of a dealer or fuel-handler cancel any permit issued to such dealer or fuel-handler, the cancellation to become effective 30 days from the date of receipt of the written request.

(B) If the City ascertains and finds that the person to whom a permit has been issued is no longer engaged in the business of a dealer or fuel-handler, the City may cancel the permit of such dealer or fuel-handler upon investigation after 30 days' notice has been mailed to the last known address of the dealer or fuel handler.

3.40.100 Remedies Cumulative

Except as otherwise provided in Sections 3.40.110 and 3.40.130, the remedies provided in Sections 3.40.070, 3.40.080, and 3.04.090 are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this Ordinance.

3.40.110 Payment of Tax and Delinquency

(A) The motor vehicle fuel tax imposed by Sections 3.40.030 and 3.40.040 shall be paid on or before the 25th day of each month to the City which, upon request, shall receipt the dealer or fuel-handler therefor.

(B) Except as provided in subsection (D) of this section, to any motor vehicle fuel tax not paid as required by subsection (A) of this section, there shall be added a penalty of one percent (1.0%) of such motor vehicle fuel tax.

(C) Except as provided in subsection (D) of this section, if the tax and penalty required by subsection (B) of this section are not received on or before the close of business on the last day of the month in which the payment is due, a further penalty of ten percent (10.0%) shall be paid in addition to the penalty provided for in subsection (B) of this section.

(D) If the City, determines that the delinquency was due to reasonable cause and without any intent to avoid payment, the penalties provided by subsections (B) and (C) of this section may be waived. Penalties imposed by this section shall not apply when the penalty provided in Section 3.40.070 has been assessed and paid.

(E) If any person fails to pay the motor vehicle fuel tax or any penalty provided for by this Ordinance, the amount thereof shall be collected from such person for the use of the City. The City shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect the same.

(F) In the event any suit or action is instituted to collect the motor vehicle fuel tax or any penalty provided for by this ordinance, the City shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

(G) No dealer who collects from any person the tax provided for herein, shall knowingly and willfully fail to report and pay the same to the City, as required herein.

3.40.120 Monthly Statement of Dealer and Fuel-Handler

Unless modified by Section 3.40.270(b), every dealer and fuel-handler in motor vehicle fuel shall render to the City, on or before the 25th day of each month, on forms prescribed, prepared and furnished by the City, a signed statement of the number of gallons of motor vehicle fuel sold, distributed, used or stored by him during the preceding calendar month. The statement shall be signed by the permit holder. All statements as required in this section are public records.

3.40.130 Failure to File Monthly Statement

If any dealer or fuel-handler fails to file the report required by Section 3.40.120, the City, shall proceed forthwith to determine from the best available sources the amount of motor vehicle fuel sold, distributed, used or stored by such dealer or fuel-handler for the period unreported, and such determination shall be prima facie evidence of the amount of such fuel sold, distributed, used or stored. The City, immediately shall assess the motor vehicle fuel tax in the amount so determined, as pertaining to the reportable dealer, adding thereto a penalty of 10 percent for failure to report. Fuel-handlers failing to file a monthly statement of motor vehicle fuel shall be assessed a penalty of $50.00. The penalty shall be cumulative to other penalties provided in this Ordinance. In any suit brought to enforce the rights of the City under this section, the above determination showing the amount of tax, penalties and costs unpaid by any dealer or fuel-handler and that the same are due and unpaid to the City is prima facie evidence of the facts as shown.

3.40.140 Billing Purchasers

Bills shall be rendered to all purchasers of motor vehicle fuel by dealers in motor vehicle fuel. The bills shall separately state and describe to the satisfaction of the City the different products shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the City are maintained. The bills required hereunder may be the same as those required under ORS 319.210.

3.40.150 Failure to Provide Invoice or Delivery Tag

No person shall receive and accept any shipment of motor vehicle fuel from any dealer, or pay for the same, or sell or offer the shipment for sale, unless the shipment is accompanied by an invoice or delivery tag showing the date upon which shipment was delivered and the name of the dealer in motor vehicle fuel.

3.40.160 Transporting Motor Vehicle Fuel in Bulk

Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public streets of the City with such conveyance, have and possess during the entire time of his hauling or transporting such motor vehicle fuel an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall at the request of any officer authorized by the City to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

3.40.170 Exemption of Export Fuel

(A) The license tax imposed by Sections 3.40.030 and 3.40.040 shall not be imposed on motor vehicle fuel:(1) Exported from the City by a dealer; or (2) Sold by a dealer in individual quantities of 500 gallons or less for export by the purchaser to an area or areas outside the City in containers other than the fuel tank of a motor vehicle, but every dealer shall be required to report such exports and sales to the City in such detail as may be required.

(B) In support of any exemption from motor vehicle fuel taxes claimed under this section other than in the case of stock transfers or deliveries in his own equipment, every dealer must execute and file with the City an export certificate in such form as shall be prescribed, prepared and furnished by the City, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the City, and giving such details with reference to such shipment as may be required. The City may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The City may, in a case where it believes no useful purpose would-be served by filing of an export certificate, waive the certificate.

(C) Any motor vehicle fuel carried from the City in the fuel tank of a motor vehicle shall note considered as exported from the City.

(D) No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the City motor vehicle fuel tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed or sold in the City and fail to notify the City and the dealer from whom the motor vehicle fuel was originally purchased of his act.

(E) No dealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the City for sale or use so as to avoid any of the fees imposed herein.

(F) In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the City. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

3.40.180 Sales to Armed Forces Exempted

The motor vehicle fuel tax imposed by Sections 3.40.030 and 3.40.040 shall not be imposed on any motor vehicle fuel sold to the Armed Forces of the United States for use in ships, aircraft or for export from the City; but every dealer shall be required to report such sales to the City, in such detail as may be required. A certificate by an authorized officer of such Armed Forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.

3.40.190 Fuel in Vehicles Coming Into City Not Taxed

Any person coming into the City in a motor vehicle may transport in the fuel tank of such vehicle motor vehicle fuel for his own use only and for the purpose of operating such motor vehicle without securing a license or paying the tax provided in Sections 3.40.030 and 3.40.040, or complying with any of the provisions imposed upon dealers herein, but if the motor vehicle fuel so brought into the City is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person so importing the fuel into the City shall be subject to all provisions herein applying to dealers.

3.40.200 Refunds

Refunds will be made pursuant to ORS. 319.280 to 319.320.

3.40.210 Examination and Investigations

The City, or its duly authorized agent, may make any examination of accounts, records, stocks, facilities and equipment of dealers, fuel-handlers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum products within this City, and such other investigations as it considers necessary in carrying out the provisions of this ordinance. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the City pursuant to the requirements herein, have shown incorrectly the amount of gallons of motor vehicle fuel distributed or the tax accruing thereon, the City may make such changes in subsequent reports and payments of such dealers or other persons,

or may make such refunds, as maybe necessary to correct the errors by its examinations or investigations.

3.40.220 Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax

(A) Except as otherwise provided in this ordinance, any credit for erroneous overpayment of tax made by a dealer taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a dealer must be so taken or filed within three years after the date on which the overpayment was made to the City or to its authorized agent.

(B) Except in the case of a fraudulent report or neglect to make a report, every notice of additional tax proposed to be assessed under this ordinance shall be served on dealers within three years from the date upon which such additional taxes become due.

3.40.230 Examining Books and Accounts of Carrier Motor Vehicle Fuel

The City or its duly authorized agent may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the City for the purpose of checking shipments or use of motor vehicle fuel, detecting diversions thereof or evasion of taxes in enforcing the provisions of this ordinance.

3.40.240 Records to be Kept by Dealers and Fuel Handlers

Every dealer and fuel-handler in motor vehicle fuel shall keep a record in such form as may be prescribed by the City of all purchases, receipts, sales and distribution of motor vehicle fuel. The records shall include copies of all invoices or bills of all such sales and purchases, and shall at all times during the business hours of the day be subject to inspection by the City or its authorized officers or agents.

3.40.250 Records to be Kept Three Years

Every dealer and fuel-handler shall maintain and keep, for a period of three years, all records of motor vehicle fuel used, sold and distributed within the City by such dealer or fuel handler, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the City. In the event such records are not kept within the State of Oregon, the dealer shall reimburse the City or its duly authorized agents for all travel, lodging, and related expenses incurred in examining such records. The amount of such expenses shall be an additional tax imposed hereunder.

3.40.260 Use of Tax Revenues

(A) The City Manager shall be responsible for the disposition of the revenue from the tax imposed by this ordinance in the manner provided by this section.

(B) For the purposes of this section, net revenue shall mean the revenue from the tax imposed by this ordinance remaining after providing for the cost of administrating the motor vehicle fuel tax to motor vehicle fuel dealers and any refunds and credits authorized herein. The program administration costs of revenue collection and accounting activities shall not exceed 10.5% for the first year, and 10% thereafter, of annual tax revenues.

(C) The net revenue shall be used only for the activities related to the construction, reconstruction, improvement, repair, and maintenance of public highways, roads and streets within the City of Milwaukie.

(D) The net revenue shall be used for the street surface maintenance program established under Chapter 3.25.

3.40.270 Administration

The City Manager or his designate is responsible for administering this ordinance. In addition, the City Manager may enter into an agreement with the Motor Vehicle Division of the Department of Transportation as an authorized agent for the implementation of certain sections of this ordinance. If the Motor Vehicles Division is chosen as an authorized agent of the City, then the modifications outlined below shall apply:(a) The fuel handler's penalty of Section 3.40.070(C) shall be reduced to $100.00. And if the Division determines that the failure to obtain the permit was due to reasonable cause and without any intent to avoid obtaining a permit, then the penalty provided in Section 3.40.070 and this section may be waived. (b) The fuel handler's monthly reporting requirements of Section 3.40.120 and 3.40.130 shall be waived.

3.40.280 Severability

If any portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

A B C

1 2 3

Street Condition **PCI#**

- Good 7 or higher
- Satisfactory 5.0 - 6.9
- Fair 4.0 - 4.9
- Poor 0 - 3.9

DRAFT

0 500 1,000 2,000 3,000 4,000 Feet

Data Sources: City of Milwaukie GIS
Clackamas County GIS
Metro Data Resource Center

Date: May 1, 2006

The information depicted on this map is for general reference only. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.

GIS Coordinator
City of Milwaukie
3200 SE Harrison Street
Milwaukie, OR 97222
(503) 786-7498

CITY OF MILWAUKIE

STREET FUNCTIONAL CLASS	A: Arterial C: Collector L: Local	PAVEMENT CONDITION INDEX (PCI) :	>8 Good, no treatment 7-8 Good, crack seal @ $1.50/sq.yd 5-6.9 Fair, overlay @ $30/sq.yd	4-4.9 Poor, mix of overlay and reconstruct @ $50/sq.yd 0-3.9 Poor, reconstruct @ $70/sq.yd

STREET	CLASS	PCI	STREET	CLASS	PCI	STREET	CLASS	PCI	STREET	CLASS	PCI
17TH AVE	C	7.5 - 7.9	ADAMS ST	L	2.1 - 7.8	HARVEY ST	L	2.1 - 8.1	RAILROAD AVE	C	2.3 - 7.9
19TH AVE	L	8.8 - 9.0	ANGELA WY	L	8.9	HAZEL ST	L	7.2	RAINBOW CIR	L	8.6
20TH AVE	L	4.1 - 5.5	APPENINE WY	L	2.9 - 9.0	HEMLOCK ST	L	8.2	RAINBOW LN	L	8.2
21ST AVE	C/L	6.4 - 8.3	APPLE ST	L	8.5	HILLSIDE CT	L	5.2	REDWOOD AVE	L	8.3
22ND AVE	L	7.2 - 7.3	ARDEN ST	L	7.0	HOME AVE	C	2.4 - 5.1	REGENTS CIR	L	8.5
23RD AVE	L	7.4 - 8.6	ASH CT	L	6.5	HOWE LN	L	7.5	REGENTS DR	L	8.4
24TH AVE	L	7.7	ASPEN ST	L	8.8	HOWE ST	L	1.9 - 9.0	RHODESA ST	L	6.2
25TH AVE	L	2.3 - 8.4	B ST	L	8.6	HUNTER CT	L	2.7	RIO VISTA ST	L	7.8 - 7.9
26TH AVE	L	1.9 - 9.0	BALFOUR ST	L	1.7	INTERNATIONAL WY	C	3.7 - 7.6	RIVER RD	A	6.3 - 7.2
27TH AVE	L	8.8	BARBA ST	L	8.8	JACKSON ST	L	3.1 - 8.4	ROBERTA LN	L	7.6
28TH AVE	L	4.2 - 8.2	BECKMAN AVE	L	8.6	JEFFERSON ST	L	6.5 - 8.1	ROCKVORST ST	L	9.0
28TH PL	L	5.5	BETA ST	L	8.4	JOBES CT	L	1.5	ROCKWOOD ST	L	3.8 - 7.7
29TH AVE	L	2.6 - 8.2	BIRK ST	L	3.9	JOHNSON CREEK BLVD	L	9.1	ROSWELL ST	L	4.5 - 8.9
30TH AVE	L	3.0 - 9	BLUEBIRD ST	L	7.5 - 9.0	JUNIPER AVE	L	8.8	RYAN CT	L	2.8
31ST AVE	L	2.6 - 9.0	BOB WHITE ST	L	4.3	KATHRYN CT	L	8.8	SCOTT ST	L	6.4
32ND AVE	C/L	4.4 - 9	BOSS LN	L	8.9	KEHRLI DR	L	5.8	SELLWOOD ST	L	8.9 - 9.0
33RD AVE	L	6.7 - 9.0	BOWMAN ST	L	8.4	KELVIN ST	L	4.0	SEQUOIA AVE	L	8.5
34TH AVE	C/L	5.0 - 8.8	BOYD ST	L	7.3	KENT ST	L	1.9	SEQUOIA PL	L	8.0
34TH CT	L	7.5	BRAE ST	L	7.4	KING RD	A/L	3.4 - 7.6	SHELL LN	L	2.3
35TH AVE	C	8.3 - 9.0	BROOKSIDE DR	L	7.0 - 8.4	LAKE RD	A	2.9 - 8.2	SHERRETT ST	L	7.1
35TH CT SE	L	9.0	C ST	L	8.2	LAMPLIGHTER AVE	L	3.3	SHERRY LN	L	4.2
36TH AVE	L	2.0 - 8.9	CAMPBELL ST	L	6.4 - 8.1	LARK ST	L	6.3 - 6.5	SOMEWHERE DR	L	9.0 - 9.5
37TH AVE	L	3.7 - 9.0	CEDARCREST DR	L	8.4	LAVA DR	L	2.1	SPARROW ST	L	7.7 - 9.0
38TH AVE	L	2.1 - 8.4	CHELSEA ST	L	8.2	LEONE LN	L	1.5	STANLEY AVE	C	3.2 - 6.9
39TH AVE	L	4.0 - 5.2	CHESHIRE LN	L	10	LICYNTRA CT	L	8.3	STANLEY CT	L	2.1
39TH CT	L	9.0	CLATSOP ST	L	7.7	LICYNTRA LN	L	8.9 - 8.9	STUBB ST	L	3.1 - 8.1
40TH AVE	L	1.3 - 9.0	CONWAY ST	L	2.2	LINWOOD AVE	A	7.3 - 7.4	SUNDIAL CT	L	6.2 - 8.0
41ST AVE	L	3.5 - 8.6	COVELL ST	L	7.3	LLEWELLYN ST	L	2.8 - 8.4	TAMBARA ST	L	6.7
41ST CT	L	1.9 - 8.8	CRITERION CT	L	7.8	LLOYD ST	L	1.7 - 5.6	THOMAS CT	L	7.8
42ND AVE	L	5.6 - 8.1	D PL	L	8.7	LOGUS RD	L	6.8 - 7.3	VAN WATER ST	L	4.4 - 4.7
42ND CT	L	5.1	D ST	L	8.6	MADISON ST	L	8.5	VERNIE AVE	L	7.2
43RD AVE	C/L	5.3 - 8.6	DAPHNE CT	L	8.3	MADRONA DR	L	7.6	VERNIE CT	L	8.9
43RD CT	L	1.8	DEERING CT	L	8.3	MAILWELL DR	L	2.8	VERNIE LANE	L	8.4
44TH AVE	L	3.9 - 8.6	DERDAN CT	L	8.7	MAIN ST	C	8.1 - 8.4	VIVALDI CIRCLE	L	3.0
44TH CT	L	9.1	DEWEY CT	L	6.4	MALCOLM ST	L	3.7 - 4.7	WAKE CT	L	1.5
45TH AVE	L	4.4 - 8.5	DICK ST	L	4.0	MALLARD WY	L	9.2	WAKE ST	L	2.8 - 3.1
46TH AVE	L	3.4 - 8.4	DRAKE ST	L	1.3 - 9.0	MAPLE CT	L	1.3	WASHINGTON PL	L	6.3
46TH CT	L	8.2	DREFSHILL ST	L	8.6	MAPLEWOOD CT	L	10	WASHINGTON ST	C/L	6.1 - 8.1
47TH AVE	L	7.2 - 8.6	DWYER DR	L	9.8	MARY CT	L	9.0	WAVERLY CT	L	4.7
48TH AVE	L	7.8 - 9.0	EAGLE ST	L	6.1	MASON CIR	L	8.5	WAYMIRE ST	L	8.7
49TH AVE	L	1.3 - 8.3	EDISON ST	L	6.8	MASON HILL DR	L	6.3 - 8.9	WEEDMAN CT	L	9.0
50TH AVE	L	2.6	ELK ST	L	4.1	MASON HILL LN	L	9.3	WEEDMAN ST	L	8.9
51ST AVE	L	1.0 - 3.5	ELSEWHERE LN	L	4.9	MASON LN	L	8.4 - 8.7	WEIKO WY	L	8.0
52ND AVE	L	1.8 - 6.6	ELSEWHERE LN	L	9.5	MCBROD AVE	L	1.9 - 7.7	WHERE ELSE LN	L	2.7 - 9.0
52ND CT	L	1.8	EUNICE ST	L	7.5	MEADOWCREST CT	L	7.9	WHERE ELSE LN	L	3.7
53RD PL	L	8.4	FIELDCREST DR	L	4.3	MEEK ST	L	7.9	WHITE LAKE RD	L	7.0 - 8.5
54TH CT	L	10	FIELDCREST RD	L	2.0	MELODY LN	L	8.7	WICHITA CT	L	1.8
54TH PL	L	4.7	FILBERT AVE	L	8.8	MILPORT RD	L	6.5 - 7.9	WILLARD ST	L	4.7 - 5.5
55TH AVE	L	4.7 - 7.4	FLOSS ST	L	8.3	MINTHORN LP	L	8.1	WILLOW ST	L	1.9 - 8.9
56TH AVE	L	1.7 - 9.2	FOXFIRE ST	L	2.7	MONROE ST	C/L	4.5 - 8.3	WILMA CIR	L	8.9
59TH AVE	L	2.2 - 8.4	FRANKLIN ST	L	5.1	MONTGOMERY DR	L	8.1	WINSOR CT	L	8.9
60TH AVE	L	5.8 - 7.4	FREEMAN RD	L	7.1 - 9.0	MOORES ST	L	6.9 - 8.2	WINSOR DR	L	8.3 - 9.0
60TH CT	L	8.4	FREEMAN WY	C	7.1 - 7.9	MULLAN ST	L	6.5	WINWORTH CT	L	1.8
63RD AVE	L	8.4	FURNBERG ST	L	8.2 - 8.7	MYRTLE ST	L	7.7	WISTER ST	L	7.7 - 8.7
63RD CT	L	8.7	GARRETT CIRCLE	L	5.7	NASE CT	L	9.0	WOOD AVE	L	1.9 - 7.5
64TH AVE	L	6.8 - 8.5	GARRETT DR	L	4.5 - 8.1	NORTHRIDGE CT	L	5.0 - 8.7	WOOD CT	L	4.1
64TH CT	L	8.5	GINO LN	L	9.0	OAK ST	C	6.0 - 8.4	WOODHAVEN ST	L	1.6 - 4.2
65TH CT	L	8.5	GROGAN ST	L	8.4	OATFIELD RD	C	6.6 - 6.9	WREN ST	L	1.9 - 9.0
66TH AVE	L	7.3	GROVE CT	L	4.6	OCHOCO ST	L	3.2 - 8.0			
67TH AVE	L	8.7	GROVE LP	L	2.0	OLSEN ST	L	4.0 - 8.9			
67TH CT	L	8.3	GUIDO BOCCI DR	L	9.0	OMARK DR	L	2.1			
69TH CT	L	8.3	GUILFORD DR	L	8.4 - 8.7	PARK ST	L	4.1 - 9.0			
70TH AVE	L	6.8 - 8.9	HANNA HARVESTER DR	L	2.0 - 9.6	PENNYWOOD CT	L	8.6			
71ST AVE	L	8.4	HARLENE ST	L	4.2	PENNYWOOD DR	L	8.5 - 8.8			
A ST	L	8.6	HARLOW ST	L	6.0	PENZANCE ST	L	7.8 - 8.9			
ADA LN	L	7.5 - 8.6	HARRISON ST	A/L	2.1 - 8.5	PLUM DR	L	8.7			

RS 5.
Correspondence

Stauffer, Scott

From: stephan lashbrook <scooteralan50@yahoo.com>
Sent: Monday, December 18, 2006 9:53 PM
To: Milwaukie OCR; slashbrook@ci.oswego.or.us
Subject: RE: Letter of support for proposed street maintenance fee

December 19, 2006

Mayor Jim Bernard and City Council

Dear Mayor Bernard and members of the Council:

I am writing to express my support for the City's plans to implement a street maintenance fee in Milwaukie. I would have been present to deliver this message in person, but I will be attending a Lake Oswego City Council meeting on December 19. (Given that the City of Lake Oswego is my employer, I often spend my Tuesday evenings there.)

I have lived in Milwaukie's Seth Lewelling neighborhood for some years. During that time I have actually worked in two other cities which have implemented similar fees for street maintenance (Wilsonville and Lake Oswego). Both of those cities had to endure extremely contentious processes leading to the establishment of their street maintenance fees, but the City Councilors of both of those cities will tell you that it was worth the effort.

Please consider these basics:

* The citizens of Milwaukie have made a tremendous investment in our public streets and sidewalks. That investment is at risk as our infrastructure gradually crumbles. A failure to protect that investment would be poor public policy.

* Deferring maintenance on our public streets will result in much higher cost maintenance later. If a street is allowed to deteriorate to the point where the base begins to fail, it will require major reconstruction. A street can be maintained by relatively minor resealing -- not allowing it to reach the point of failure. Such maintenance is simply a prudent investment.

* Typical city budgeting processes lead to declining funds for streets. State gas taxes do not and will not fill that void. We cannot expect the State, or anyone else, to fix our streets. If we are to protect our investment, we must take the initiative to set funds aside specifically for this purpose.

* Street maintenance costs continue to escalate. Asphalt is an oil-based product, concrete is an extremely energy-intensive product. Even rock and gravel cost much more today than in years past. It will be expensive to take care of our streets but it will be even more expensive if we don't.

It will not be easy for the Council to enact the proposed fee. Some will complain and say that another source of funds should be found.

In Wilsonville it took two tries and the residential versus business cost-split had to be changed for that city to gain public support for the fee. I have been told that Tualatin had to include the maintenance of sidewalks and street trees in order to gain public support.

Lake Oswego had to implement its fee in stages in order to assure the support of the business community.

All three of those cites have public streets that are improving over time because of the secure funding sources that they have created. I doubt that other cities in the region could make that claim. Milwaukie certainly could not. Our streets are deteriorating. We have an opportunity to reverse that trend.

I commend you for your courage and foresight in taking this on. It won't be easy, but it will be worth it. Thank you for taking the time to consider my comments.

If there is any additional information that I can provide, please let me know.

Sincerely,

Stephan A. Lashbrook, AICP, LEED A.P.
4342 S.E. Rockwood Street
Milwaukie, OR 97222

Copies: Alex Campbell
Mike Swanson

Do You Yahoo!?
Tired of spam? Yahoo! Mail has the best spam protection around
http://mail.yahoo.com

Stauffer, Scott

From: Fery, Craig <CFery@pccstructurals.com>
Sent: Tuesday, December 19, 2006 8:14 AM
To: Milwaukie OCR
Subject: FW: Street maintenance proposal
Attachments: Milwaukie Priv Tax.DOC

-----Original Message-----
From: Fery, Craig
Sent: Tuesday, December 19, 2006 7:35 AM
To: 'Campbell, Alexander'
Cc: Teramura, Tom
Subject: RE: Street maintenance proposal

Alex,

Please find our comments contained within the attached memo.

Craig

Craig J. Fery, P.E.
Facilities Manager
Large Parts Campus
PCC Structurals Inc.

Phone (503) 777-8840
Fax (503) 777-8832
E-Mail cfery@pccstructurals.com

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PCC Structurals, Inc.

Date: December 18th, 2006

To: Milwaukie City Council

Subject: Street Maintenance Funding Plan

From: Thomas Teramura
General Manager, VP
Large Part Campus

I would like to comment on the proposed 1.5% electric utility privilege tax as a funding mechanism for street maintenance within the City of Milwaukie. As a large employer in this community, we understand and recognize the need for safe and well maintained street surfaces. PCC wants to be an active participant and contributor in the City's efforts to improve the condition of its streets.

As proposed, this tax would have a significant impact on our operating costs. At 1.5%, the privilege tax represents more than what I believe to be 'our fair share.' I would like the Council to consider that:

- Our distribution trucks primarily use only Johnson Creek Boulevard which represents only a fraction of the streets needing funds
- Because we are a foundry, our energy usage is neither representative nor comparable to other industries within the City. This tax is unfair for energy intensive industries such as ours.
- We are already paying a 3.5% franchise fee which represents nearly $175,000 per year
- We are faced with another huge increase in electricity cost in 2007 (~8.7%)
- As a large employer in the area, many of our employees will also be paying the proposed street utility fee and the gas tax
- As a percentage, this tax will vary with our energy bills. As such, it will be difficult for the City to predict the amount of income generated as our electrical use varies.

Therefore, I would like the Council to consider a flat privilege tax option for heavy energy users like us, who wish to contribute on a more equitable level. I believe a flat monthly tax of $800 or roughly 0.2% of our average electricity bill would represent our 'fair share' in the City's street maintenance funding.

cc: Alex Campbell

4600 SE Harney Drive • Portland, Oregon 97206-0898 • Phone (503) 777-3881 • Fax (503) 777-8130

Stauffer, Scott

From: Chaimov, Gregory <gregorychaimov@dwt.com>
Sent: Monday, December 18, 2006 12:12 PM
To: Milwaukie OCR
Subject: Milwaukie City Council.pdf
Attachments: Milwaukie City Council.pdf

LAWYERS

Davis Wright Tremaine LLP

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December 18, 2006

Milwaukie City Council
c/o City Recorder's Office
10722 SE Main Street
Milwaukie, OR 97222

Re: Street Surface Maintenance Program

Ladies and Gentlemen:

This letter transmits the position of the Government Affairs Committee of the North Clackamas County Chamber of Commerce on the City's proposed Street Surface Maintenance Program. We are providing the Committee's position because the Chamber's Board of Directors is not scheduled to meet until after the City plans to consider the program.

The Committee supports (and recommended the Board's support for) the proposed program with the understanding that the program will include a discount of or exemption from the street maintenance fee for residents who do not have motor vehicles.

The Committee considers the City's improvement and maintenance of street surfaces to be vital to maintaining businesses in and attracting businesses to the City. Two parts of the City's proposed program are, however, of concern to the Committee. First, the Committee is concerned that the increase in the franchise fee will discourage businesses that use large amounts of electricity—businesses that typically provide the family-wage jobs that the City needs.

Second, the Committee is concerned that the street maintenance fee is not sufficiently honed to reflect a property's effect on the City's streets. In particular, the Committee is concerned that the street maintenance fee unfairly affects residents—especially senior citizens—who do not have motor vehicles.

We have very much appreciated the City's efforts to inform the public of the program. Thank you for the opportunity to comment.

Very truly yours,

Gregory A. Chaimov
Chair, Government Affairs Committee

GAC/jan

cc: Wilda Parks, CEO
Lori Luchak, Vice Chair

Stauffer, Scott

From: Fery, Craig <CFery@pccstructurals.com>
Sent: Friday, December 29, 2006 3:54 PM
To: Campbell, Alexander; Milwaukie OCR
Cc: Teramura, Tom
Subject: RE: street surface maintenance program, Dec. 19th decision
Attachments: Street Maintenance Funding Plan.doc

Please present the attached letter, stating the position of PCC Structurals, Inc, at the second reading on January 2nd.

Thank you,

Craig Fery

Craig J. Fery, P.E.
Facilities Manager
Large Parts Campus
PCC Structurals Inc.

Phone (503) 777-8840
Fax (503) 777-8832
E-Mail cfery@pccstructurals.com

-----Original Message-----
From: Campbell, Alexander [mailto:CampbellA@ci.milwaukie.or.us]
Sent: Wednesday, December 20, 2006 3:37 PM
To: Campbell, Alexander
Subject: street surface maintenance program, Dec. 19th decision

Council held a public hearing on the maintenance program last night. The agenda included a staff report, a review of correspondence received, and public testimony in favor, neutral, and in opposition. Council closed the hearing and passed all three ordinances. None of the votes were unanimous, therefore, as per the City Charter, a second reading of the ordinances is required before they go into effect. The second reading is scheduled for January 2nd. It is within the power of the Council to re-open the record and/or hearing to accept additional testimony and/or correspondence, but not required.

If/when the ordinances are adopted in January, staff will mail letters to all utility customers, providing them notice of forthcoming fees (all of the revenues go into effect July 1, 2007), including an initial classification and expected street maintenance fee. Non-residential customers will be provided an opportunity to request review of their classification.

I am, as always, available if you have any questions.

Sincerely,
Alex Campbell

Alex Campbell
Resource & Economic
Development Specialist
City of Milwaukie
Community Development
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206
Office: 503 786.7608

Cell: 971 227.4193
campbella@ci.milwaukie.or.us

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Schedule.

PCC Structurals, Inc.

December 28, 2006

To: Milwaukie City Council

Subject: Street Maintenance Funding Plan

This letter is in response to the Council voting in favor of the three funding elements of the street surface maintenance program. As you are aware from receiving my letter dated December 18th, 2006, PCC Structurals, Inc. is strongly opposed to the PGE Privilege Tax component of the funding program. I would like to reiterate that as a large employer in the Milwaukie community, we fully understand and recognize the need for safe and well maintained street surfaces; however, we think that funding this public benefit based on electricity usage is ill-conceived.

We support the Council's attempt to identify new funding sources to rehabilitate, reconstruct, and maintain Milwaukie's streets, but we feel that the funding source should be based on road usage. The PGE Privilege Tax is not a tax based on road usage; it is a tax on electricity consumption. In fact, it is nothing more than a disguised sales tax on the use of electricity within the City of Milwaukie. If you want to introduce a privilege tax, then the tax should be for the privilege of using the roads, not for the privilege of using electricity for residential or industrial purposes.

The PGE Privilege Tax is a bad tax policy because it places an economic burden on both residential and industrial users of electricity to redress a public nuisance (road deterioration) that is unrelated to the use of electricity. Since there is no connection between the use of electricity and road deterioration, the PGE Privilege Tax results in a penalty to current residents and businesses. In addition, it acts as a barrier to new businesses locating in Milwaukie and current businesses expanding there because it increases their operating costs.

The PGE Privilege Tax is also bad tax policy because it is an unpredictable source of funding. Energy usage can go up or down depending on a number of factors, which will create an unstable tax base. In addition, energy users have a number of options to decrease their energy usage. In fact, the State of Oregon provides incentives for both individuals and businesses to decrease energy usage in the form of tax credits. As resident individuals and businesses avail themselves of more energy-saving technologies, the tax base will shrink.

As I pointed out in my last letter, PCC Structurals, Inc. is a large foundry with very high energy usage that is neither representative nor comparable to most other businesses within the City. Moreover, our principal distribution route is Johnson Creek Boulevard, which represents only a small fraction of the city streets needing funds, and based on your website, isn't one of the proposed rehabilitation or reconstruction projects proposed in the next seven years. As a result, we will contribute a significant amount of the funding under the Privilege Tax, but will receive no direct, or limited direct, benefit for providing those funds. We contend that such a tax option is unfair to an employer who provides over 1500 jobs in the City of Milwaukie.

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We are in favor of tax fairness. A privilege tax that is based on the privilege of using the streets of Milwaukie seems to be the most fair option for rehabilitating, reconstructing, expanding, and maintaining the City's streets. Both the Street Maintenance Fee and the Local Gas Tax appear to be more fair tax regimes than the PGE Privilege Tax because they provide public funding based on road usage.

It is our understanding that the estimated additional annual funding needed by the City to take care of the City's streets is $1.2 million. The City could achieve that desired level of funding without the PGE Privilege Tax by increasing the proposed Street Maintenance Fee from $.35 to $.45 per trip generated, along with increasing the Local Gas Tax from $0.02 per gallon to $0.03 per gallon. If these amendments to the funding initiative were insufficient to get fully over the proposed $1.2 million street maintenance budget, we would support an additional flat tax of up to $300 per month as long as it is not tied to PGE and our energy usage.

As a significant participant in the Milwaukie community, we appreciate your efforts to provide safe and effective transportation routes. We hope you take our comments about the PGE Privilege Tax seriously because we feel very strongly that it is bad tax policy and a disincentive to living and working in Milwaukie. Our recommendation is that you drop the PGE Privilege Tax from the Street Maintenance Funding Program and increase the rates on the Street Maintenance Fee and the Local Gas Tax at your January 2nd meeting. Thank you for your consideration of our position.

Sincerely,

Thomas Teramura

General Manager, V.P.
PCC Structurals, Inc.
Large Parts Campus

TO: **MAYOR AND CITY COUNCIL**

FROM: **MIKE SWANSON, CITY MANAGER**

DATE: **DECEMBER 11, 2006**

RE: **STAFF REPORT/PROPOSED RESOLUTION AUTHORIZING CITY MANAGER MICHAEL F. SWANSON TO SIGN ANY DOCUMENTS REQUIRED TO EFFECT THE DISBURSEMENT OF FUNDS FROM INSURANCE AND/OR ANNUITIES DESIGNATED BY ETHEL FOLDEN AS BEING A GIFT TO THE CITY'S LEDDING LIBRARY**

ACTION REQUESTED

The action requested is adoption of the above proposed resolution.

BACKGROUND

Ms. Ethel Folden resided in the City from 1963 until 2001 and was a long-time volunteer for the Ledding Library. She passed away on July 24, 2006 in Tampa, Florida.

Recently, Library Director Joe Sandfort was notified by Ms. Folden's local financial advisor, Michael Mignano, of the existence of certain insurance and/or annuity contracts in which Ms. Folden designated the City's Ledding Library as a beneficiary.[1] I contacted Mr. Mignano's office and was informed that they require proof of authority to accept a disbursement of funds on behalf of the City.

The Proposed Resolution designates me as City Manager as the person authorized to sign required documents to effect a disbursement. The Proposed Resolution does not authorize the expenditure of any portion of the funds. Upon receipt, the proceeds will be held in a separate account. We will then propose specific action to the Council as to the use of the funds. My recommendation as Budget Officer will be to authorize a specific amount to purchase an asset in the

[1] At this writing I do not have a specific total amount. For a number of years we knew of an insurance contract designating the Library as a future beneficiary, but we learned little except for the information on the annual statements. We recently learned from Mr. Mignano's office that the Library was also been named as a beneficiary on an annuity. The death benefit on the insurance contract is approximately $27,000, and the benefit on the annuity contract is approximately $118,000. The total disbursement to the City is approximately $145,000.

near future that honors Ms. Folden. The amount will be reasonable but small enough so that it does not minimize the remainder of Ms. Folden's gift. I will further recommend that the balance of the proceeds be segregated within the City budget to bear interest and that it be designated for use in an eventual expansion of library facilities. [2]

[2] Recognizing first that it is difficult to make recommendations without knowing the specific amount of the gift, it seems reasonable to quickly establish some way in which to honor Ms. Folden in a visible way. In addition, while I have no reason at present to believe that Ms. Folden restricted use of the gift, I believe that no donor would make a significant gift to simply replace current operational funding. Thus, I will in a future action recommend that the City restrict the gift, absent a major General Fund budget shortfall, to future Library expansion. Of course, any action awaits final determination of the amount to be disbursed.

RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON AUTHORIZING CITY MANAGER MICHAEL F. SWANSON TO SIGN ANY DOCUMENTS REQUIRED TO EFFECT THE DISBURSEMENT OF FUNDS FROM INSURANCE AND/OR ANNUITIES DESIGNATED BY ETHEL FOLDEN AS BEING A GIFT TO THE CITY'S LEDDING LIBRARY

WHEREAS, Ethel Folden was a long time volunteer in the City's Ledding Library (Library); and

WHEREAS, Ms. Folden lived in Milwaukie from 1963 until 2001; and

WHEREAS, Ms. Folden served as a counselor at Clackamas High School for more than ten years; and

WHEREAS, Ms. Folden passed away on July 24, 2006 in Tampa, Florida; and

WHEREAS, the City has been notified that the Library is a named beneficiary in certain of Ms. Folden's insurance and annuity policies; and

WHEREAS, Ms. Folden's financial advisor, Michael Mignano, 1800 Blankenship Road, Suite 200, West Linn, Oregon 97068, has requested the designation of a City official to execute documents relating to the disbursements of the funds that have been made available; and

WHEREAS, Michael F. Swanson, City Manager, is a duly appointed officer of the City of Milwaukie who, in the normal course of business, accepts funds on behalf of the City, and

WHEREAS, upon receipt, the funds will be segregated and held in trust for the benefit of the Library.

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

Section 1. Michael F. Swanson, City Manager, is hereby authorized to execute any documents required to disburse to the City on behalf of the Ledding Library the proceeds from certain insurance and/or annuity policies purchased by and/or on behalf of Ms. Ethel Folden.

Section 2. This resolution is in accordance with the laws of the State of Oregon and Charter of the City of Milwaukie.

Section 3. This Resolution takes effect upon adoption.

Introduced and adopted by the City Council on December 19, 2006.

_____
James Bernard, Mayor

ATTEST:

_____
Pat DuVal, City Recorder

APPROVED AS TO FORM

_____
City Attorney

Park & Recreation Board
PARB

October 24, 2006
7:30 am to 9 am
Regular Meeting

MINUTES

Attendees: Kate MacCready, Sherri Dow, Ray Harris, Mart Hughes, Bob Cooper
Sonny Newson
Staff: JoAnn Herrigel , Joan Young
Guests: Kathy Buss (honorary member)

Minutes
A spelling error was pointed out and MacCready noted that the description of the sculpture at North Clackamas Park was incorrect. With these changes Harris motioned to approve the minutes. Dow seconded and the motion passed (5-0.)

City Update

- Herrigel reminded the group of the upcoming MTIP listening posts
- She shared other pertinent info – but apparently didn't write that down anywhere….

District Updates:

- Monday a.m. soccer fields at Lot Whitcomb and View Acres will be dedicated. The fields will not be open until March 2007.
- The Stringfield site master plan will go to the DAB in draft form in November
- Trolley Trail meeting was well attended (150-200 people). Only about 6 people in attendance were opposed to the project.
- Program Guide (Healthy Living) received a national award for marketing
- NCP construction is on schedule and doing fine

District IGA Review

Herrigel went over the list of parks that the City owns and currently operates and said she felt these should all be proposed for District operation as part of the IGA negotiation. The group concurred.

Herrigel then drew the group's attention to the maintenance standard section. She said she had been unable to identify a good source for park standards even though she'd been told that there was a set of National Parks Standards – she'd been unable to reach anyone at the organization she was referred to via e mail or phone.

The group discussed modifying the scheme for park maintenance categories. Currently all parks on the IGA list fall into either low, medium or high park maintenance standards and each of these levels is described in the IGA. The group suggested that we change this system so that park elements are listed and standards are set for each element. For example:

Park Element	**Maintenance Tasks**
Shrubs	Prune annually, fertilize when necessary,
Playground equipment	Keep graffiti free, repair structures when necessary, replace bark chips annually or when necessary

Elements listed by the group included:
Shrubs
Play ground equipment
Sidewalks
Fences
Sport fields
Natural areas
Annual beds
Tree safety (replacement standard)
Horse arenas
Rest rooms
Fountains

The group said they felt that the restroom at the boat ramp should be cleaned more frequently and it should be open for a longer period of the year.

Newson said he felt that leaves should removed rather than simply blown into streets.

Herrigel asked what the group wanted to do about Natural Areas. In general, the group felt that the District should be asked to maintain these areas and to either contract with or hire someone with expertise in this area. Standards the group developed for natural areas included:

- Keep free of invasive weeds (blackberry clematis, knotweed, and any other non-native species)
- No mowing in buffer areas
- Keep free of debris (car bodies, litter etc)
- Protect from deleterious use by dogs, transients etc (using barriers or plants)
- Delineate areas (?)
- Revegetate areas when invasives are removed
- Use Integrated Pest Management techniques in natural areas (non-chemical wherever appropriate)
- Leave fallen or dead trees in place wherever safe and practical for use as habitat

Sites the group listed as having natural areas included Homewood, Riverfront, Spring, Furnberg, and Kronberg

Other
Dow reported on the Sunnybrook extension project. She said there had been an advisory meeting the previous evening. She noted that the oak tree would remain, the punch through would begin in back of Toys R Us and she wasn't sure where it would hook into Harmony. She said that either Ron Weinman or Larry Conrad would be good contacts on this project.

Harris motioned to adjourn, Dow seconded and the motion passed 6-0.