

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
JANUARY 18, 2005**

CALL TO ORDER

Mayor Bernard called the 1950th meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Carlotta Collette
Susan Stone

Joe Loomis
Deborah Barnes

Staff present:

Mike Swanson,
City Manager

JoAnn Herrigel,
Community Services Director

Gary Firestone,
City Attorney

Paul Shirey,
Engineering Director

John Gessner,
Planning Director

Mary Rowe,
Human Resource Director

PLEDGE OF ALLEGIANCE**PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**

Mayor Bernard and Councilor wished Monroe Sweetland a happy 95th birthday.

Milwaukie High School Student of the Month

Councilor Barnes recognized **Safa Ghnaim** a Milwaukie High School Senior who intended to continue at the University of British Columbia or University of Michigan as a pre-med student with the goal of becoming a pediatric oncologist. Over the years Ms. Ghnaim volunteered tirelessly to the community. Her involvement included the National Honor Society, Habitat for Humanity, French Club, Community 101, Tech Cadre, Respect and Tolerance Committee, and the Milwaukie Ledding Library. Her senior seminar project was designing and implementing a website for Women City Builders through Portland State University.

Principal Aeylin Summers announced that Milwaukie High School was the only Metro area high school to increase in the rankings from satisfactory to being a strong academic school. Everyone worked very hard to do this, and students like Ms. Ghnaim were only one example.

Councilor Barnes said one thing that made Milwaukie High School so special was that Principal Summers knew the names of each student.

CONSENT AGENDA

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

- A. City Council minutes of January 4, 2005; and
- B. Resolution 3-2005: A Resolution of the City Council of the City of Milwaukie, Oregon Appropriating a 2004 Homeland Grant.

The motion to adopt the Consent Agenda passed unanimously. [5:0]

AUDIENCE PARTICIPATION

Jeff Klein, Lewelling Neighborhood District Association (NDA) Chair, 4479 SE Logus Road. He announced that at the January 6, 2005, NDA meeting, the members voted unanimously in support of the job the staff, Council, and Mayor were doing done, and the members were optimistic of the leadership in the future. Since becoming chair of the NDA, he met and worked with many members of the City staff. Although all staff may not live in Milwaukie, they do take ownership. From the recommendations staff made to the City Council and Commissions to helping local students on their school projects, all was done with one common goal – to make Milwaukie a better place. Staff was accessible and accommodating of his endless questions. He had several meetings with staff about issues facing Lewelling. Everyone he met was helpful and insightful and offered assistance in accomplishing the neighborhood goals. Not once did anyone try to moderate his unrealistic enthusiasm but rather pointed him in the right direction to succeed. He believed staff did this because if they could help him make his neighborhood a better place to live, then they accomplished a greater goal of their own – to make Milwaukie a better place to live for all. The Lewelling NDA unanimously supported City staff. For the Mayor and Council, the last few months were trying. The Lewelling NDA members appreciated the group's decisions. More importantly, they appreciated the decisions of the individuals. He believed each decision was based on what he/she thought was best for Milwaukie. Each made his home here, celebrated the history, and looked for a bright future in the City. Every decision was made with one thing in mind – to make Milwaukie a better place to live. Every decision made as a group was made with one voice – to make Milwaukie a better place to live for all of the neighbors. The Lewelling Neighborhood recognized the difficulties facing the staff, Council, and the Mayor and felt it was important to let them know the NDA appreciated them and their efforts.

PUBLIC HEARING

Proposed Resolution Requesting Annexation to Clackamas County Fire District #1 -- Resolution

Mayor Bernard called the public hearing to order at 7:12 p.m.

The purpose of the hearing was to consider public comment on the proposed annexation.

Staff Report: Mr. Swanson noted the proposed resolution in the packet contained an error and should have read that the City paid \$2,891,000 in fiscal year 2004 – 2005. By this resolution, the City Council was asked that the Clackamas County Fire District 1 (CCFD1) Board grant the City the opportunity to submit the question before the voters of the City. The District Board must consider the request and respond no later than 90 days before the election. The City was assuming at this time that the election date would be May 17, 2005, but that was the Board's decision. If approved at this meeting,

the resolution would be certified to the Board for its consideration at an upcoming meeting.

In September 47% of the voters said "yes" to the measure and 53% said "no." For the May election, the City would have a companion measure that would be certified at the same time as the annexation question was certified. He would bring the subject of the companion measure to the next City Council work session. The question would be what the City Council wanted to propose in terms of the tax that could be captured. Did the Council want to submit a question to the voters that would utilize a portion of that for specific services? Did the City Council want the effect of the annexation to be a net zero? The intention of submitting the second question was to somewhat clarify the total effect of the annexation if it were to succeed. The issue before Council at this meeting was merely to ask the District Board permission to move to the next level which would be the certification of a measure to the May ballot.

Mr. Swanson noted **Chief Norm Whiteley** was present to answer questions. He was Chief for CCFD1 and also the City of Milwaukie's chief by contract with the District.

Mayor Bernard said one question asked during the last election was why the City would want to give its fire department away to Clackamas County. That was an issue with people, and he asked Chief Whiteley to describe the District, the Board, and its relationship to the Clackamas County Commissioners.

Chief Whiteley replied CCFD1 was a separate taxing district and a standalone Fire District not connected to the County government. It had its own 5-member board elected by District residents. There was no tie to the County other than that the District was formed in Clackamas County. The District provided service to the City of Milwaukie for a number of years under a contract. Milwaukie was protected with four stations that were either right on the edges of the City or in the City. Milwaukie had some of the best response times for fire service in the state. The District enjoyed a good working relationship with staff and many of the neighborhood groups. The District planned to be the provider for the long-term, and the District believed this was more of a governance issue that would allow Milwaukie residents to vote on District-wide decisions and run for a seat on the elected board.

Mr. Swanson added CCFD1 was related to the County only because it used the words "Clackamas County." CCFD1 was a standalone, separate unit of government that neither reported to nor in any way was controlled or governed by Clackamas County – the County government entity. It was a completely independent service provider with its own elected board.

Mayor Bernard understood that Chief Whiteley said it was a Clackamas County Fire Department because that was how they were all formed. He tried to explain to people that the relationship was in name only.

Mr. Swanson said at one time there was a multiplicity of departments in this area. There was a department that was called Clackamas County Fire District #54 that eventually merged. When they were created, they needed an identifying entity, so they used Clackamas County. At one time there was the Oak Lodge Fire District, and when that District formed they chose to take the name Oak Lodge instead of Clackamas

County. They also eventually merged with CCFD#1. A number of small fire districts bore that name only because they had to choose something that identified the geographical boundary.

Chief Whiteley added there were 24 agencies at one time, and now there were 9. Seven merged into CCFD1. The Board members were elected volunteers like the City Council.

Councilor Collette agreed with Mayor Bernard that voters were confused and concerned about losing the Milwaukie Fire Department. Milwaukie contracted with CCFD1, and there was no longer a Milwaukie Fire Department.

Chief Whiteley added that Milwaukie employees were absorbed into the CCFD#1, and many of them have continued to serve and were in top leadership positions in the District.

Councilor Stone said another concern was how much it would cost. Right now part of the local government taxes were paid out for the contract amount. People were thinking if they were taxed separately that would just mean more money out of their pockets. She asked Mr. Swanson to clarify that because she thought that was the roadblock.

Mr. Swanson said the City currently paid CCFD1 on a contract to provide fire suppression, emergency medical services, and education. The amount the City was currently paying the District came out of the general fund and was approximately equal to the amount the District would realize if it levied its permanent rate within the City of Milwaukie. For fire service, emergency medical, and education, there would not be an increase unless the District took the request for additional taxes to the voters. There could not be an increase beyond what people were currently paying for fire services, which was through the City's general fund. When the City was relieved of its contractual obligation to the District, it was not relieved of the authority to levy that same amount of tax. The last time, the City Council committed to not doing that for a period of time. He would recommend a companion measure to deal with that issue – whether or not the City would capture the money that was freed up because it was not paying on a contract to CCFD1. The District would not be able to capture more money because it had a permanent rate roughly equivalent to what the City was paying on contract. The question would be what would the City do? That question would be on the same ballot.

Councilor Collette understood Oregon City was looking at annexing but was interested in recovering some of the money the City normally paid to the District. They hoped to keep some of that money in the budget for other purposes. This Council went on record to say the City of Milwaukie would not do that. When people used the term revenue neutral, it meant that people in Milwaukie would not be paying more because of this decision. However, they probably would not be paying less.

Mr. Swanson added that was not to say the City did not the money. It was saying that annexation to the District was a more important goal than immediately capturing additional funds. Why was that? Milwaukie residents would run for the District Board and have political influence. Even more important was the knowledge there would be uninterrupted fire and emergency services. Milwaukie has had a good relationship with the Board since the first agreement was negotiated. There was nothing that required

the District to enter into a contract with the City. It was conceivable that a future Board could decide at some point in the future to cease contracting. The City, then, would be in the position of either starting its own department, which was very expensive, or contracting with Portland. The City was saying the highest, most important goal to accomplish, if in fact that was what the City Council finally did, was annexation to the District. Residents knew fire or medical emergency services would be provided.

Councilor Stone referred to the sixth "whereas" that read, "by annexing the City, the District can directly levy property taxes for its services without passing through the City's budget process." The staff report discussed the Council's committing to set the levy of the City's permanent rate that would not result in a combined City-District permanent rate levy in excess of \$6.5379/\$1,000 of valuation. She asked if that needed to be included in the resolution?

Mr. Swanson replied that issue would be discussed at the next meeting where he would propose a ballot measure – a companion measure – that would direct the City on what it should do. There was probably some City Council discussion that needed to take place.

Councilor Stone understood in that event when citizens asked her if this would cost them more, then she could safely answer "no."

Mr. Swanson responded that was the City Council's decision. The first was the question of whether or not to annex. The companion measure would ask, if the annexation to the District did succeed, did voters wish to direct the City Council to reduce the levy of the permanent rate by \$2.4024?

Mr. Firestone explained this was not the resolution that would determine what people in the City were paying. This resolution was necessary for the annexation to happen. The next round would allow the City Council to determine the resolutions that would determine the effect. The resolution before the City Council at this meeting was just to get the request to the District Board, and the City Council would take further action before the measure was certified.

Councilor Loomis asked if he was safe in assuming the companion measure would have more than one option and was why it was not in this resolution.

Mr. Swanson replied it was safe in assuming the City Council would determine what the companion measure would be in two weeks. The City Council would have an infinite number of possibilities. It could say the City would continue to levy its entire permanent rate, which would probably be electoral suicide in terms of getting the measure passed. The City Council could offer an option to levy an amount for this service or that service. That was a decision on the next City Council work session.

Councilor Loomis asked why the City Council was moving forward on this one and not the other.

Mr. Swanson said it was a matter of timing. The City had to have permission from the District 90 days before the election. The ballot question needed to be certified no more than 60 days prior to the election date. The companion measure did not fall under the first restriction.

Mr. Firestone said part of the strangeness of an annexation of city territory to a district was that the process actually involved three separate actions: (1) action by the city; (2) action by the district; and finally (3) action by the city. The resolution before the City Council was the first step.

Chief Whiteley said the District got phone calls from people after the last election saying they simply did not understand, so the District will work closely with the City to clarify issues.

Correspondence: None.

Audience Testimony: None

Additional Staff Comments: None.

Questions of Clarification: None.

Close Hearing: **Mayor Bernard** closed the public hearing at 7:35 p.m.

Discussion: **Mayor Bernard** wanted to consider a second companion measure to take to the voters. He asked Mr. Swanson to look into how much it would cost to fix the library deficit, to add a planner, and to add a police officer. He asked if that would be considered a tax increase that would require a double majority.

Mr. Firestone said in all likelihood the second measure would just be a commitment to reduce taxes to a certain amount. It would not change the City's permanent rate. The City always had the ability to levy its permanent rate. It depended on what the voters would approve in the second measure, what form it was, and whether that provision required a vote of the people.

Mayor Bernard thought it should be done. The library had a funding problem. There was a lot going on in Milwaukie, and there were not enough planners. He always heard that Milwaukie did not have enough police officers. He thought the City should ask the voters. David Stroup challenged Milwaukie in his *Review* editorial, and Mayor Bernard thought the voters should be asked to step up. The cost could be as little as five or ten cents.

Councilor Loomis was open to that as he had similar thoughts.

Decision: It was moved by **Councilor Barnes** and seconded by **Councilor Collette** to adopt the resolution proposing annexation of the City of Milwaukie to Clackamas County Fire District No. 1. Motion passed unanimously. [5:0]

RESOLUTION NO. 4-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, PROPOSING ANNEXATION OF THE ENTIRE CITY TO CLACKAMAS COUNTY FIRE DISTRICT NO. 1 (DISTRICT), FOR THE PURPOSE OF RECEIVING SERVICES FROM THE DISTRICT

OTHER BUSINESS**Elect Council President**

It was moved by Councilor Loomis and seconded by Councilor Collette to elect Councilor Barnes Council President.

It was moved by Councilor Stone to elected Councilor Loomis.

Mr. Firestone explained there were competing motions.

Councilor Stone said it was a companion motion.

Mr. Firestone said this action could be done by nomination rather than by motion, and he heard two nominations.

Councilor Loomis withdrew his name for nomination. Councilor Barnes had been on the Council a little longer and discussed seniority. He knew that Councilor Lancaster had said it rotated in the past, but code language indicated there was a Council President election every two years. He discussed seniority.

Motion passed unanimously. [5:0]

City Manager Performance Review

Ms. Rowe discussed the process. Input was solicited from all department heads regarding various aspects of performance and goals. That information was forwarded to the City Council members who also had an opportunity to complete an evaluation. Those comments were summarized and given to the City Council in executive session to review and discuss the message it wanted to deliver to Mr. Swanson. Based on comparable cities, Milwaukie was still lagging behind other communities even with the annual bonus that was authorized last year. The bonus recognized performance and brought the pay scale closer to the market average. Council discussion indicated that the group felt Mr. Swanson was doing an outstanding job and guided the City well during the past year. It recognized that over the next few months he would serve as Community Development/Public Works Director as well as City Manager.

Councilor Loomis appreciated Ms. Rowe's work in assisting City Council through the process.

Mayor Bernard summarized the comments from Mr. Swanson's evaluation. He consistently exceeded expectation on all issues. He worked hard to get the citizens and Council to take a long-term vision in the community. Milwaukie was lucky to have Mr. Swanson – we don't deserve him. He was well regarded by the residents, Council, staff, and regional partners. He was doing an excellent job. He was concerned and dedicated to the future well being of the City. Overall, Mr. Swanson exceeded expectations in a majority of categories.

It was moved by Councilor Collette and seconded by Councilor Loomis to approve the lump sum merit bonus of \$6,500 on February 1, 2005.

Councilor Barnes added Mr. Swanson literally worked countless hours on behalf of the City on many projects over the last year. To take on additional duties, he more than

deserved the bonus. Not only was he a great City Manager, but also a heck of a human being. She appreciated everything he did as the other Council members.

Councilor Loomis added Mr. Swanson went to great pains to learn about the community and respond to its needs. He reminded staff over and over that the goal was to serve the community.

Mr. Firestone asked for clarification if the motion included authorizing the Mayor to execute the extension agreement?

It was moved by Councilor Collette and seconded by Councilor Loomis that the motion included the authority for the Mayor to execute the extension agreement.

Mayor Bernard would discuss goals at an upcoming session. He was concerned that Ms. Rouyer left in the middle of the City's attempts to obtain transportation funding. Milwaukie needed to make sure it continued to be at the table to stay on the funding list.

Motion passed unanimously. [5:0]

Metro Title 7 Affordable Housing Report

Mr. Gessner discussed Title 7, which was the Functional Plan requirement to consider methods to preserve and promote affordable housing. The Planning Commission adopted a recommendation at its meeting last week. The housing target in Milwaukie was to provide 102 additional housing units over the next five years that would serve the needs of household making less than 30% of median income. That served some of the poorest of the poor. It was not something the market could provide on its own. The City's new market-rate housing was about 20 net units per year, so it did not seem to be reasonable for the City to adopt a target that it was unlikely to be able to meet both in terms of housing production rates and lack of access to resources that would be necessary to provide housing at that low level. The Planning Commission concurred that the City Council should not adopt that target.

Further, Metro code required that the City Council consider seven affordable housing tools and strategies. Some were traditional tools including density bonuses, transfer of development rights, and investigating whether or not there were regulatory obstacles to affordable housing. The City's Comprehensive Plan policies were very supportive of affordable housing, which was an important issue in the City of Milwaukie. The Planning Commission recommendation addressed the feasibility of the specific tools recommended by Metro for addressing those needs. Milwaukie had some measures that were not being taken advantage of by the private sector, the non-profit sector, or the governmental sector. The City had a density bonus provision, but he did not believe it had been used in the 20-years it had been on the books.

The over-riding summary for not adopting and enacting new regulations consistent with the seven tools was that they were based on particular circumstances that would not likely be very effective because either the timing was not right, the market was not there to support the critical mass of new housing necessary to bring affordable housing with it, or that there was reason to wait for the market to catch up with the Town Center Plan. The City Council adopted increased densities in the downtown area consistent with the Downtown Plan and downtown revitalization efforts, but the market was still slow to

react to those density provisions with the exception of the North Main Project that would result in 97 units. He felt enacting these regulations would not be effective at this time. He understood Metro was in the process of reconvening its housing technical advisory committee. He thought Milwaukie might have some good recommendations and observations to make to the regional technical committee to help communities like ours. Many of the tools being recommended were more effective in larger cities that had the tax base and institutions to support them or that had high growth. With high growth and demand for multi-family housing, there was a much greater opportunity to bring affordable housing into the mix. Milwaukie's housing market was not yet there. Staff and the Planning Commission requested that the City Council not adopt the 5-year target and land use tools. He noted there was a draft letter for the Mayor's signature that detailed the reasons for the Council's action should it accept the Planning Commission's recommendation.

Mayor Bernard said he was sometimes hassled about this at Metro. Milwaukie had no land to build on, and the housing was already cheaper than most of the region. He thought it was ridiculous for Metro to ask Milwaukie to adopt this low-income housing proposal. Neighborhoods would have to be rebuilt with low-income housing and densify in order to make this work at all. He thought staff and the Planning Commission did a great job.

Councilor Stone fully supported the Mayor's signing the letter. Maybe it was going to be an opportunity for Metro to make good on its word about extending itself to communities and working in partnership to find out what was needed and accordingly help communities.

Councilor Collette concurred and thought the staff report was excellent. It uncovered some important things that Metro needed to hear. There were communities for whom the rules and recommendations did not apply, and Milwaukie was one of them. The City may have a growth surge at which time these targets could be revisited.

Councilor Barnes agreed. The bigger issue was how to help folks get out of that situation to begin with. That was the long-term policy Metro should look at instead of just saying there needed to be low-income housing. The solution was to find ways to help people get real housing and get out to the situations they were in.

Councilor Loomis appreciated staff's putting this together and letting Metro know this just did not fit for Milwaukie.

Mayor Bernard wanted Metro to understand the City thought it was a great partner, but this was one area that needed work.

It was moved by **Councilor Loomis** and seconded by **Councilor Stone** to accept the staff recommendation that the City not adopt the 5-year target and land use tools and authorize the Mayor to sign a letter to Metro on behalf of the City of Milwaukie. Motion passed unanimously. [5:0]

Transportation SDC Fund Budget Transfer for Design and Engineering of 21st Street Extension

Mr. King reviewed the resolution that authorized the transfer of system development charges (SDC) from the transportation SDC contingency fund. The Disposition and Development Agreement (DDA) provided that the City would be responsible for the offsite public infrastructure including sidewalks, lighting, and undergrounding utilities around the North Main Project and extending to City Hall. It was determined that the 21st Avenue extension project was eligible for SDC funding, and it was on the SDC project list and Capital Improvement Plan (CIP) list. Staff put in an application for the Special Public Works Fund (SPWF) loan and received a \$25,000 grant from Mt. Hood Economic Alliance. The project would cost approximately \$1 million. This action was the next step. The City signed a contract with Harper Houf Peterson Rieghllis in the amount of \$90,000 to do the design and engineering of the offsite work. To pay for that, staff was requesting that the City Council approve moving monies from the SDC fund to the capital outlay fund. He anticipated the City would spend the transportation SDC funds, the Mt. Hood Economic Alliance grant, and SPWF loan to complete the \$90,000 design and engineering through June 30. There may also be some construction as well, but if that did not occur, then only about \$30,000 in SDC funds would be used. Staff recommended that the City Council approve the resolution so funds could begin to be drawn down.

It was moved by Mayor Bernard and seconded by Councilor Barnes to approve the resolution transferring \$90,000 from the transportation SDC fund for the purpose of budgeting for design and engineering for new street capacity. Motion passed unanimously. [5:0]

RESOLUTION NO. 5-2005:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, FOR THE PURPOSES OF BUDGETING FOR DESIGN AND ENGINEERING OF NEW STREET CAPACITY.

Measure 37 Language Regarding Actions by Neighboring Property Owners – Ordinance

Mr. Swanson said on November 16 the City Council adopted Ordinance 1940 that enacted the provisions of Measure 37. It was a quick turnaround after the November election, and it was understood there would be issues coming up that needed to be addressed through amending ordinances. The issue before the City Council made it permissible for adjoining property owners to file a civil suit against someone who successfully pursued a Measure 37 claim that resulted in a waiver of the land use regulation and thereby diminished the value of surrounding properties.

Councilor Barnes asked the legal meaning of "in the vicinity" or was it a blanket statement.

Mayor Bernard thought it was blanket statement because there could be varying impacts by certain types of developments.

Mr. Swanson replied one would have to establish through competent evidence that there was in fact a reduction in the value of one's property. If a waiver under a successful Measure 37 claim could be proven to have diminished the value of another's property, then that person could maintain the civil suit. It was like throwing a rock into a pond with the impact diminishing from the point of development. One would have to show a real loss to one's property.

Mr. Firestone said the intent was that it had to be a direct impact. For example, a commercial outlet with lots of business right in the middle of a purely residential block, would impact the area. It would be up to the court and jury to decide just how far that impact spread. He chose "vicinity" to allow for recognition of varying degrees of impact.

Councilor Loomis asked why the City Council would want to do this. Did people not do things on their properties now that diminished the value of others? Why was the City getting involved?

Mr. Firestone explained it was a policy choice for the City Council. Some jurisdictions have adopted this, and others have not. The feeling of those in favor of this policy was that Measure 37 allowed exceptions. It allowed people to do something that others could not. Even though people could not create nuisance, other property values could still be reduced. The thought was that if certain people were taking advantage of a law protecting their property, then they should not be allowed to adversely affect other people. It was purely a policy question. Some believed it protected the general good, while other criticized it as attacks upon those asserting their legal rights under Measure 37.

Mayor Bernard used the example of the Cereghino property on Lake Road. What if the family decided to sell to a car dealership? The family owned the property for 3-4 generations. The people across the street should have some rights because the value of that property would decline. If traffic on Lake Road increased, the value of his home five blocks away could also be decreased.

Councilor Collette said it did not seem to be a disincentive to filing claims. It seemed to say if the City granted a waiver, then the neighbors could come after the City.

Mr. Firestone explained the neighbors could go after the property owner who filed the claim. It could act as a disincentive to those filing a Measure 37 claim. It was important to recognize, that although Measure 37 talked about compensation, most people believed the reality would be waivers and development.

Councilor Stone liked the idea of having a policy in place that protected property values if someone decided to do something unusual. There were so many instances in the City where property values were diminished severely by nuisance properties and other things. She liked the idea an ordinance in place that protected property values. She liked having a policy decision that said something was not right and protected the values of people's homes and land.

Councilor Collette understood this only related to Measure 37 claims and not those who parked school buses in front of their houses.

Mr. Firestone said one could not go to court for anything short of a nuisance in other circumstances as long as it was a legal use of the property.

It was moved by **Mayor Bernard** and seconded by **Councilor Barnes** for the first and second reading by title only and the adoption of an ordinance amending **Municipal Code Chapter 1.20 – Compensation for Reduction in Property Value.**

Mr. Swanson read the ordinance twice by title only.

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

ORDINANCE NO. 1945:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADDING SECTION 1.20.095 AUTHORIZING A CAUSE OF ACTION IN CIRCUIT COURT BY A PROPERTY OWNER ADVERSELY AFFECTED BY A WAIVER GRANTED PURSUANT TO A BALLOT MEASURE 37 CLAIM.

Transit Center Update

Mr. Swanson reported that right now not a lot was going on because the current priorities had to do with land use submissions on the park-and-ride at the Southgate site. There were discussions at Metro on the process and how it would proceed. The locally preferred alternative (LPA) was originally proposed by the South Corridor Policy Committee and submitted back to the various jurisdictions. He understood they were discussing how they reconstituted the South Corridor Policy Committee because some action would need to be taken. There was no timeframe for that. The big issue was that more and more TriMet saw any transit center site in Milwaukie as something they had to coordinate with Phase 2 of the South Corridor process, or light rail. It was a question of money. They were trying to put together a package to update the Environmental Impact Statement (EIS) at the cost of about \$4 million. They had a \$2 million MTIP submission and a \$2 million gap. They were currently trying to find that \$2 million so they could follow up on the Draft Environmental Impact Statement (DEIS) for South Corridor. They saw that as an essential piece of the Kellogg Lake issues. If it moved to the next step, the preliminary engineer phase would cost from \$6 million - \$8 million. As far as the transit center was concerned, the first issue was going to be when Metro clarified its process. TriMet and Metro were both moving very slowly on the next steps of siting and closing on the Kellogg Lake site. He would make a written report on the next agenda.

Mr. Swanson excused himself from the meeting.

Advisory Board Appointments

Mayor Bernard, with the consent of Council re-appointed **Barb Cartmill** to the Design and Landmarks Committee and appointed **Greg Chaimov** to Library Board. **Malinda Jakob** would be rescheduled for an interview.

Councilor Loomis commented on the Interstate Max and thought it was a good project for Milwaukie to keep its eye on. He noted several buildings coming down along with new construction. There seemed to be little additional traffic.

Councilor Loomis said several houses in Ardenwald Neighborhood sold in the high \$200,000. People were fixing up their properties, and Milwaukie was becoming a more desirable place to live.

Councilor Stone added that private developers gutted one house and did a beautiful job. She believed that property was selling for \$235,000. She discussed the Centex developments on Borland Road with beautiful houses built right next to each other on very small lots. She and her husband were drawn to Milwaukie because they wanted some land and a nice yard. So many of the homes in Milwaukie had those features, while the newer developments did not.

Executive Session

Mayor Bernard announced the City Council would meet in executive session pursuant to ORS 192.660 (h) – consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

Adjournment

It was moved by Councilor Loomis and seconded by Councilor Barnes to adjourn the meeting. Motion passed unanimously.

Mayor Bernard adjourned the meeting at 8:35 p.m.

Pat DuVal
Pat DuVal, Recorder

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AGENDA

MILWAUKIE CITY COUNCIL JANUARY 18, 2005

MILWAUKIE CITY HALL
10722 SE Main Street

1950TH MEETING

REGULAR SESSION – 7:00 p.m.

- I. **CALL TO ORDER**
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
3. **CONSENT AGENDA** *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the “Consent” portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*
 - A. **City Council Minutes of January 4, 2005**
 - B. **Resolution – Appropriating 2004 Homeland Security Grant**
4. **AUDIENCE PARTICIPATION** *(The Mayor will call for statements from citizens regarding issues relating to the City. It is the intention that this portion of the agenda shall be limited to items of City business which are properly the object of Council consideration. Persons wishing to speak shall be allowed to do so only after registering on the comment card provided. The Council may limit the time allowed for presentation.)*
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.)*

Proposed Resolution Requesting Annexation to Clackamas County Fire District #1 (Mike Swanson)
6. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*
 - A. **Elect Council President (Mayor Bernard)**
 - B. **City Manager Performance Review and Compensation (Mayor Bernard)**
 - C. **Metro Title 7 Affordable Housing Report (John Gessner)**
 - D. **Transportation SDC fund budget transfer for design and engineering of 21st Street extension – Resolution (Jeff King)**

OTHER BUSINESS, continued

- E. Measure 37 Language Regarding Actions by Neighboring Property Owners – Ordinance (Mike Swanson)**
- F. Transit Center Update (Mike Swanson)**

7. INFORMATION

- A. Park and Recreation Board Minutes**
 - 1. October 26, 2004**
 - 2. November 23, 2004**
- B. Planning Commission Minutes**
 - 1. August 24, 2004**
 - 2. September 14, 2004**
 - 3. September 28, 2004**
- C. Public Safety Advisory Committee**
 - 1. October 28, 2004**
 - 2. November 17, 2004**
- D. Riverfront Board**
 - 1. October 12, 2004**
 - 2. November 3, 2004**
- E. Center/Community Advisory Board Minutes, November 12, 2004**

8. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council will go into Executive Session immediately following adjournment at pursuant to ORS 192.660(2)(h) to consult with legal counsel concerning rights and duties regarding current litigation or litigation likely to be filed.

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.

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
JANUARY 4, 2005**

City Manager Swanson announced the City Attorney was excused from the meeting.

OATH OF OFFICE

Municipal Court Judge Ron Gray administered the oaths of office to Councilors Carlotta Collette and Joe Loomis.

CALL TO ORDER

The 1949th meeting of the Milwaukie City Council was called to order by Mayor Bernard at 7:05 p.m. in the City Hall Council Chambers. The following Councilors were present:

Carlotta Collette
Susan Stone

Joe Loomis
Deborah Barnes

Staff present:

Mike Swanson,
City Manager

JoAnn Herrigel,
Community Services Director

Alice Rouyer,
Community Development/
Public Works Director

Paul Shirey,
Engineering Director

John Gessner,
Planning Director

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Ms. Rouyer recognized several members of staff for starting several innovative programs:

- First Annual Saturday Leaf Drop-Off Program
Storm/Wastewater Crew: Kenny Hill, Shane Hart, Ellie Grassl, Dave Butcher, Shawn Shultz, and Gary Hathaway
Community Services Department: JoAnn Herrigel, Jason Wachs, and Grady Wheeler
- John Gessner for Neighborhood District Association Leadership Land Use Training Series
- Lindsey Nesbitt who managed the development review for the North Main Project
- Bonnie Lanz for forming the Oregon Permit Technicians Organization.

The City Council recognized Ms. Rouyer for her innovative and dedicated service to the vision of the community since June 1999.

CONSENT AGENDA

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

- A. **Resolution 1-2005: A Resolution of the City Council of the City of Milwaukie, Oregon Designating the Clackamas Review, The Oregonian, and the Daily Journal of Commerce as the Papers of Record for the City of Milwaukie;**
- B. **North Main Public Infrastructure Engineering Design Services Contract Award;**
- C. **Declare Library Board Vacancy;**
- D. **Resolution 2-2005: A Resolution of the City Council of the City of Milwaukie, Oregon, Transferring Appropriation Authority; and**
- E. **City Council Minutes of December 21, 2004.**

The motion to adopt the Consent Agenda passed unanimously.

AUDIENCE PARTICIPATION

Rosemary Crites, 4917 SE Aldercrest Road. Ms. Crites provided photos of parking available on Main Street at 12:30 this afternoon. There were two spaces open. It was an issue that would be more critical as time went by, and understood the Council's commitment to developing the town. She stated she was a real estate broker dealing in commercial real estate. She was involved with the leasing of the McLoughlin Building on the corner of McLoughlin Boulevard and Scott Street. Ms. Crites provided drawings of the proposed exterior renovations that would be stucco with larger windows and awnings.

Main Street has become an employee parking lot, and people simply move their cars every two hours. The building can be redeveloped but there was not enough parking. She was concerned about Kemper's project and discussed the type of retail she would like to see in Milwaukie. She discussed the feasibility of opening a Chico's in Milwaukie. The clientele would be from Eastmoreland to Oregon City, and she felt Chico's could do a great business in Milwaukie. However, a customer from Eastmoreland was not going to come to Milwaukie and drive around and around the block to find a place to park. The parking supply was not great enough to take care of retail because on-street parking was being used by employees. She suggested looking at the Odd Fellows site near Hwy 224. It would be a perfect place for a 3- or 4-story parking structure to take the pressure off of downtown. A structure like that would cost about \$ 3 million. She believed the Kemper and Parecki projects would be success bringing in more developers. They will take down a block at a time. She recommended going to the developer to get money to put aside for building a parking garage. She did not know what to do with the customers.

Mayor Bernard completed agreed with her comments about employee parking on the streets. They hoped there would be a parking plan before the City Council in May to

help deal with that issue. The downtown plan did offer a lot of parking potential, and moving the transit center from downtown streets would certainly improve parking. He hoped the Main Street lot would be used for customer parking rather than transit parking. The City could lease some of the Odd Fellows parking lot for transit riders.

Ms. Crites said the pressure needed to be removed and discussed a permit lot at Odd Fellows. She was not sure what to do about transit parkers. It will be difficult to bring retail into downtown without parking.

Mayor Bernard discussed customer parking and encouraging downtown businesses to look at things differently. Some people refused to walk 50 yards from their cars their place of employment. Customers need to have parking.

Ms. Crites suggested talking to the major Main Street employers about providing parking that was not on Main Street.

Ray Bryan, 11416 SE 27th Avenue, Milwaukie. He welcomed Councilor Collette to the City Council and expressed his admiration for her commitment to her neighborhood and its livability. He appreciated and envied her ability to speak and communicate. He thanked Ms. Rouyer for her poise and preparedness, which were unsurpassed. He thanked her for the good things she accomplished, and she would be missed. As a member of the Historic Milwaukie Neighborhood District Association (NDA) he felt it was necessary to respond to comments that were made two meetings ago. The unanimous opposition to the Kellogg Lake transit center by the Historic Milwaukie NDA may have been misinterpreted as opposition to change. He did not know anyone in the NDA that was opposed to change. However, change did not have to happen at the expense of the quality of life and the value of homes. The NDA continued to oppose the Kellogg Lake transit center location because it was bad for the neighborhood, bad for the environment, bad for the downtown, and violated the 14 Points that re-opened Milwaukie's door to light rail. He supported change that was good for Milwaukie and recently went door-to-door on 27th Avenue asking his neighbors to lobby Metro in support of the applications for transportation grants. He looked forward to working with this City Council in any way he could to help improvement the City. He was proud to be a friend and neighbor of Ed Zumwalt. His dedication and love for the neighborhood, library, riverfront, and City was second to none. He believed Ed was doing what any other neighborhood leader would do under the circumstances. Finally, he hoped none of this would become such a personal issue that people overlooked what they had in common and lose the ability to make wise decisions for the long-term interests of Milwaukie.

Dion Shepard, 2136 SE Lake Road, Milwaukie. In recent City Council meetings and articles in *The Pilot*, some members of the community claimed they were opposed to change and afraid of change. Simply because they sometimes had the courage to disagree. It took a lot more courage to disagree to members of the community than to just go along with whatever came along. She did not feel that was true. As a resident of Historic Milwaukie, she was looking forward to some of the changes that were

planned for the coming year. The widening of McLoughlin Boulevard. The North Main project. Even possibly the Oak Street project, although they did not know much about it and how it would change Milwaukie. These were some of the changes she envisioned when she moved to Milwaukie five years ago. It fit into the Downtown Riverfront Framework Plan, and she thought it was actually part of what would make Milwaukie a nicer community to live in. There were some projects such as the proposal to move the transit center to Kellogg Lake they could not in good conscience support. For all of the numerous reasons that were brought up in testimony from citizens both in the community and neighboring communities that were opposed to the proposal, the loss of significant waterfront property, environmental issues, the violation of the Downtown Riverfront Framework Plan, the loss of neighborhood livability, and increased traffic not just in her neighborhood but in other neighborhoods. All of those were issues that were critical. These were the most significant investments people were going to make – our families and our homes. Most of us would agree the transit center should move. In their opinion, the South Corridor Study evaluated a half dozen sites using documented criteria for site selection. The Southgate site was already paved and would have facilitated relocation without a lot of costs and environmental study costs. We have learned to cost to study Kellogg Lake was going to be close to \$3 million and further delay the transit center relocation. One of the things she found concerning was the fact it was going to cost close to \$3 million. She read that Bybee overpass cost \$4 million. We could have two pedestrian overpasses across McLoughlin Boulevard for what it would cost to study Kellogg Lake. Even then, we many not be able to move it there. There were other alternatives that should have been considered but were not. She thought Milwaukie had a lot to offer, and sometimes she thought many people in the community who have lived here a long time have not lived anywhere else. Sometimes one loses focus of what one had and takes it for granted. She thought Milwaukie had a lot to offer. It has a small town environment. Seven minutes from downtown Portland. It has lower taxes. Natural resources that many communities cannot have and could never have. We should be marketing that – not destroying that. The neighborhood was not opposed to change that was fair, well thought out, planned, and that did not compromise its values and livability.

Terrie Darling, 10987 SE 28th Avenue, Milwaukie. She welcomed Carlotta. She hated to ruin her first night by being a complainer. But, she was not really complaining. She was really happy about living in Milwaukie, and she loved all the people. She hated that people could not get along. It really bugged her. Her remarks were inspired by the last few Council meetings. She was very concerned about the relationships between the Council and the citizens and the staff and the citizens. First, at the November 16 work session Councilor Barnes brought news from the Economic Development Committee that some businesses were unhappy that Council and staff valued citizens more than businesses, and that Milwaukie would never prosper unless businesses' needs were given priority over citizens. Higher priority. To top that off, the city manager defended that statement by saying – this was paraphrased because she did not know exactly what he said – my staff advocated for moving the proposed transit center site catering to the needs of the North Industrial folks. She thought the Working Group process was democratic, but by his admission, our city manager invalidated the Working Group as a

democratic process. These comments infuriated her when she heard them. Citizen involvement was so precious, why did the leaders put citizens down? How can we assure future participation when situations like this occur on camera for the entire world to see? On December 7, Councilor Loomis – on camera again – put down a long time neighborhood leader for standing in the way of progress and growth. Then other Councilmembers got on the bandwagon commenting about that person. What was going on? Was she so naïve to believe in the democratic process? What was different in Milwaukie's government than from the rest of America? Public servants, elected or not, should never express their personal opinions about individuals in controversial issues closing the lines of communications with their constituency. People elect leaders to provide guidance and direction for the common good. When decisions have a negative effect on the community or benefit a small portion of that community, they invalidate the common good. They look for leaders who were strong, have backbone, and tenacious in fighting for what believe in. This was the situation in Historic Milwaukie Neighborhood. Contrary to what Council might think, our NDA leadership was representing the needs and providing directions to help them achieve their neighborhood goals. It was not the other way around. Their leader's reputation and integrity were impeccable.

Les Poole, 15115 SE Lee, Milwaukie. He was at the meeting to make a couple of comments, not to rehash the transit center. He wanted to comment on Measure 37 not so much for the Council as the public. There was a lot of confusion. As a land use aficionado, he wanted to go on record with an example. 2004 was a trying year for everyone, and Milwaukie made some great progress on some issues. Kudos to everyone on the North Main Project – job well done. Kudos for a lot of things that were happening, and hopefully the City would see the project to improve Lake Road to take place. The speed limit was 20 mph 24-hours a day, so why would someone pass on the right side. Hopefully, the City will see the money for that project. He had real concerns about the intersection of Aldercrest and Oatfield. He requested that someone on the Council or someone at the Milwaukie facility come up with an answer to the questions he presented.

Mayor Bernard explained that intersection was not in the City.

Mr. Poole asked how many times that guardrail had been replaced. The expenditures going on there were incredible. It was not so much the guardrail as the accidents and the safety. They were looking at some development at North Clackamas Park. If the transit center ultimately ended up at Kellogg Lake, there would be some diversionary traffic that would traverse Lake Road and further burden that intersection. He had some real concerns, and Milwaukie would certainly be influencing that intersection. We will all be victims of that no matter where the intersection was. He had some concerns about the transit center, but he would save those for Metro. As everyone knew, there would be a process with public input and hearings in front of TriMet on that issue. The last thing he wanted to talk about was Measure 37. He discussed Kellogg Lake. If he wanted to build a house there and it was reasonable and doable, and the City or County or streamside protection ordinance from any government entity that was passed that

denied him the ability to build that home, he would qualify for a Measure 37 claim. But what if he decided to rezone the property to commercial for a coffee shop or a park-and-ride. Now he had to apply to rezone the property. He came to the City Council, and they asked him what he was doing. This won't work, and the application was denied for good reason. Did he have a Measure 37 claim? The answer was no. He did not lose any value. He may have been denied the opportunity to rezone his property or change the use or value. If he were stopped from putting a transit center on his property at Kellogg Lake, the Council had not stopped him from building a home there. What about the citizens living in the neighborhood? What if the City approved his transit center at Kellogg Lake, and across the lake there were several property owners who were looking at a possible loss in value. Would those property owners qualify for Measure 37 claims? Not in a million years because it was not their property. He knew the City Council probably recognized this, but he wanted to go on record and help clear the air. He was doing a lot of work in that area, and people were really confused. No one was going to put a Plaid Pantry next to a gravel pit overlooking a berry farm in spite of Measure 37. He appreciated the opportunity to speak. He looked forward to the next year. There were some comments about communication between the citizens, particularly Ed Zumwalt. He did one thing all of us would do if they were in his shoes. He stood up, he has been a man, and against all odds he tried to do the right thing. He understood the City Council was caught in the middle of all the politics. He understood the City Council would also try to stand up and do the right thing. Sometimes it is impossible to make people happy, and he understood that. He guaranteed if the transit center went in at Kellogg Lake there was nothing the City Council could do or talk about that would make anyone happy down there. Kellogg Lake aside, let's move forward on everything else.

PUBLIC HEARING

None.

OTHER BUSINESS

Advisory Board Appointments

Mayor Bernard, with the consent of Council, appointed **Dick Newman** to the Planning Commission, **Cheryl Ausmann-Moreno** to the Public Safety Advisory Committee as the Ardenwald representative, and **Randall Welch** to the Design and Landmarks Committee.

Councilor Loomis felt inspired to make a short comment in reference to the City Council meeting a couple of weeks ago. He apologized if he personally offended anyone, as that was not his intent. Sometimes as a Councilor, one was better off not saying anything. That particular evening, he should have followed that rule. Considering the comment about Mr. Swanson, that was off base. It's a new year, let's move on.

Mayor Bernard commented having disagreements on a decision was fine, but personal attacks were not. He thought it was the City Council's responsibility to protect itself and

staff. He felt it was his responsibility to address those concerns. No one knew if the transit center would end up there. There was a long way to go. It may be 2010 before the funding was even considered. People needed to calm down. He was involved with the I-205 light rail alignment, and it did not even look like it used to. One needed to start with a base somewhere. He and Mr. Zumwalt sat down a couple of days later and had a discussion. They felt good about one another and willing to work together to make something great for the community. This was not a personal thing. It should never be a personal thing. He argued with people all the time about parking on downtown streets in front of business. They still did it, but he did not hate them for it. He did not call them liars, cheaters, or crooks. Those were some of the words used. He was offended by that, and he was offended that night by some of those words. The City Council never attacked anyone personally during the process. He refused to be personally attacked. He was not being paid for this job; he was a volunteer. His goal was the same as Mr. Zumwalt's. He wanted what was best for the community and make the decisions he felt he could be comfortable with for the rest of his life. He has lived in Milwaukie his entire life, but he also traveled a lot. He had seen what other communities had done. One of the reasons he ran for Council was to make something happen. North Main was happening, and McLoughlin Boulevard was happening. He was excited about the McLoughlin Building project. We have to be open to the future and change and projects being different than they started out.

Adjournment

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

Mayor Bernard adjourned the meeting at 7:55 p.m.

Pat DuVal, Recorder



To: Mayor and City Council
Through: Mike Swanson, City Manager
From: Larry Kanzler, Police Chief
Subject: Resolution – Appropriating 2004 Homeland Security Grant
Date: January 10, 2005

Action Requested

Approve the resolution appropriating the 2004 Homeland Security Grant.

Background

The Police Department has received a Homeland Security Grant award in the amount of \$ 48,460 for the purpose of augmenting the Clackamas County-wide response effort to a chemical, biological, radiological, nuclear and explosive weapon and/or cyber terrorism incident (CBRNE) by providing personal protection to first responders, life saving tools located in first responder vehicles, and target-hardening our critical public safety facility.

Oregon local budget law allows a City Council to approve expenditures of specific purpose grants through adoption of a resolution or ordinance.

Concurrence

The City Manager, Police Chief and Finance Director concur with the proposed resolution.

Fiscal Impact

The resolution appropriates \$ 48,460 for the purchase of chemical agent detection kits, chemical resistant clothing, hoods, gloves and tape, hazmat gear boxes, personal dosimeters, mobile display terminals and individual portable radios.

Work Load Impacts

The resolution facilitates operations by providing the equipment, training, command and control barrier protection upgrades necessary to mitigate CBRNE casualties and maximize response efforts for the Milwaukie Police Department. The training and maintenance of the requested equipment will be accomplished through existing in-house trainers and resources.

Alternatives

1. Approve the resolution as proposed.
2. Modify the resolution.
3. Do not approve the resolution.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
APPROPRIATING A 2004 HOMELAND SECURITY GRANT**

WHEREAS, the Police Department has received a 2004 Homeland Security Grant in the amount of \$ 48,460 for the purpose of augmenting the Clackamas County-wide response effort to a chemical, biological, radiological, nuclear and explosive weapon and/or cyber terrorism incident (CBRNE) by providing personal protection to first responders, life saving tools located in first responder vehicles, and target-hardening our critical public safety facility; and

WHEREAS, The Police Department has identified eligible uses of the grant to provide the equipment, training, command and control barrier protection upgrades necessary to mitigate CBRNE casualties and maximize response efforts for the Milwaukie Police Department; and

WHEREAS, Oregon local budget law allows a City Council to approve expenditures of specific purpose grants through adoption of a resolution or ordinance.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON:

The appropriation of the 2004 Homeland Security Grant is approved as follows:

<u>Resources:</u> Homeland Security Grant \$ 48,460	<u>Requirements:</u> Materials and Supplies \$ 48,460
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BE IT FURTHER RESOLVED that this resolution shall be effective immediately upon its passage.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:

Pat DuVal, City Recorder

Ramis, Crew, Corrigan & Bachrach, LLP



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: January 9, 2005 for January 16, 2005 Council Meeting
SUBJECT: Proposed Resolution Requesting Annexation to Clackamas County Fire District #1

ACTION REQUESTED

The action requested is Council adoption of the proposed resolution requesting that the Board of Directors of Clackamas County Fire District No. 1 approve the City's request to annex to the District.

BACKGROUND

Attached is an April 21, 2004 staff memo to Council regarding a "Proposed Resolution Requesting Annexation to Clackamas County Fire District No. 1." The April staff memo describes much of the background relevant to this discussion.

The annexation question was submitted to the electors at a September 21, 2004 Special Election, and the proposal was defeated, with 1,565 (47.12%) "yes" votes and 1,756 (52.88%) "no" votes.

The Council had committed to reduce the City's levy of its permanent rate in order to achieve no net increase in taxes paid. Many respondents felt that the commitment was not clear enough, and, therefore, I am proposing a companion measure to take effect if the annexation was approved. The companion measure would direct a reduction in the levy of the permanent rate for a fixed period of time. However, that measure is not ready at this time. Annexation law provides that the City receive approval of the District Board at least ninety (90) days prior to the election, while election law requires that the measure be submitted no later than sixty (60) days prior to the election. Thus, this is the first step in the process.

If the District Board approves the City's request, the Council will be asked to authorize two measures at the May 17, 2005 election. One will be approval of the annexation, and the other will be the companion measure directing the City to limit its levy of the permanent rate for a specified period of time. Both measures will require City Council approval prior to the March 17, 2005 deadline for filing measures with the County Elections Department.



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: April 21, 2004
RE: Proposed Resolution Requesting Annexation to Clackamas County Fire District No. 1

ACTION REQUESTED

Adoption of a resolution proposing annexation of the City of Milwaukie (“City”) to Clackamas County Fire District No. 1 (“District”).

BACKGROUND

Prior to 1998 the City provided fire suppression and emergency medical services to its citizens.¹ The Portland Fire Bureau and the District provided the same services to citizens in areas surrounding the City.

On December 15, 1997 the City and District entered into an agreement providing that the City purchase fire suppression and emergency medical services from the District.²

¹ In 1998 the City’s Fire Department employed twenty-five personnel, twenty-four of whom were assigned to fire suppression/emergency medical services and/or inspection. The Department also had one administrative position. The City transferred twenty-three incumbent fire suppression/inspection personnel to the District, and it retained the administrative position.

² From the City’s perspective the decision to “consolidate” resources with the District was motivated in large part by the savings. The following table illustrates the savings through FY 2003. For purposes of comparison a 3% rate of growth was assumed as the City’s budget increase were it to continue operations as a City department, and FY 1997 is the base year because it is the final full year the City operated the Department. A City administrative charge imposed from FY 1999 through FY 2001 is not included as it was discontinued. The assumption is that administrative overhead was included in the contract payment to the District from FY1999 on.

	FY 1997 Actual	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual
Personnel	\$1,730,051	0	0	0	0	0
Materials & Services	\$323,009	\$201	\$68	\$42	\$40	0
Admin	\$331,251	0	0	0	0	0
Facility	\$163,108	\$261,120	\$161,926	\$168,218	\$157,689	\$175,692
Vehicle	\$185,364	\$57,510	\$70,753	\$35,918	\$5,314	0
Dispatch	0	\$35,000	0	0	0	0
Capital	\$14,173	0	0	0	0	0
Contract	0	\$2,365,000	\$2,436,370	\$2,484,720	\$2,620,262	\$2,759,869
Total Cost	\$2,746,956	\$2,718,831	\$2,669,117	\$2,688,898	\$2,783,305	\$2,935,561

The agreement provided, among other things, for the transfer of City Fire Department personnel to the District “effective January 1, 1998,” an annual payment for services negotiated by the parties each year, and the retention of “costs of operation and maintenance of city facilities and equipment” by the City.³ The agreement is a contract for the purchase of services, and it does not eliminate the City’s identity as a fire service provider. The City pays the contract amount from the General Fund, whose revenues include property taxes generated by the City’s permanent rate (6.5379 per \$1,000 of valuation). The contract expires on June 30, 2008.

Since execution of the agreement the City and District have established contract payment amounts annually. The City receives the same services as residents of the District. The parties’ intention was to eventually establish an annual payment for services equal to the amount the District would realize were it to apply its permanent rate (2.4012 per \$1,000 of valuation) within the City.⁴ Equity demands this result inasmuch as City residents receive the same level of protection as District residents.

While the contract has served both parties well, it does present some drawbacks. For example, City residents are neither eligible to hold District elective office or to vote on District Board candidates or tax proposals. In addition, both the City and District are hampered in their long-term planning efforts because of the contract status. Both issues can be resolved by annexation of the City to the District. A successful annexation ensures Milwaukie residents the right to fully participate in District affairs, and the responsibility of both parties for emergency response will be permanently decided, thus affording them the ability to plan for the long-term.

The process for annexation is relatively simple. First, the Council forwards a proposal to annex to the District Board. That is the action being requested at this time. The District

Projected Cost if City-operated Department	N/A	\$2,914,246	\$3,001,673	\$3,091,723	\$3,184,475	\$3,280,009
Difference Between City-Owned Department and Contract	N/A	\$195,415	\$332,556	\$402,825	\$401,170	\$344,448

³ Since the transfer to the District, there have been seven promotions within the ranks of former City employees.

⁴ The following table illustrates the annual contract amounts and the effective rate paid by the City both for the contract amount and for the combined contract amount and facility costs:

	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004
City Value	\$1,043,702,190	\$1,087,994,810	\$1,126,363,831	\$1,164,528,391	\$1,201,307,346	\$1,233,327,802
Contract Amount	\$2,365,408	\$2,436,370	\$2,484,720	\$2,620,262	\$2,759,869	\$2,820,869
Effective Rate of Above	2.27	2.24	2.21	2.25	2.30	2.29
Facility Charge	\$261,120	\$161,925	\$168,218	\$189,227	\$175,692	\$154,656
Effective Rate With Facility Charge	2.52	2.39	2.36	2.41	2.44	2.41

Board considers the request, and, if approved, it notifies the City.⁵ The City then orders an election within the City on the date specified by the District Board. The question will appear on a September 21, 2004 ballot. In addition, the City of Oregon City has requested annexation to the District, and that question will be before Oregon City voters on September 21, 2004. If the annexation is approved it will become effective July 1, 2005.

One effect of a successful annexation will be to authorize the District to levy its permanent rate on properties within the City. A successful annexation does not reduce the City's permanent rate, which is one source of the funds used to pay the annual contract amount. However, the above issues that will be solved by a successful annexation are so compelling that the City should pledge during the term of this Council to ensure that the new taxing authority results in no net increase in the combined City/District levy of their permanent rates.

FISCAL IMPACT

The fiscal impact on the City's budget will be removal of the contract amount as an expense in the General Fund. If the above course of action is approved, the current Council will commit to set the levy of the City's permanent rate at an amount that will not result in a combined City/District permanent rate levy in excess of 6.5379 per \$1,000 of valuation. If the annexation is successful, the City and District will negotiate the terms of the District's rental of space at the City's Public Safety Building.

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⁵ Prior to the last legislative session the annexation question was submitted separately to both City and District electors. HB 2818 now provides that the District Board is not required to call an election within the District if the population of the city to be annexed is less than twenty percent of the population of the district and the entire boundary of the city is to be annexed. That is a District Board decision.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, PROPOSING ANNEXATION OF THE ENTIRE CITY TO CLACKAMAS COUNTY FIRE DISTRICT NO. 1 (DISTRICT), FOR THE PURPOSE OF RECEIVING SERVICES FROM THE DISTRICT

WHEREAS, the District provides fire and emergency medical services within the City of Milwaukie under contract with the City; and

WHEREAS, the District has fire stations located at 11300 S.E. Fuller Road, 3200 S.E. Harrison, 2930 S.E. Oak Grove Boulevard, and 6600 S.E. Lake Road; and

WHEREAS, the said fire stations most directly serve the residents and properties of the City; and

WHEREAS, the City is satisfied with the excellent services provided by the District and desires that the District continue to provide such services; and

WHEREAS, the City paid \$2,820,869 to the District for services in FY 2003-2004 and \$2,891 in FY 2004-2005; and

WHEREAS, by annexing the City the District can directly levy property taxes for its services without passing through the City's budget process; and

WHEREAS, if the territory of the City is annexed to the District, the City would no longer need to pay the District to provide services; and

WHEREAS, if the territory of the City is annexed to the District, City electors would become eligible to participate in District Board elections and tax measures; and

WHEREAS, annexation of the City by the District will create a permanence that will enable both parties to better plan for the long-term; and

WHEREAS, City residents will benefit from the ability of the District to leverage its larger resource base and successful experience.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby proposes annexation of the territory within the City by the Clackamas County Fire District No. 1 for the purpose of providing fire and emergency medical services.

This resolution is effective immediately upon adoption.

Introduced and adopted by the City Council on _____ 2005.

James Bernard, Mayor

ATTEST:

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

Pat Duval, City Recorder

City Attorney



To: Mayor and City Council

From: Mary Rowe, HR Director

Subject: City Manager Performance Review and Compensation

Date: January 3, 2005

Action Requested

Provide the City Manager, Mike Swanson, a lump sum merit bonus of \$6,500 on February 1, 2005.

Background

Last year the Council agree to provide Mike with an annual bonus of \$4,500 that is renewable on February 1 of each year that both the Council and the City Manager mutually agree to renew the employment contract. This was done in lieu of adjusting the base range to more accurately match the market wages for City Manager positions in comparable agencies.

The Mayor and Council have completed a performance review for the City Manager, Mike Swanson. There was consensus that Mike is doing an excellent job as City Manager and Council feels that his performance exceeds expectations. Council recognizes that this past year presented some tough issues. Mike has been instrumental in restoring trust in the City of Milwaukie administration with both citizens and staff in spite of the difficult issues that face the City. Mike has excellent knowledge of regional issues and establishes positive relationships with other government agencies. In light of this and in recognition that Mike will be serving not only as City Manager but also as interim Community Development Director for the next 3 – 5 months, the Council has decided to give Mike a bonus of \$6,500 this year on Feb. 1, 2005. The contract will remain the same, which provides for a renewable yearly bonus of \$4,500. Given Mike's outstanding performance, his knowledge and abilities and in order to further bridge the gap between Mike's current salary and that of City Managers in neighboring agencies, Council deems it appropriate to increase the bonus this particular year.

Concurrence

The City Attorney agrees with the above stated terms. Mr. Swanson has agreed that the proposed terms are acceptable to him.

Fiscal Impact

There is a cost of \$6,500 for the lump sum bonus.

Work Load Impacts

None

Alternatives

Not recognizing the excellent performance of the City Manager, which would run the risk of losing his talents and recruiting for a new City Manager.

**Employment Agreement
Extension**

This agreement is made and entered in this ____ day of January 2005, by and between the City of Milwaukie, Oregon, a municipal corporation (“CITY”) and Michael F. Swanson. (“Employee.”)

By mutual agreement the City and Employee agree to extend the Employment agreement they entered into on March 17, 2004. The AGREEMENT will be extended for a period of one year until January 31, 2006.

All terms of the AGREEMENT dated March 17, 2004 will remain intact in their entirety.

Mike Swanson will however receive a one-time bonus on February 1, 2005 of \$2,000 in addition to the \$4,500 referenced in the original agreement.

CITY OF MILWAUKIE

EMPLOYEE

Mayor James Bernard

City Manager Michael F. Swanson

ATTEST:

City Recorder Pat Duval

APPROVED AS TO FORM:

City Attorney Gary Firestone



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: John Gessner, Planning Director

Date: January 18, 2005

Subject: Metro Title 7 Affordable Housing Report

Action Requested

Consider the recommendation to not adopt the Metro 5-year Voluntary Affordable Housing Target, not adopt Title 7 Affordable Housing Land Use Tools, and authorize the Mayor to sign the attached letter to Metro.

Background

On January 11, 2005 the Planning Commission considered the following staff recommendations regarding metro affordable housing requirements. This report was prepared in advance of the Commission action and anticipates its concurrence. The City Council must take action on Title 7 in accordance with Metro Code. The attached letter, for the Mayor's signature, has been prepared in anticipation of Planning Commission and City Council concurrence with the staff recommendation. This matter has been expedited to guard against prejudice against the City's transportation funding requests with Metro.

The Commission and City Council have previously considered requirements of Metro Affordable Housing provisions. There are two steps that must be completed to satisfy Title 7 requirements. Accordingly, staff requests the Council consider the following recommendations regarding the Metro's voluntary affordable housing target and seven affordable housing land use tools. It is recommended the Council not adopt the housing target or any of the land use tools as follows.

1. 5-Year Affordable Housing Target

Metro's 2001-2006 Affordable Housing Production Goal for Milwaukie is 102 units for households earning less than 30% of the regional median family income. The year 2000 regional median family income was \$56,045. 30% of the regional median is \$16,844, which translates to an "affordable" rent of no more than \$420 per month. In 2000, the median gross rent in the City was \$646. Providing housing for households earning less than 30% of the regional median income is very challenging and will likely not happen without significant financial assistance. The City of Milwaukie does not presently have the resources to support this effort.

Housing production over the last five years has been very low, ranging between 15 and 25 net new homes per year.¹ It is expected that total housing production over a five-year period would be slightly more than the affordable housing target alone.

2. Affordable Housing Land Use Tools

A summary of considerations and reasons for not adopting implementing measures follow:²

- *Density Bonus*

Density bonuses are used as incentives to achieve affordable housing by increasing the total number of units in a project that would otherwise be possible contingent upon providing affordable units.

City code presently contains a density bonus provision that encourages creation of units valued at 25% below the cost of new single-family homes.

Higher densities have been established in the Town Center and on approved mixed-use sites based on planned transportation and infrastructure capacities. Additional time should be given for the market to respond to zoned capacity in the Town Center before implementing additional density bonus provisions.

- *Replacement Housing*

Metro recommends cities and counties consider a policy that would require the replacement of existing affordable housing on properties for which a change of comprehensive land use designation is proposed.

City code requires consideration of applicable comprehensive plan goals and regional policies during review of Comprehensive Plan Map amendments. This requirement extends to applications that would result in the loss of existing affordable housing stock. The City believes that existing code

¹ Excluding the recently developed 17-lot Centex subdivision in 2003-04.

² See the attached excerpt from Metro's Regional Housing strategy that gives more details on each of these tools.

provisions are adequate to ensure consideration of affordable housing issues at the time of a requested map change.

Nonetheless, the City is concerned that mandatory replacement housing might unduly weigh site-specific affordable housing over other important planning considerations.

- *Inclusionary Housing*

This tool is typically used to require a certain number of units in a residential project be dedicated and preserved as affordable units.

The City believes that inclusionary housing requirements would not be an effective tool for producing affordable housing due to limited land supply, low housing production rates experienced over the last 5 years, and the dominance of detached single family housing in new housing production. Additionally, with the slow market response to planned densities in the Town Center, the City is concerned that inclusionary requirements might be adversely received by the development community or impair the economic viability of prospective development projects.

- *Transfer of Development Rights (TDR)*

TDR's relocate development potential from the parent site, which contains some feature or quality that warrants protection, to a receiving site so that the total density on the receiving site is greater than would otherwise be possible.

The City will not enact an affordable housing TDR at this time due to existing commitments of high density residential areas in the Town Center and the lack of suitable receiving sites outside the Town Center.³ Notwithstanding, the City has adopted policies in support of transfer of development rights and will consider implementation when future circumstances show that they can be used effectively.

- *Elderly and People with Disabilities*

Existing zoning provides generous siting opportunities for a variety of housing types for the elderly and disabled.⁴ In addition, the City enforces Fair Housing Act provisions that integrate special needs housing in the community. The

³ Up zonings proximate to state transportation facilities requires compliance with the Transportation Plan Rule 660-12-0060, which can be a significant constraint to desired land use changes that increase traffic on state roads.

⁴ Residential homes are allowed in all residential zones and three commercial zones. Senior and Retirement housing are allowed in nine residential zones and two commercial zones. Congregate housing is allowed in five residential zones and one commercial zone. Adult Foster Homes are allowed in all residential zones. The City hosts a number of public and private homes that care for persons with on-going and transitional mental and physical health care needs.

City believes that existing code provides satisfactory land use opportunities for these populations.

- *Fix local regulatory constraints, Discrepancies in Planning and Zoning Codes, Local Permitting or Approval Process*

Milwaukie's regulatory and procedural requirements impose a minimum of excess time or cost burden to applicants as demonstrated by the following:

The City has an exceptionally low appeal rate, at both the local level and at LUBA. There has been only one local challenge to a development project in the last five years. There have been no LUBA challenges in the last 5 years.

Most development applications that require Planning Commission review are decided within 60 to 90 days. In addition, the approval rate for development projects is very high.

The City has a streamlined development review process with few mandatory amenities, design elements, or other features that add cost and time to projects. Accordingly staff believes that the development review process and development standards do not discourage the creation of affordable housing.

- *Parking*

Metro requires that cities and counties consider ways by which the zoning and other requirements for parking adversely impact the cost of providing affordable housing.

The City's current parking standards for housing are the minimum necessary to ensure adequate parking supply and marketability of residential projects. In 1998, the specific measures that allow reduction of required parking were adopted to take advantage of shared parking, transit opportunities, or use-specific parking demand.

In addition, off-street parking is not required in a large area of the downtown within the Town Center, which minimizes potential cost impacts associated with housing development, whether market rate or affordable.

Conclusion

The City acknowledges the importance of affordable housing through the many polices that have been adopted into the Comprehensive Plan. However, implementation of these polices presents challenges that may be best met through a combination of market forces, non-profit sector participation, and governmental support. Staff believes that the very low residential growth rate in the city is a significant impediment to effective implementation of the housing target and land use strategies. In addition, the lack of city resources to support the creation of new affordable housing is an additional limitation.

Concurrence

The City Manger and Community Development Director concur with the staff recommendation.

Fiscal Impact

There is no fiscal impact associated with accepting the staff recommendation.

Work Load Impacts

The report and the attached letter completes Title 7 reporting requirements. There are no additional work requirements.

Alternatives

The Council has the following decision-making alternatives:

1. Accept the recommendation.
2. Reject the recommendation.
3. Adopt, but modify the recommendation.
4. Take no action.

Attachment

Draft Letter to Metro Council President

DRAFT

January 18, 2005

Mr. David Bragdon
Metro Council President
600 NE Grand Avenue
Portland, OR 97232-2736

Subject: Title 7 Reporting

Dear Council President Bragdon:

This letter completes the City of Milwaukie's reporting as required by Title 7 of the Urban Growth Management Functional Plan. The first report, required by Metro Code 3.07.740(A) has been previously submitted. This letter addresses requirements of Metro Code 3.07.740(B) and 3.07.740(C), which were reviewed in public meetings by the Milwaukie Planning Commission on January 11, 2005, and the Milwaukie City Council on January 18, 2005.

Summary of Findings

1. The Milwaukie Comprehensive Plan contains a wide range of policies that promote the preservation and creation of affordable housing. See the attachment for a summary of these policies.⁵
2. The market has been slow to react to planned densities that are expected to create new housing in the Town Center, including affordable housing.⁶
3. Available residential land supply is constrained in both the Town Center and remainder of the City. This condition, in combination with weak market and other forces has resulted in low annual residential growth rates. For the last 5

⁵ Also included are existing code provisions that support affordable housing.

⁶ While, this trend is true since adoption of the Town Center plan, the recently approved public-private North Main Street Redevelopment project will result in 97 new multifamily units including a mix of ownership and rental units.

years residential development has averaged a net of only 15 to 20 units per year.⁷

4. Metro's 2001-2006 Affordable Housing Production Goal for Milwaukie is 102 units for households earning less than 30% of the regional median household income. Based on recent housing trends identified above, it is expected that total housing production over a five-year period would be slightly more than the affordable housing target alone.

Providing housing for households earning less than 30% of the regional median income is very challenging and will likely not happen without significant financial assistance. The City of Milwaukie does not presently have the resources to support this effort.

5. The City has considered the seven affordable housing land use tools specified in Metro Code 3.07.730(B) and has decided to not adopt implementing measures at this time. A summary of considerations and reasons for not adopting implementing measures follow:

Density bonus

City code presently contains a density bonus that encourages creation of units valued at 25% below the cost of new single-family homes.

Higher densities have been established in the Town Center and on approved mixed-use sites based on planned transportation and infrastructure capacities. Additional time should be given for the market to respond to zoned capacity in the Town Center before implementing additional density bonus provisions.

Replacement Housing

City code requires consideration of applicable comprehensive plan goals and regional policies during review of Comprehensive Plan Map amendments. This requirement extends to an application that would result in the loss of existing affordable housing stock. The City believes that existing code provisions are adequate to ensure consideration of affordable housing issues at the time of a requested map change.

Nonetheless, the City is concerned that mandatory replacement housing might unduly weigh site-specific affordable housing over other important planning considerations.

⁷ With the exception of 2004 during which time a 17-lot subdivision was developed in addition to other single family development. No multifamily units have been constructed in several years and most sites zoned for multifamily development are already developed.

Inclusionary Housing

The City believes that inclusionary housing requirements would not be an effective tool for producing affordable housing in Milwaukie due to limited land supply, low housing production rates experienced over the last 5 years, and the dominance of detached single family housing in new housing production. Additionally, with the slow market response to planned densities in the Town Center, the City is concerned that inclusionary requirements might be adversely received by the development community or impair the economic viability of prospective development projects.

Transfer of Development Rights (TDR)

The City will not enact an affordable housing TDR at this time due to planning existing commitments of high density residential areas in the Town Center and the lack of suitable receiving sites outside the Town Center.⁸ Notwithstanding, the City has adopted polices in support of transfer of development rights and will consider implementation when future circumstances show that they can be used effectively.

Elderly and People with Disabilities

Existing city zoning provides generous siting opportunities for a variety of housing types for the elderly and disabled.⁹ In addition, the City enforces state and federal Fair Housing Act provisions that integrate special needs housing in the community. The City believes that existing code provides satisfactory land use opportunities for these populations.

Fix local regulatory constraints, Discrepancies in Planning and Zoning Codes, Local Permitting or Approval Process

Milwaukie's regulatory and procedural requirements impose a minimum of excess time or cost burden to applicants as demonstrated by the following:

- The City has an exceptionally low appeal rate, at both the local level and at LUBA. There has been only one local challenge to a development

⁸ Up zonings proximate to state transportation facilities requires compliance with the Transportation Plan Rule 660-12-0060, which can be a significant constraint to desired land use changes that increase traffic on state roads.

⁹ Residential homes are allowed in all residential zones and three commercial zones. Senior and Retirement housing are allowed in nine residential zones and two commercial zones. Congregate housing is allowed in five residential zones and one commercial zone. Adult Foster Homes are allowed in all residential zones. The City hosts a number of public and private homes that care for persons with on-going and transitional mental and physical health care needs.

project in the last five years. There have been no LUBA challenges in the last 5 years.

- Most development applications that require Planning Commission review are decided within 60 to 90 days. In addition, the approval rate for development projects is very high.
- The city has a streamlined development review process that accommodates neighborhood involvement with few requirements for mandatory amenities, design elements, or other features that add cost and time to the project.

The City believes that the development review process and development standards do not discourage the creation of affordable housing.

Parking

The City's current parking standards for housing are the minimum necessary to ensure adequate parking supply and marketability of residential projects outside the Town Center. In 1998, the specific measures that allow reduction of required parking were adopted to take advantage of shared parking, transit opportunities, or use-specific parking demand.

In addition, off-street parking is not required in a large area of the downtown within the Town Center, which minimizes potential cost impacts associated with housing development, whether market rate or affordable.

The City acknowledges the importance of affordable housing through the many polices that have been adopted into the Comprehensive Plan. However, implementation of these polices presents challenges that may be best met through a combination of market forces, non-profit sector participation, and governmental support. The low residential growth rate in the city is a significant impediment to effective implementation of the housing target and land use strategies. In addition, the lack of city resources to support the creation of new affordable housing represents additional challenges. Please feel free to contact me should you have any questions.

Sincerely,

James Bernard
Mayor

copy: Milwaukie Planning Commission

Mr. David Bragdon
January 18, 2005
Page 10 of 4

Mike Swanson, City Manager
John Gessner, Planning Director
Metro Councilor Brian Newman

City of Milwaukie Comprehensive Plan Policies and Implementing Measures that Support Affordable Housing

The Residential Land Use and Housing Element of the Comprehensive Plan broadly describes the City's housing policy to ensure the preservation of existing housing and creation of adequate new housing to meet the needs of city residents and larger metropolitan housing market, while preserving neighborhood quality and identity.

The Plan notes that at the time of its adoption in 1987, the ability of the average Milwaukie household to purchase a home had been increasing as incomes were rising faster than housing costs. It is not presently known whether this remains true today. Additionally, the Plan supports providing the purpose of providing a choice of different housing types, tenure, and costs, and that the needy are provided adequate housing.¹⁰

Specific policies regarding affordability, range of housing types, and special needs include the following:

1. The City will work with the private sector to provide a diverse range of affordable housing in the Town Center.¹¹
2. Density Bonuses and transfers of development rights are encouraged to realize full development potential on individual parcels.¹²
3. The City encourages an adequate and diverse range of housing types and seeks to meet the housing needs of all segments of the population including the following specific measures:¹³
 - a. While single family housing is expected to be the dominant housing type, multifamily, manufactured homes, and mobile homes are encouraged in the appropriate locations.
 - b. Infill housing that uses innovative development techniques that reduce housing costs is encouraged.

¹⁰ Chapter 4 Residential Land Use and Housing Element, Goal Statement, Background & Planning Concepts.

¹¹ Chapter 4 Residential Land Use and Housing Element, Objective #2 Residential Land Use: Density & Locations. Chapter 4, Neighborhood Element. Objective 12.

¹² Chapter 4 Residential Land Use and Housing Element, Objective #3 Residential Land Use: Design. This objective is balanced against minimizing neighborhood impacts. Planned Unit Developments are encouraged to minimize environmental impacts and increase potential residential densities.

¹³ Chapter 4 Residential Land Use and Housing Element, Objective #5 Housing Choice.

- c. Planned Unit Developments are eligible for density bonuses up to 10% for units that are priced 25% below average new single family housing cost.
4. Policies directed to assisting low and moderate income households in obtaining adequate housing including the following:¹⁴
 - a. City participation in regional and county programs aimed at identifying housing need, administering state and federal monies, and participating in area programs.
 - b. Identify and assist individuals and neighborhoods in obtaining funds for housing rehabilitation, neighborhood parks, and rental assistance.
 - c. Encourage provision of senior and handicapped housing at reasonable cost. Provide incentives for senior and handicapped housing.
 5. Programs to assist needy homeowners in rehabilitating and maintaining their property are encouraged.¹⁵
 6. The City will encourage housing for elderly and moderate-income families to be located close to public transit and services.¹⁶
 7. The Milwaukie Town Center should embody diverse housing types and a range of affordable housing.¹⁷

Code Provisions that Promote Affordable Housing

1. The City encourages Accessory Dwelling Units for the purpose of providing affordable housing while providing homeowners with alternative financial resources.¹⁸
2. The City allows a density bonus of one additional housing unit for every unit priced at 25% below the average cost of new single family homes. The overall project density may not exceed the allowable density plus 10%.¹⁹

¹⁴ Chapter 4 Residential Land Use and Housing Element, Objective #6 Housing Assistance.

¹⁵ Chapter 4 Residential Neighborhood Element, Objective #2 Neighborhood Needs, Neighborhood #2 (Linwood), Guideline #1.

¹⁶ Chapter 5, Transportation/Public Facilities/Energy Conservation, Transit Goal Statement #1, Objective #3.

¹⁷ Town Center Plan, Regional Center Steering Committee Objectives, 12/2/97

¹⁸ Zoning Ordinance Section 404, Type 1 Accessory Dwelling Unit.

¹⁹ Zoning Ordinance Section 419, Density and Housing Cost.



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Director of Community Development & Public Works

From: Jeffrey King, Project Manager

Subject: Transportation SDC fund budget transfer for design and engineering of 21st Street extension

Date: January 4, 2005 for January 18, 2005 Council meeting

Action Requested

To approve a resolution authorizing a \$90,000 appropriation transfer in the transportation SDC fund to design and engineer 21st Street Extension.

Background

In October 2004, the City Council approved the Development and Disposition Agreement (DDA) with Main Street Partners, LLC, the developers of the North Main Redevelopment project. The DDA is a legally binding agreement that defines the terms of the real estate and development deal between the City and the developer, including property conveyance to the developer. The DDA also outlines the formal obligations of each party.

As part of the DDA, the City agreed to design and construct several off-site infrastructure improvements in the adjacent and nearby public right-of-way. These sidewalk, utility, street extension and streetscape improvements are estimated at \$1,000,000. The design and engineering for these improvements are approximately \$90,000. A contract with HHPR, Inc. for the design and engineering work was approved by the City Council on January 4, 2005.

A portion of these improvements, specifically the extension of 21st Street and related frontage will provide new access capacity to the Ledding Library, North

Main Redevelopment Project, and Scott Park. Because it will create new capacity, it is eligible for transportation SDC funding. It is estimated that 25-30% of the total project cost of the public infrastructure improvements can be funded by transportation SDCs. HHPR will provide us with a more exact accounting of costs that are SDC eligible.

In the FY 05, the 21st Street Extension Project was included in the Capital Improvement Plan as well as the SDC Projects list. However funds were not specifically allocated for use on this project during this fiscal year. In order to access these funds this fiscal year a transfer of \$90,000 from transportation SDC contingency funds to capital outlays is needed. This will allow for the start and completion of design and engineering work, completion of construction bidding and possibly start of some construction work this fiscal year.

Non-eligible public infrastructure improvement work will be funded by a state Special Public Works Fund Loan and a \$25,000 Mt. Hood Economic Alliance grant. The entire North Main Redevelopment Project, both onsite private and offsite public is expected to be completed by June, 2006.

Concurrence

The Community Development Department, Engineering Director, Finance Director, and City Attorney have reviewed the proposed appropriation transfer and recommend Council approval.

Fiscal Impact

\$90,000 in SDC Funds will be used to pay a portion of the public infrastructure design and engineering improvements that are SDC eligible.

Work Load Impacts

Existing staff and consultant are managing this project. They are part of existing Community Development staff work plan and budget.

Alternatives

1. Approve budget appropriation resolution as presented.
2. Approve budget appropriation resolution with modifications.
3. Delay approval of budget appropriation resolution for further review.
4. Decline to approve and budget appropriation resolution.

Attachment

Budget resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, FOR THE PURPOSES OF BUDGETING FOR DESIGN AND ENGINEERING OF NEW STREET CAPACITY.

WHEREAS, The City plans to design and build new street capacity by extending 21st Street beyond Harrison Street; and

WHEREAS, Oregon Budget Law allows a governing body to transfer appropriation authority by passing a resolution or ordinance (ORS 294.450(1) & (3);

NOW, THEREFORE, BE IT RESOLVED that the transfer of appropriation in the Transportation SDC fund is hereby approved as follows:

From:	To:
Contingency	Capital Outlays
\$90,000.00	\$90,000.00

Introduced and adopted by the City Council on January 18, 2005.

This resolution is effective on January 18, 2005.

James Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

City Attorney

Document2 (Last revised)



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: January 9, 2005 for January 18, 2005 Agenda
**RE: Amendment to Ordinance no. 1940 Authorizing Action by
Neighboring Property Owners in the Event of a Successful
Ballot Measure 37 Claim**

ACTION REQUESTED

The action requested is adoption of the proposed ordinance authorizing a civil action by neighboring property owners against a claimant who successfully prosecutes a Measure 37 claim.

BACKGROUND

The Council adopted Ordinance No. 1940 (copy attached) implementing Ballot Measure 37 at its November 16, 2004 Council meeting. The timing of the adoption—a mere two weeks following adoption of the Ballot Measure 37 by the voters on November 2, 2004—was accelerated in order to comply with the December 2, 2004 effective date of the Measure. At the time of the adoption staff cautioned that additional provisions or amendments to the ordinance were probably, given the fast turnaround.

One issue that was not considered at the November 16, 2004 hearing was the effect on neighboring property owners of a successful Ballot Measure 37 claim in which a waiver was granted. Should the waiver result in a reduction in the value of the neighboring property owner, the Measure provided no relief. The proposed ordinance fills that gap by creating a cause of action in Circuit Court should a Ballot Measure 37 waiver reduce surrounding property values. In order not to impair the rights of surrounding property owners, this ordinance includes an emergency clause.

CITY OF MILWAUKIE
ORDINANCE NO. 1940

AN ORDINANCE PROVIDING A PROCESS FOR CONSIDERATION OF WRITTEN DEMANDS FOR COMPENSATION UNDER 2004 BALLOT MEASURE 37, ADDING A NEW CHAPTER 1.20 TO THE MILWAUKIE MUNICIPAL CODE, AND DECLARING AN EMERGENCY.

WHEREAS, the City has developed a sound system of land use planning, which includes regulations that in some cases restrict the uses that can be made of property; and

WHEREAS, the restrictions on use of property have both served the public interest and increased property values by allowing the City to develop a harmonious way avoiding incompatible uses and assuring appropriate development; and

WHEREAS, the voters of the state adopted Ballot Measure 37 in the November 2004 election adding new sections to ORS Chapter 197, which provide that local governments may pay compensation to property owners for reductions in property values resulting from land use regulations that restrict uses of the property; and

WHEREAS, some property owners may believe that existing or future land use regulations as applied to their property both restrict use of the property and reduce the fair market value of the property and consequently may bring claims under Measure 37; and

WHEREAS, Ballot Measure 37 explicitly allows local governments to develop procedures for assessing claims made under Measure 37; and

WHEREAS, it is appropriate for the City to provide a Measure 37 claims procedure; now, therefore;


THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

- Section 1. The Milwaukie Municipal Code is amended by adding a new Chapter 1.20 in the form of Exhibit A attached hereto and incorporated by this reference.
- Section 2. Because this ordinance is necessary for the preservation of the health, safety and welfare of the City and is needed to provide a process for claims by December 2, 2004, an emergency is declared to exist and this ordinance shall be in full force and effect on December 2, 2004.

Read the first time on 11/16/04 and moved to second reading by 4-0 vote of the City Council.


Read the second time and adopted by the Council on November 16, 2004

Signed by the Mayor on November 16, 2004



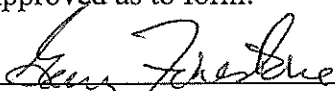
Larry Lancaster, Council President

ATTEST:



Pat DuVal, City Recorder

Approved as to form:



City Attorney

11/16/04

Date

EXHIBIT A
to Milwaukie Ordinance No. 1940

Chapter 1.20 Compensation for Reduction in Property Value

1.20.010 Purpose

The purpose of this Chapter is to provide procedures and standards for claims for compensation made pursuant to 2004 Measure 37.

1.20.020 Definitions

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

“Affected property” means the private real property that is alleged to have suffered a reduction in fair market value as result of the City’s regulation restricting the use of that property and for which a property owner seeks compensation for the reduction in value.

“Claimant” means the property owner who submits a written claim for compensation under Section 1.20.030.

“Regulation” shall mean any law, rule, ordinance, resolution, goal, or other enforceable enactment of the City.

“Restricts the use of property” means prohibiting a particular use of the property or making that use only permissible under certain conditions. Standards that regulate the form of development, how a structure must be constructed, or how grading or fill is to be conducted, such as yard setback requirements, height limitations, erosion control measures and building code standards, are not restrictions on the use of property, provided they allow reasonable use of the property for uses permitted at the time the owner acquired the property. Regulations requiring or setting fees to be charged are not restrictions on the use of property.

“Manager” means City Manager or designee.

1.20.030 Application for Compensation

A. A property owner wishing to make a claim against the City under Measure 37 shall first submit a written demand for compensation to the City. A written demand for compensation is one that includes:

1. Identification of the affected property. Identification may be by street address, subdivision lot number, tax lot number, or any other information that identifies the property.

2. The name and contact information of the person making the claim , the date the Claimant acquired the property, and, if applicable, the date that a family member of Claimant acquired the property.
3. Identification of the regulation that is alleged to restrict the use of the affected property and the amount of compensation claimed.
4. The amount claimed as compensation.

B. The City encourages but does not require the person claiming compensation to include the following information with the written demand for compensation:

1. A statement describing how the restriction affects the value of the property.
2. A statement describing the extent to which the regulation would need to be waived, suspended, or modified to avoid the need for compensation.
3. A statement whether the application seeks compensation or a waiver, suspension or modification of the regulation.
4. A list of all persons with an ownership interest in or a lien on the property.
5. An appraisal showing the difference in the property value with and without the regulation. The City encourages the use of certified or licensed appraisers.

1.20.040 Notice

The City shall provide notice of the hearing required by Section 1.20.070 to all owners of the property, lien holders and security interest holders, record owners of property within 250 feet of the property, the neighborhood association for the neighborhood where the property is located, and anyone who has requested notice at least 7 days before the hearing. The notice shall identify the property, state the date, time and place of the hearing, state the amount of the claim, list a city contact person and phone number, advise of the availability of the staff report and summarize the hearing procedures and nature of the claim. Failure of any person to receive notice or any defect in the notice shall not invalidate any action taken or decision made at the hearing.

1.20.050 Staff Report

City staff shall prepare a report analyzing the claim. The staff report shall be reviewed by the Community Development Director, Finance Director, and Manager before being submitted to the City Council. Staff may discuss options with the Claimant and may enter into a settlement agreement with the Claimant as to actions within staff's authority. Staff may agree with Claimant that staff will recommend a particular course of action to the City Council if staff lacks authority to commit to the action.

The staff report shall be submitted to the Council, mailed to the Claimant, and made available to the public at least 7 days before the public hearing required by Section 1.20.070.

1.20.060 City Council Proceedings

The City Council shall hold a public hearing on the claim. The public hearing should normally be set within 150 days of the demand for compensation but may be set at any time. The City Council may hold an executive session on the claim at any time.

1.20.070 Public Hearing

The Claimant and any other person shall be provided a reasonable opportunity to present evidence and argument at the public hearing. The City Council may limit the duration of testimony.

1.20.080 Council Decision

In deciding the claim, the City Council may take any of the following actions:

1. Deny the claim based on any one or more of the following findings:
 - a. The regulation does not restrict the use of the private real property,
 - b. The fair market value of the property is not reduced by the passage or enforcement of the regulation.
 - c. The claim was not timely filed.
 - d. The Claimant is not the current property owner.
 - e. The Claimant or family member of Claimant was not the property owner at the time the regulation was adopted.
 - f. The regulation is a historically and commonly recognized nuisance law or a law regulating pornography or nude dancing.

- g. The regulation is required by federal law.
 - h. The regulation protects public health and safety.
 - i. The City ^{is} ~~is~~ not the entity responsible for payment. The City is not responsible if the challenged law, rule, ordinance, resolution, goal or other enactment was not enacted by the City.
 - j. The City has not taken final action to enforce or apply the regulation to the property for which compensation is claimed.
 - k. The Claimant is not legally entitled to compensation for a reason other than those listed in subsections a through g. The basis for this finding must be clearly explained.
 - l. The City has not established a fund for payment of claims under Measure 37.
2. Pay compensation, either in the amount requested or in some other amount supported by the evidence. If the City pays compensation, the City shall continue to apply and enforce the regulation. Any compensation shall be paid from funds appropriated for that purpose.
 3. Waive or not apply the regulation to allow the owner to use the property for a use permitted at the time the Claimant acquired the property. The waiver shall limit and/or condition the allowed use to assure conformity with the regulations that were in effect at the time the claimant acquired the property.
 4. Modify the regulation so that it does not give rise to a claim for compensation. Any such modification shall be as to the property only unless the City follows the procedure for a legislative land use decision.
 5. Conditionally waive or suspend the regulation subject to receipt of a defined amount of contributions toward compensation by a specified date from persons opposed to the waiver or suspension, such as persons who believe they would be negatively affected by waiver or suspension, with the waiver or suspension being granted if the defined amount of contributions is not received by the specified date. If the contributions are received, compensation shall be paid within 180 days of the date the written demand for compensation was filed. The specified date shall allow the City time to process the contributions and pay compensation.

The City Council may take other actions it deems appropriate in individual circumstances, may modify the listed actions, and/or may combine the listed actions, consistent with Measure 37. The City Council may negotiate an acceptable solution with the Claimant or may direct staff to negotiate with the Claimant. In the event that the City Council directs staff to negotiate, the Council shall set the matter for further action no less than 175 days from the date of the notice of claim became complete. If the City Council directs staff to negotiate, it may delegate authority to staff. The Council shall take final action within 180 days of the written demand for compensation. The City shall take actions 2 through 5 only if it determines the claim is valid.

1.20.090 Authority

The City Council shall have the authority to take the actions listed in Section 1.20.080, including the authority to waive or suspend any provision of any City code, ordinance or resolution, notwithstanding any inconsistent provision in this code. The City may retain an appraiser to assist the Council determination.

1.20.100 Reimbursement of Costs

If a claim is denied and ultimately determined to be invalid, the Claimant shall reimburse the City for the costs the City incurred in processing the claim. If the costs remain unpaid 90 days after the City provides a detailed invoice demanding reimbursement of costs, a lien for those costs shall be recorded in the City lien docket for the property for which the claim is made.

1.20.110 Severability

If any section, phrase, clause, or part of this Chapter is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses, and parts shall remain in full force and effect.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADDING SECTION 1.20.095 AUTHORIZING A CAUSE OF ACTION IN CIRCUIT COURT BY A PROPERTY OWNER ADVERSELY AFFECTED BY A WAIVER GRANTED PURSUANT TO A BALLOT MEASURE 37 CLAIM.

WHEREAS, the voters of the State adopted Ballot Measure 37 in the November 2004 general election, adding a new section to ORS Chapter 197, which provides that local governments may pay compensation to property owners for reductions in property values resulting from land use regulations that restrict uses of property; and

WHEREAS, Ballot Measure 37 became effective on December 2, 2004; and

WHEREAS, the City Council implemented the provisions of Ballot Measure 37 by adopting Ordinance No. 1940 on November 16, 2004; and

WHEREAS, the said Ordinance does not make provision for adverse impacts on surrounding property owners in the event of a waiver granted pursuant to a Ballot Measure 37 claim;

NOW, THEREFORE, THE CITY OF MILWAUKIE ORDAINS AS FOLLOWS:

Section 1: The Milwaukie Municipal Code is amended by adding a new Section 1.20-095 in the form of Exhibit A attached hereto and incorporated by this reference.

Section 2: Because this ordinance is necessary for the preservation of the health, safety, and welfare of the City and is needed to provide a timely process to protect the rights of property owners in the event of a Ballot Measure 37 claim, an emergency is declared to exist, and this ordinance shall be in full force and effect upon its adoption.

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

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

Signed by the Mayor on _____.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

Approved as to form:

City Attorney

Date

EXHIBIT A
To Milwaukie Ordinance No. _____

1.20.95 Cause of Action by Other Property Owners

If a claim results in a waiver of enforcement of a regulation and the development allowed by the waiver causes a reduction in value of other property located in the vicinity of the claimant, those property owners shall have the right to maintain an action against the claimant in state circuit court to recover the amount of the reduction. A property owner filing a successful claim pursuant to this section shall be entitled to an award of reasonable attorney fees. This section does not create a right of action against the city.



Park & Recreation Board

PARB

Tuesday, October 26, 2004

7:00 PM to 9:00 PM

Conference Room – City Hall

Minutes

Attendees: Mart Hughes, Sherri Dow, Sonny Newson, Ray Harris, Kathy Buss, Kate MacCready, Rob Gabrish

Absent:

Staff: JoAnn Herrigel, Joan Young

Open Period: None

Minutes: Meeting notes from the September meeting were accepted into the record. Minutes from the July meeting will be approved at the November meeting.

Spring Park/Heckman Letter

Herrigel reported that at the September meeting there had been a discussion regarding the use of funds generated by the City's sale of its own properties. There was a proposal to write a letter to Council recommending that funds from such sales be used for parks in some way and Herrigel asked the group to clarify how the funds should be dedicated. The consensus of the group was that funds generated from sale of city property should be dedicated to parks or open spaces in the neighborhood in which the sale took place. The group further recommended that the neighborhood associations participate in the decision as to what projects the funds are used for.

City Updates

Riverfront

Herrigel reported that the Riverfront Plan may be selected by a group called Oregon Solutions as a focus project this year. She said she and the City Manager had met recently with a representative of Oregon Solutions.

Following is a polished version of what Herrigel described:

Oregon Solutions grew out of the State's Sustainability Act of 2001. At first it was inside the Executive Branch of Oregon's state government and then in January of 2002 it became a program of the national Consensus Center at PSU.

Oregon Solutions promotes a style of community governance based on collaboration, integration and sustainability.

- *They look for projects in the state that address at least one of the sustainable community objectives (This round they were looking for a project in the Portland area and one that was on the Willamette...)*
- *Once a project is selected and announced, the Governor appoints a "neutral convener" (or Chair) from the local community who can lead a team to address the challenge*

- *A team is assembled of federal, state, local, and other government entities, businesses, non-profits, and citizens who are needed will contribute to the solution. I am developing a list of local stakeholders now.*
- *The team looks for an integrated solution that leverages the resources of the Team to meet the challenge at hand*
- *Team members sign a declaration of cooperation that commits their resources and time in an integrated action plan*

Herrigel said that the announcement of projects will take place in November. If the Riverfront Project is picked, she said, the Oregon Solutions Team and maybe the Governor will visit Milwaukie in January to tour the site.

Herrigel said that she had been thinking of possible “conveners” and Brian Newman seemed to be a good choice for this project. Herrigel said she had mentioned the project to Brian and he had indicated that he would be interested.

Lewelling Community Park

Herrigel reported that the sidewalks for Lewelling Community Park were being dug that week and that cement would be poured soon. She said that engineering was working closely with the neighbors to make sure the project followed the Park design.

Homewood Park

90% of the path at Homewood is completed. The final piece will be done by December. Trees on the Garrett side of the park are being removed and stumps will be ground.

District Updates

- Districts is in process of awarding RFP for design consultant for No Clackamas Park and recommendation will go to BCC next week
- Traffic study for No Clackamas Park being done by County engineers right now
- Playground equipment was delivered to No Clack Park this week (installation will be later)
- Finance position was filled and Aquatic Program aid and Rec Supervisor will be done next week
- Marketing and volunteer coordinator will be filled mid-November
- Aquatic Park energy audit is done and bids are being let to complete some of the recommendations

Other:

Board had a discussion about enforcing rules regarding dogs at City parks. Someone asked if there was a leash law in Clackamas County. Hughes described his approach to compliance with dog rules at Portland parks. He encouraged voluntary compliance and then ticketing for violators to show that rules are serious.



Park & Recreation Board

PARB

Tuesday, November 23, 2004

7:00 PM to 9:00 PM

Conference Room – City Hall

Minutes

Attendees: Mart Hughes, Sonny Newson, Ray Harris, Kathy Buss, Kate MacCready,

Absent: Sherri Dow, Rob Gabrish

Staff: JoAnn Herrigel, Joan Young

Open Period: None

Minutes: Minutes from the July and October meetings were approved, 5-0.

Park Booklet

Herrigel shared with the group the progress she and Sonny Newson had made on the Park Booklet they'd discussed at an earlier meeting. The book currently has all the master plans for all the city parks, and they are working on pulling together deeds, site descriptions, maps and photos of current conditions for each. Herrigel shared the new map of City parks with the group.

Dogs at No Clack Park

Herrigel updated the group on actions Code Compliance staff had taken at North Clackamas Park regarding dogs outside the dog run area. She said that calls regarding dogs at the park had increased when the ball field issue heated up. 90% of the calls, according to the Code staff, were about barking dogs in the enclosed dog run. After the signs were posted at the park recently, stating the rules of the park, more calls started coming in. At that same time, Herrigel said, she asked Les Hall to do some "time" at the park at various times of the day to educate folks as to the off leash dog rules and to observe the level of noise from the enclosed dog run. Les' perception was that there were many folks walking dogs off leash – but in general, the dogs were under control by their owners. His perception was that the biggest issue at the park was the noise the dogs made and the impact of the noise on the neighbors. Les noted that the dogs in the run were not inordinately noisy – but since the run is in use all day long, he understood how neighbors could perceive that dogs barked "constantly". Les has asked the police to respond after hours and on weekends when folks call about barking in the park.

Joan Young, Senior Center Director, said that she knows of many folks that no longer use the park because of their fear of dogs off leash. Some seniors just won't walk in the park at all any more. She added there are also those folks with dogs that won't go there anymore. Although she has never heard that a person has actually been hurt, she did see a rabbit killed one time.

Buss said she felt that if dogs were off leash then they should be in the dog run.

Young said that it was recently suggested to the District Advisory Board that there be a permit system implemented for all dogs at the park. District staff was concerned about the feasibility of such a program.

Buss asked if there could be a split dog run for vicious and non-vicious dogs. She added that she felt strongly that if people wanted to run their dogs at the park then they should stay in the dog run or go elsewhere.

Young said that this park attracts people from Portland that have come there with their dogs for years. She said Charlie Ciecko would be developing a proposal for the DAB on off-leash hours (similar to the Portland model) and that if the Milwaukie PARB wanted input into this issue they should provide it soon.

Hughes said he felt dogs should at least not be allowed on ball fields and that he thought we needed information on appropriateness of allowing dogs in mixed-use parks. The issues seems to be:

- Dogs are driving people out of the park (fear)
- Barking disturbs neighbors (noise)
- The safety of park users may be jeopardized (liability)

MacCready asked how many park users there were. Young responded 100-200 people a day.

Harris said he felt that dogs should definitely not be allowed to be off leash in play areas.

Buss said that cops should be asked to drive through the park more often.

Hughes asked the group if Code officers should continue to enforce the off-leash rules at the park. The consensus was that the rules of the park should be enforced and that violators should be cited. Herrigel said she would convey the Board's feelings to Charlie Ciecko.

Buss asked if it would be appropriate for her to go to NDAs to talk about the Adopt-A-Park program soon. Young said that a new volunteer coordinator would be hired soon and that waiting until they were on board might be better.

City Updates

Spring Park: Herrigel said that potential locations for parking at Spring Park have been identified and reviewed by City planning and engineering staff. Herrigel expected that a meeting with the Island Station neighbors to discuss the options would take place in December or January.

Meeting with Mike McLees: Herrigel reported that she had met with Mike McLees, the Park Supervisor for the County (and the District) and Kevin Cayson, the District's Park foreman. Kelly Somers, the City's operations supervisor joined the meeting. Herrigel said the discussion of the City facilities and the parks went very well and she is optimistic that Kevin and Mike have established a higher level of maintenance for the parks and facilities than previously existed.

District Updates

- District is filling the remaining empty positions
- They have a new Finance person – Cindy Trumpower
- The new Rec Supervisor is Jan Wirtz
- The new marketing person is Mary Paige Rose
- Aquatics Park Task Force meets Dec 1 at the Aquatic Park
- Budget process is beginning
- Happy Valley discussions continue

Volunteer Recognition

Herrigel said that her department was surveying Board and Commission liaisons to see how Board and Commission members are recognized in the City at this time. The goal is to determine whether a City-wide

volunteer recognition event is warranted. She asked the group how they felt about their current recognition. The group asked Herrigel to send them an e mail requesting their input so they could think about it.

Herrigel reminded the group of the December 18th Solstice event at the Riverfront (5 pm).

Harris motioned to adjourn. Buss seconded. Motion passed 5-0.

MacCready noted that she would NOT be in at the December meeting.

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, AUGUST 24, 2004

COMMISSIONERS PRESENT

Donald Hammang, Chair
Judith Borden, Vice Chair
Teresa Bresaw
Brent Carter
Jeff Klein

STAFF PRESENT

John Gessner,
Planning Director
Shirley Richardson,
Hearings Recorder

COMMISSIONERS ABSENT

Howard Steward

1.0 CALL TO ORDER

The meeting was called to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS -- None.

3.0 CONSENT AGENDA -- None

4.0 INFORMATION ITEMS - City Council Minutes
City Council minutes can be found on the City web site at www.cityofmilwaukie.org

5.0 PUBLIC COMMENT - None.

6.0 PUBLIC HEARINGS

6.1 Applicant: Phillip Reich
Owner: Phillip Reich
Location: 5650 SE King Road
Proposal: Applicant is requesting a six-month extension to provide additional time to record the final plat for his land partition.
File Numbers: MLP-03-01/VR-03-02/TPR-03-01
NDA: Linwood

Chair Hammang opened the minor quasi-judicial hearing for Minor Land Partition MLP-03-01, Variance Request VR-03-02 and Transportation Planning Review TPR-03-01 to consider a request for a six-month extension to provide additional time to record the

final plat for his land partition. The criteria to be addressed can be found Subdivision Ordinance Municipal Code, Title 17.

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; 5 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

John Gessner reviewed the staff report with the Commission. The Commission approved Application MLP-03-01 on August 12, 2003 for the division of a 1.06 acre parcel of land into 3 lots and the construction of a half street. The applicant has not submitted the final plat application for city signatures and therefore has not filed the final plat with Clackamas County. Land division approvals expire one year after the date of approval. If final plat is not recorded by February 28th, 2005, the preliminary approval will expire and become void. The applicant will have to start the entire process over again; submission of a new applications, fees, and compliance of any regulations in effect at the time of application.

Staff is recommending approval of the extension. This is a procedure matter of allowing additional time to record the plat.

CORRESPONDENCE -- None.

APPLICANT PRESENTATION

Speaking: Phillip Reich, 5650 SE King Road, Milwaukie

Mr. Reich stated that he is having economical difficulties with the financing of the street. He is aware of the preliminary approval expiration date and will try to comply.

QUESTIONS FROM THE COMMISSIONERS -- None.

TESTIMONY IN FAVOR -- None.

QUESTIONS OR COMMENTS -- None.

TESTIMONY IN OPPOSITION

Dolly Mackin Hambright, Chair, Linwood Neighborhood Association

Ms. Macken Hambright stated that as a representative of the Linwood Neighborhood Association she has had a request from neighbors surrounding the area to ask that the extension not be granted. Partially because it has been a year of staff time spend on a zero result. The feeling is that there may be ordinance changes which would benefit the neighbors in the future that may not apply to the application as it stands now.

ADDITIONAL COMMENTS FROM STAFF -- None.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY - None.

APPLICANT'S CLOSING COMMENTS

Mr. Reich stated that he was not aware that the neighborhood had concerns. He asked whether this had any bearing on his application? He asked if there were any proposed planning changes that may happen this year? **Chair Hammang** stated that he was not aware of any planning changes that would apply to this application. He does not feel that pending planning changes is applicable to this matter. The important factor is that everyone is aware of the time limits and the implications of not meeting those time limits.

DISCUSSION AMONG THE COMMISSIONERS

Chair Hammang closed the public testimony portion of the hearing and opened it up to discussion among the Commissioners.

Commissioner Bresaw voiced concern about a project that is incomplete and if this is something that the neighbors should be concerned about. **Chair Hammang** stated that the applicant is aware of the timelines and should be afforded the opportunity to comply.

Commissioner Carter moved to approve a six-month extension to provide additional time for the applicant to record the final plat for his land partition in applications MLP-03-01, VR-03-02 and TPR-03-01. **Commissioner Bresaw** seconded the motion. **MOTION CARRIED 5-0.**

Ayes: Borden, Bresaw, Carter, Crites, Klein, Miller, Hammang; Nays: None.

7.0 WORKSESSION ITEMS

7.1 King Road Update

John Gessner reported that there would be no verbal report tonight on the status of the staging of traffic and roadway improvements. This item will be brought back to the Commission at a later time.

7.2 Home Occupations—Eliminate Application Requirement

John Gessner stated that staff plans on addressing their approach to simplifying the home occupation application process at the September 7 City Council meeting. During the budget process department heads are asked to identify those areas where the City can change practices to provide cost savings. After administering the home occupation requirements for a number of years, staff has found that the application process is largely a paper shuffle. In the renewal process, 99% of the home occupations are functioning very well and are compatible with the neighborhood. The application fee adds time and cost to the city and applicants. There could be a less-burdensome administrative process and still have the same results from the home-occupation program itself.

Staff is suggesting changing the way in which home occupations are administered rather than change the way in which the regulations apply to home occupations. Staff is looking for guidance or suggestions for reducing the annual workload.

Discussion followed on the application process, renewal process. **John Gessner** stated there are several options being considered:

- Make most or all categories of home occupations by right use; this way no application is required. The City would rely upon neighbors concerns when something is not working.
- Send out an annual mailer explaining the dos and don'ts for home occupation businesses.
- Only new businesses submit a one-time application and eliminate the renewal process.

Suggestions from Council included:

- Require a certification form from each business stating that they are in compliance with the bulleted code requirements and sign the form to be kept on file.
- Tap into the state's records as to businesses in the City of Milwaukie that may be registered with the state and not having a business license in the City of Milwaukie.

John Gessner stated that staff will incorporate the Commission and Council suggestions with the review of the application process and come up with an effective program.

7.3 Undersized Lots

John Gessner stated that the zoning ordinance provision was researched back to 1968 code. In the 60's there was a court case or change in statutes that clarify that lots platted prior to the adoption of zoning ordinances, which might be restrictive and eliminate the development potential, are protected from those changes.

The policy question in this case is what the right size of lot to protect is. In Milwaukie, large parts of Lake Road, Hector Campbell, and Historic Milwaukie neighborhoods were platted in late 1800/1900's based on 25x100-foot lots. A large part of the city developed without the help of zoning in 5,000 sq.ft. lot configurations by combining two 2,500 sq.ft. lots. They have found lots that are 10,000 sq.ft. made up of four 25 x 100 or three lots creating 7,500 sq.ft. lots. As land becomes scarcer, property owners and developers are able to go back to configure whatever number of lots that are necessary to meet zoning requirements that were subsequently adopted. There are patterns of dividing land into 25X100 lots throughout the city.

In 1968 Council decided that the lots to be protected are 3,000 sq.ft. The Zoning Ordinance states that lots platted prior to the adoption of the city zoning ordinance, individual or aggregate holdings, may be put to use provided that no lot shall be created with a size less than 3,000 sq.ft. There can be a 3,000 sq.ft. lot in the R-5 Zone.

Another question to consider is whether the relationship of the minimum lot size is based upon the existing zone or a uniform number. What is the appropriate size for the absolute minimum that a lot should be developed on. Staff is asking the Planning Commission for feedback on undersized lots.

Commissioner Bresaw stated that her understanding from reading the ordinance was that there could be no building on a lot that is less than 3,000 sq.ft.; it does not say that the zone is R-5. **John Gessner** stated that the legal interpretation that was applied is if there is a legal prior existing or aggregate of lots equaling at least 3,000 sq.ft., you can build a single-family residence subject to the other requirements of the zone (setbacks, minimum landscaping, building height, maximum footprint). Density refers to duplexes or multi-family.

Chair Hammang voiced concern that scattering of small lots will ruin the street- scape of the neighborhoods. **John Gessner** stated that as part of the next steps staff will take an inventory to find out where there is an excess land supply that might result in lots of 3,000-3,500 sq.ft. being developed. Lot line adjustments cannot be done today to come up with a 3,000 sq.ft. lot. The lot must have existed at a time prior to adoption of the ordinance. Many times developers are looking for opportunities to do lot line adjustments, but based on attorney's interpretation, the lot must be as it was configured at the time the ordinance was adopted.

Chair Hammang asked about the Ardenwald area. **Mr. Gessner** stated that Ardenwald is largely oversized lots. They have a different platting pattern; typically 72+ X 220-440 lots. This has resulted in Ardenwald being the target of many flag lots.

Staff will review meeting minimum lot size requirements that are meaningful throughout the city, with an occasional exception of a grandfathered lot.

Speaking: Dave Ashenbrenner, 11505 S.E. Home Avenue, Milwaukie

Mr. Ashenbrenner stated that he is the chair of the Hector Campbell Neighborhood Association. He would like to see a minimum standard set. When this development happened they knew nothing about it; it was allowed. The difficulty was not knowing what was going on; he asked that there is notification when this type of thing happens, letting the residents know what is going on.

Tax lots do not show what the plot size of the land is. It is confusing from a resident's perspective as to whether a large lot is large or small. The tax lot is not necessarily the same as what was plotted. He likes the direction of a minimum zone for a neighborhood.

John Gessner pointed out in drawing examples a platted lot and a grouping of single tax lots.

7.4 Garages in Front of the Houses

John Gessner asked the Commission for their comments and input on situations where the only location for placement of a garage is in front of the house. There could be a design review process, architectural standards can be established, and it could be approached from a design perspective as opposed to outright prohibitions. The city cannot require the property owner to provide parking for existing older lots that do not have covered parking.

Some suggestions were:

- This should be a design issue instead of saying a person cannot have a garage.
- Alternate designs -- Shared garage on the property line with a common wall and garage in front of the house built into the hillside.
- Permanent zoning requirements with design standards for garages.
- Require a garage for new construction.
- Eliminate carports.

Speaking: Dave Ashenbrenner, 11505 S.E. Home Avenue, Milwaukie

Mr. Ashenbrenner stated that he agrees with the design aspects of placing of garages. He would like to see the garages match the existing house as close as possible and meets the character of the existing house.

8.0 DISCUSSION ITEMS -- None.

9.0 OLD BUSINESS

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director -- None.

10.2 Design and Landmark Commission Report

Brent Carter reported that tomorrow night will be a hearing for the Murray Lyndon house to change the historic designation to “contributing.”

11.0 NEXT MEETING -- September 14, 2004

11.1 Designation of Wetland at North Clackamas Park

11.2 Public Hearing on Code Change Converting DLC to a Committee

Commissioner Bresaw moved to adjourn the meeting of August 24, 2004. **Commissioner Carter** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 8:05 p.m.

Donald Hammang, Chair

Shirley Richardson, Hearings Reporter

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, SEPTEMBER 14, 2004

COMMISSIONERS PRESENT

Donald Hammang, Chair
Judith Borden, Vice Chair
Lisa Batey
Teresa Bresaw
Brent Carter
Jeff Klein
Howard Steward

STAFF PRESENT

John Gessner,
Planning Director
Shirley Richardson,
Hearings Recorder

COMMISSIONERS ABSENT - None.

1.0 CALL TO ORDER

The meeting was called to order at 6:35 p.m. **Chair Hammang** introduced new Planning Commissioner, Lisa Batey. **Ms. Batey** stated that she has lived in Milwaukie for two and a half years. She has been active in issues in her neighborhood as chair of the Island Station Neighborhood Association.

2.0 PROCEDURAL QUESTIONS - None.

3.0 CONSENT AGENDA - August 10, 2004

Commissioner Bresaw moved to approve the minutes of August 10, 2004 as presented. Commissioner Borden seconded the motion. MOTION CARRIED UNANIMOUSLY.

Ayes: Borden, Bresaw, Carter, Klein, Steward, Hammang; Nays: None.

4.0 INFORMATION ITEMS - City Council Minutes

City Council minutes can be found on the City web site at www.cityofmilwaukie.org

5.0 PUBLIC COMMENT - None; there was no audience present tonight.

6.0 PUBLIC HEARINGS

6.1 Applicant: City of Milwaukie
Owner: N/A

Location: N/A
Proposal: Code amendments converting Design and Landmarks
Commission to a Committee.
File Numbers: ZA-04-02
NDA: N/A

Chair Hammang opened the legislative hearing for amendments to the Zoning Ordinance and Municipal Code.

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. There was no one in the audience to challenge the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

John Gessner reviewed the staff report with the Commission. A public hearing is required in order to amend the Zoning Ordinance. The Planning Commission and Design and Landmarks Commission have reviewed the code amendments; the requested minor changes to the language have been incorporated. At an August 17, 2004 worksession the City Council reviewed the proposed code changes, with no changes being requested.

Staff is asking that the Planning Commission forward a recommendation to City Council on the code proposed changes. An Ordinance has been drafted for the conversion of the Commission to a Committee, outlining the Committee responsibilities. The City Council will consider the Planning Commission's recommendation at its October 5, 2004 public hearing.

QUESTIONS OF STAFF - None.

CORRESPONDENCE - None.

APPLICANT PRESENTATION - NA

QUESTIONS FROM THE COMMISSIONERS - None.

TESTIMONY IN FAVOR - None.

QUESTIONS OR COMMENTS - None.

TESTIMONY IN OPPOSITION - None.

ADDITIONAL COMMENTS FROM STAFF - None.

QUESTIONS REGARDING CLARITY - None.

APPLICANT'S CLOSING COMMENTS - None.

DISCUSSION AMONG THE COMMISSIONERS

Chair Hammang closed the public testimony portion of the hearing and opened it up to discussion among the Commissioners.

Commissioner Carter moved to forward a recommendation to the City Council in support of converting the Design and Landmarks Commission to a Committee and adopt the attached Ordinance, File No. ZA-04-02. **Jeff Kline** seconded the motion. **MOTION CARRIED 7-0.**

Ayes: Batey, Borden, Bresaw, Carter, Kline, Steward, Hammang; Nays: None.

7.0 WORKSESSION ITEMS

7.1 King Road Safeway Process

John Gessner reported that the Hector Campbell and Lewelling Neighborhood Associations had concerns about the King Road process regarding neighborhood concerns on traffic issues. Dave Ashenbrenner will come before the Commission to address these concerns.

8.0 DISCUSSION ITEMS

Commissioner Carter asked if the Planning Commission had enforcement authority regarding neighborhood situations or on an application that has been approved by the Commission? He voiced concern about the lighting on Johnson Creek between 42nd and 55th/Stanley. **John Gessner** stated that the Planning Commission has no authority to investigate or to authorize enforcement. However, the Planning Commission can raise questions about any development proposal that does not seem to be going as approved. He encouraged the Commissioners to feel free to ask questions or make inquiries, depending on the situation, to the code enforcement division; the Public Safety Advisory Board; Paul Shivery, Engineering Director; Police Chief, Police Department and the Planning Department.

Commissioner Klein voiced concern about the lighting on Johnson Creek Blvd. between 42nd Avenue and 55th/Stanley. **John Gessner** stated that Johnson Creek Blvd. is under the jurisdiction of the County; they would be responsible for addressing that issue. He suggested that Commission Carter call Mike Clark, Street Operations Supervisor, at the Johnson Creek offices.

Commissioner Steward voiced safety concerns about the west-bound, right-turn lane on 42nd and Harrison. **John Gessner** stated that this issue has been raised regarding the

Safeway development. There was a neighborhood request to get the right-turn lane onto west-bound Harrison Street put in because there was a great deal of confusion; it's wide enough, but it really needs to be stripped. Hector Campbell NDA is questioning how the through lane relates to the opposite side of the street. **Commissioner Kline** stated that he uses that intersection daily and during peak times of the day, the turn lane makes a lot of sense. Cars are able to make that right turn and traffic does not back up as much.

Commissioner Bresaw asked if most of the storm water goes into the creeks? **Mr. Gessner** stated that most of the water does go into the creeks. The easterly part of the city, where there are no pipes, the drainage is street flows or drywells. With increasing concerns about impacts on water quality, and the fact that Milwaukie has wells, there are limitations on the use of underground injection controls (drywalls) within a two-year travel distance to a drinking well. The Engineering Department is working on a Storm Water Master Plan that will take into consideration the capital projects necessary to first address the long-term water quality and public health issues and flooding. Paul Shiry is the person who would take inquiries about these issues.

9.0 OLD BUSINESS

Chair Hammang received a notice announcing that the Goodwill Store will be opening September 18th. He questioned whether the nature of the services being provided at the facility is as conditioned by the Planning Commission? The applicant presentation gave the impression that the major customer base would be for bulk sale, very little retail. The front of the notice states, "...A \$1.39/lb. or less is not the fashion at the new Goodwill at Ochoco. Come see our new outlet and experience a whole way of shopping by the pound. Inventory changes several times daily as merchandise is pulled at regular stores ...a little digging is worth it, give it a try." These notices are a mass mailing. This is retail advertising. This is in conflict with what was presented at the hearing. The occupancy of the building does not meet the parking requirements for a full retail application. **John Gessner** stated that he will review the tapes and find out exactly what representations were made, what parking calculations were used (wholesale/retail) and report back to the Commission if there are issues to be addressed.

Commissioner Bresaw stated that there is a Business Economic Development meeting scheduled for September 21st in the daytime; she is unable to attend day meetings. **Commissioner Kline** stated that he may be able to attend the meeting; he will get back to Commissioner Bresaw if he can make it.

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

John Gessner reported that he will be on vacation beginning tomorrow until September 24th and in training with ODOT, Incorporating Freight into Transportation Planning until the 27th.

There are three items planned for September 28th:

- Three Bridges is coming back for consideration of the condition of approval which limited them to only daytime working hours because ODOT will not allow daytime closures on McLoughlin Blvd. They have come up with a mitigation plan to assure that night-time noise will be manageable.
- The Parks District has identified two wetland sites on the open fields in North Clackamas Park. They will be coming to the Planning Commission to get direction. It is staff's recommendation that they not be zoned for resource protection. Alison Rae, consultant, was hired to review this issue and she agrees that by protecting these wetlands is not doing anything for the quality of the watershed; it would be far better to take the proportional value of those two sites. If the District comes up with a project that would eliminate the softball field project, take those values and put them into stream-side restoration. The proponents to the proposal have been very active and vocal in the newspaper.
- Code Amendments for the North Main Project. This is not going to be a transit center and the downtown planning and zoning that was done for the site does not support the Council's vision and direction for redevelopment of the site. The change between the existing regulations and proposed regulations is that existing does not allow first-floor residential; the majority of this project is first-floor residential (five buildings).

John Gessner stated that he will be attending land-use training on September 30th and October 6th; he invited commissioners to attend.

10.2 Design and Landmark Commission Report

Brent Carter reported that there will be a meeting on September 29, 2004. Commission members are invited to attend.

11.0 NEXT MEETING -- September 28, 2004

Commissioner Batey moved to adjourn the meeting of September 14, 2004. **Commissioner Crites** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 7:50 p.m.

CITY OF MILWAUKIE
PLANNING COMMISSION MINUTES
TUESDAY, SEPTEMBER 28, 2004

COMMISSIONERS PRESENT

Donald Hammang, Chair
Judith Borden, Vice Chair
Lisa Batey
Teresa Bresaw
Brent Carter
Jeff Klein

STAFF PRESENT

John Gessner,
Planning Director
Lindsey Nesbitt,
Associate Planner
John Pinkstaff
Legal Counsel
Shirley Richardson,
Hearings Reporter

COMMISSIONERS ABSENT

Howard Steward

1.0 CALL TO ORDER

The meeting was called to order at 6:35 p.m.

2.0 PROCEDURAL QUESTIONS - None.

3.0 CONSENT AGENDA - None.

4.0 INFORMATION ITEMS - City Council Minutes

City Council minutes can be found on the City web site at www.cityofmilwaukie.org

5.0 PUBLIC COMMENT - None.

6.0 PUBLIC HEARINGS

- 6.1 Applicant: Portland Parks and Recreation
Owner: Metro
Location: Springwater Trail between McLoughlin Blvd and Union Pacific Railroad
Proposal: Repeal condition of approval #5 regarding hours of construction and adopt a new condition approving night-time construction subject to limitations.
File Numbers: CSO-04-03
NDA: Ardenwald

Chair Hammang opened the minor quasi-judicial hearing for Community Service Overlay CSO-04-03 to consider the repeal of condition of approval #5 regarding hours of construction and adopt a new condition approving night-time construction subject to limitations. The criteria to be addressed can be found in the Milwaukie Zoning Ordinance Section 19.321 - Community Service Overlay; and Section 19.1011.3 - Minor Quasi-Judicial Review.

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare? There were none. He asked if any member of the Planning Commission visited the site; 5 hands were raised. No one who visited the site spoke to anyone at the site or noted anything different from what is indicated in the staff report. No one in the audience challenged the impartiality of any Commission member or the jurisdiction of the Planning Commission to hear this matter.

STAFF REPORT

Lindsey Nesbitt reviewed the staff report with the Commission. Through the Community Service Overlay process in July, the Three Rivers Project was approved which authorized the construction of two bridges over McLoughlin Boulevard, and over the Union Pacific Railroad. A condition was placed on the approval limiting the hours of construction from 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. through 5:00 p.m. on Saturday and Sunday.

The applicant is requesting that the Commission modify this condition because a tower has to be constructed on McLoughlin Boulevard to aid in the construction of the bridge. Oregon Department of Transportation (ODOT) does not permit construction of large bridge components over moving lanes of traffic. Therefore, in order to construct portions of the bridge, traffic lanes have to be closed. ODOT only allows lanes of traffic to be closed at night. This means that construction on these portions of the bridge can only be done at night which conflicts with the condition limiting hours of construction.

Staff believes that the applicant has demonstrated the need to perform evening construction activities in order to comply with ODOT traffic safety and lane closure procedures and requirements, and recommends that the Commission adopt a new condition authorizing a limited amount of night-time construction subject to conditions and limitations.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Carter asked if the night-time hours would be 6:00 p.m. through 10:00 p.m.? **Ms. Nesbitt** stated that the applicant would address the hours of construction.

Commissioner Bresaw asked for clarification of who receives the written notice of night work? **Ms. Nesbitt** stated that written notice would go to the city. The city is proposing that all property owners within 1500 feet also receive the notice by mail.

Commission Batey asked the difference between the two-week notice and 7-day notice for preparation and raising activities? **Ms. Nesbitt** deferred the question to the applicant.

CORRESPONDENCE - None.

APPLICANT PRESENTATION

Speaking: Scott Keilor, Harper, Hoff, Peterson, Regellis, Consultants

Mr. Keilor stated that he is on the consultant team and prepared the land use submittal that was approved earlier this summer. The noise ordinance was an oversight; there is a condition where ODOT lane closures are required and only will be permitted during the nighttime. They have worked with staff to put together the mitigation measures that have been used on similar projects and arranged to meet with the Ardenwald Neighborhood Association, who supports their project. He does not feel that the nighttime construction will bring anything out of balance with the proposed project.

Mr. Keilor stated that he feels the notification area is more than adequate. In reference to Condition 1(d) and (e), there does not need to be a notification difference for nighttime work versus the structural preparation raising activities; they are one in the same. He is amenable to setting a notice period to the Commission's satisfaction. He would like to consider those as a combined condition unless there is some specific reason to address those separately.

On Commissioner Carter's questions regarding condition 2(h), he would recommend language change of "...6:00 p.m. to 10:00 p.m. for the construction noise levels."

Mr. Keilor stated that he concurs with staff's recommendations with the minor modifications indicated. There is a second step to the process of nighttime construction. Should the Planning Commission approve this amendment, they will submit a packet to the Police Department for an exception to the noise ordinance under the Police Code. This will show that they have met the Planning Commission's approval through the mitigation measures and present that as a full package to the Police Department. This process is the only avenue to get the McLoughlin Bridge constructed under ODOT standards.

Mr. Keilor introduced Gary Rare who is the construction consultant on this project.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Bresaw asked how long the construction would take? **Mr. Keilor** stated that this is a 21-month construction window; they will bid this fall. The window of nighttime construction activity will be 75 days (not consecutive days). They will work closely with the city to let them know their construction schedules.

Commissioner Carter asked for clarification of the smart alarm and the decimal levels on that equipment. **Mr. Rare** stated that they have been using language that is typical specification language for this type of project. It is a quieter beeping type of alarm that is now the industry standard.

Commissioner Batey asked what the noise impacts have been on the Bybee Bridge, just to get an idea of the construction impacts. **Mr. Keilor** stated that this construction will be much more extensive than the Bybee Bridge construction. There is quite a bit of land between the construction and neighbors; residents probably won't even know the bridge is being built. He doesn't know if there were any complaints received on that construction.

TESTIMONY IN FAVOR - None.

QUESTIONS OR COMMENTS - None.

TESTIMONY IN OPPOSITION - None.

ADDITIONAL COMMENTS FROM STAFF - None.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

Chair Hammang asked about merging the conditions. **Ms. Nesbitt** stated that if the two are combined, it would be specified whether it would be one or two-week notice. Staff would prefer the two-week notice.

APPLICANT'S CLOSING COMMENTS

Scott Keilor suggested removal of condition 1(c) to give 7 day notice of structural preparation and raising activities and retain the all inclusive condition of two-week notice on night-time work in 1(d).

DISCUSSION AMONG THE COMMISSIONERS

Chair Hammang closed the public testimony portion of the hearing and opened it up to discussion among the Commissioners.

Commissioner Batey moved to approve application CSO-04-03 to repeal condition of approval #5 regarding hours of construction and adopt a new condition approving night-time construction subject to limitations as indicated in the findings and conditions in support of approval as indicated in the staff report; further,

- Delete condition 1(c)
- Revise condition 1(d) language to include the two-week notice and renumber

condition 2(h), language change of "...6:00 p.m. to 10:00 p.m. for the construction noise levels."

Judith Borden seconded the motion. MOTION CARRIED 6-0.

Ayes: Borden, Batey, Bresaw, Carter, Kline, Hammang; Nays: None.

- 6.2 Applicant: City of Milwaukie Community Development
Owner: N/A
Location: N/A
Proposal: Amendments to Zoning Ordinance Section 19.312 –
Downtown Zones; and the Milwaukie Zoning Map
File Numbers: ZA-04-01
NDA: All

Chair Hammang opened the legislative hearing for Zoning Amendment ZA-04-01 to consider a recommendation to City Council supporting approval of the proposed amendments to Zoning Ordinance Section 19.312 and the Milwaukie Zoning Map as described in the ordinance.

Chair Hammang asked if there were any conflicts of interest or ex-parte contacts to declare? There were none.

STAFF REPORT

Lindsey Nesbitt reviewed the staff report with the Commission. The City of Milwaukie (applicant) is proposing a number of amendments to the downtown section of the zoning ordinance; they include:

1. Village concept area
2. Surface parking lots and driveway curb cuts and off-street parking within 50 feet of Main Street - See Page 17 of report
3. Residential balcony standard moves from development standard to design standard
4. Upper-level unenclosed balcony projection
5. Process for Commission to consider modifications to "prohibited" materials (exterior materials) – see page 20 of report.

Ms. Rouyer introduced Tom Kemper, developer, and reported that it is hoped that the development proposal will be brought before the Planning Commission in December.

CORRESPONDENCE - None.

APPLICANT PRESENTATION

Speaking: Alice Rouyer, Director of Community Development and Public Works

Ms. Rouyer stated that she has worked with Tom Kemper on this project and found that there were areas in the code that had restraints to this development being possible. She and Jeff King developed a package of amendments that are before the Commission now and are asking for consideration.

The developer has a strong interest in creating a village on the north Main site; this includes a village with a strong mix of uses, ground floor retail, apartments, condominiums, flats and townhouses. The downtown storefront zone currently does not allow townhouses or stand alone multi-family or condominium buildings. It was felt that this site was large and unique enough that a village area could be created.

In the code there is a prohibition against allowing curb cuts and off-street parking lots within 50-feet of Main Street (Page 17). When the original code was drafted the intent was to create a continuous façade along Main Street; however, it was found that there were Fire Code provisions that required curb cuts along Main Street. Upon refinement of the code, it was found that the parking needed to be divided between the entering and exiting on 21st Street and Harrison Street and to the north part of the site to distribute traffic better. They are requesting to refine the code to place an off-street parking lot and curb-cut within 50-feet of Main Street if the overall project meets the intent of providing a continuous façade of buildings close to Main Street, the off-street parking area or curb-cut is visually screened from Main Street and the community need for the off-street parking or curb cut outweighs the need to provide a continuous façade of buildings in that area.

There are provisions in the code for uses, development standards, and design standards. Development standards can only be varied through a variance process; design standards can be modified through a less arduous process than a variance. This developer would like to modify the standard of an 8x6 minimum requirement for a residential balcony. Under today's standards, the developer would need a variance; the revision would allow him to move that standard into the design standards and argue their reasons for flexibility in the balcony size rather than go through a variance process.

Currently prohibited materials would be modified (Page 20). The proposed revisions would allow a developer to come in and make his case that the prohibited material is substantially comparable to an allowed material with regards to quality, appearance, style or textural effect, or durability. The use of prohibited materials is consistent with design considerations specified for the particular design element in the Milwaukie Downtown Design Guidelines.

QUESTIONS FROM THE COMMISSIONERS

Commissioner Carter asked about drainage from the balconies so there is not displacement of water. **Ms. Rouyer** stated that this request does not speak to drainage; it

addresses upper level unenclosed balconies to project over the right-of-way more than 18 inches (current code restriction) to up to 4-feet. The balcony would still need to meet fire code, building codes, and public work standards relating to drainage.

Commissioner Batey asked if there is a list of prohibited materials? **Ms. Rouyer** stated that there is a list; some of the prohibited materials are hardy-plank, T1-11 Siding, Vinyl Windows, etc. (page 20). When the design standards were developed, the intent was to be strict; recommended or not recommended.

Commissioner Batey asked if there is a minimum height for the balcony projection as indicated in Item 4, Projection of Balconies? **Ms. Rouyer** stated that there is no definition for upper level or a minimum height requirement for balconies. Other standards can over-rule this allowance if there are safety violations, fire code issues, etc.

Ms. Rouyer stated that the project is planned to come before the Planning Commission in mid-December with a proposal.

Commissioner Batey asked if this project would have traffic impacts on the downtown area? **John Gessner** reported that one of the criteria for evaluating rezoning is found in the transportation regulations which require that a traffic analysis be conducted where a proposed change to the zoning amendment results in a greater potential density or intensity of use. The analysis done concluded that based upon the mix of uses and the development standards that are in place today, there would be no net increase in development potential or traffic potential trip rates based on the new use. The critical change is allowing first floor residential on the site under the village concept area; the present regulations prohibit first-floor residential. Comparisons of trip generation rates for residential on the first floor comes out much higher under the existing regulations than the proposed change. Staff's analysis is that this revision does not increase potential traffic.

TESTIMONY IN FAVOR - None.

QUESTIONS OR COMMENTS - None.

TESTIMONY IN OPPOSITION - None.

ADDITIONAL COMMENTS FROM STAFF

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY

APPLICANT'S CLOSING COMMENTS - None.

DISCUSSION AMONG THE COMMISSIONERS

Chair Hammang closed the public testimony portion of the hearing and opened it up to discussion among the Commissioners.

Commissioner Carter moved to forward a recommendation to City Council supporting approval of the proposed amendments to Zoning Ordinance Section 19.312 and the Milwaukie Zoning Map as described in the attached ordinance. **Commissioner Batey** seconded the motion. **MOTION CARRIED 6-0.**
Ayes: Borden, Batey, Bresaw, Carter, Kline, Hammang; Nays: None.

7.0 WORKSESSION ITEMS

7.1 Wetland Designation at North Clackamas Park

John Gessner reviewed the staff report with the Commission. The key points to consider are:

- 2002/2003 Parks District Master Planning process
- City Directed District to Deliniate Wetlands
- New Ball Field Opportunity
- County Request to City for help on Found Wetlands
- Title 3 Wetlands; ½ acre or intact wetland function
- Staff and Consultant Analysis
- Staff Recommendation

Speaking: Alison Rhea

Ms. Rhea reviewed the survey results with the Commission.

Speaking: Charlie Ciecko, North Clackamas Park and Recreation District, Sunnybrook Service Center

Mr. Ciecko commended staff on giving a very good overview of the project. Slides were shown of the subject site and the surrounding area. This area does not support any typical wetland plant. Area 3, next to fence, facing south is .06 acres (2600 sq.ft.). The dominant plants are Himalayan, Blackberry, Hawthorne and Reed Canary Grass. There is an old park road that has been eliminated along with the drainage ditch that was located there. Area #3 was formerly associated with a road that went through the park.

Modifications were made to the park in the late 60's. In 1977 the county turned the property over to the city. Staff acknowledges that there are considerable restoration opportunities in the park. The District Advisory Board has expressed a desire to do other restoration as well.

Chair Hammang explained that this hearing is not about the park project as a whole; the primary focus of the discussion tonight is the wetland resources.

Speaking: Dick Schultz, 4815 SE Casa Del Rey Drive, Milwaukie

Mr. Schultz stated that he received a copy of the wetland's study last spring and walked quite a bit of the area. He found several errors in the wetland study.

- In the report wetland #5, which he calls the creeklet swale (not drainage swale) it states on Page 6 of the report from Pacific Habitat Services, Inc., "...although it appears that it would flow directly into the creek, the swale is hydrologically disconnected from the creek by a paved trail that is raised above the level of the swale in the creek..." That stream virtually flows year around and is connected to Mt. Scott Creek through two culverts that are partially filled. The culvert flows clear, clean, and cool water into the creek that aids in fish habitat.
- He called Pacific Habitat Services and was met on the site the middle of April by Jennifer Goodrich. He asked her why the survey did not include areas of the park where there is standing water in the winter and into the spring (pointed them out to her). Ms. Goodman indicated that this area had been reviewed and because the hydrology had changed, the soils did not indicate that it was a wetlands area any longer. It was not shown on their maps as one of their sites.
- There are several inconsistencies with the survey. He would like to see them corrected on the current document. Ms. Goodman said that the areas that were pointed out to her would not affect on the overall wetland determination.
- Items he would like to have recorded are the creeklet swale as flowing year around and that it has a direct connection that could affect runoff from other parts of the park feeding directly into Mt. Scott Creek.

John Gessner stated that wetland #5 is quite dry; it is one of the drainage borders that have been reviewed. Although there might be some question in the wetland survey, it's not part of the Commission's consideration tonight.

Mr. Schultz stated that in wetland #1, the road historically went through this area. He has no problem with this becoming a non-wetland and being mitigated elsewhere.

In the report, it indicates that wetland #3 extends to the south onto private property. He questions how extensive is this wetland on the private property and does waters collected there drain down into Kellogg Creek? If there is not a significant amount there is no problem; if there are significant wetlands on private property, it may have an impact in the future. He would like to have this investigated closer. If this is recognized as Title 3 wetlands, would it preclude the placement of a well for irrigation by the Park District in that area?

Speaking: Laurie Cook, 3808 SE Aldercrest Road, Milwaukie

Ms. Cook stated that her undergraduate degree is in geophysics and her graduate degree is a JD from Lewis and Clark. She is an attorney and she has certification in

environmental law and natural resources. She has worked as an environmental consultant for 20 years.

Ms. Cook stated that she has concerns on an area on the map that she indicated was a natural spring bed area, groundwater and she would like to have clarification from Friends of Scott Creek on that. She is sure they will confer that it is ground water. Milwaukie has it mapped in the Milwaukie Master Plan as a natural resource area. The City of Milwaukie has mapped it as natural resource area and Metro has mapped it as a critical habitat area.

The depth to ground water is zero or less. The park slopes down and in the winter for six months this area is under 2-6 inches of water. When you dig into soils in this area, it fills up with ground water. All of these wetlands, large or small, are hydraulically connected by groundwater. There is one swale that is connected to Mt. Scott Creek; there is a pipe that runs under the path and discharges into Mt. Scott Creek. Mt. Scott Creek is habitat to two endangered species, Steelhead and Chinook Salmon; also the wetlands help to mitigate and modulate the runoff. If the impact of the runoff changes, it will impact the endangered species that are known to be in Kellogg Creek and Mt. Scott Creek.

In the Department of Environmental Quality (DEQ) regulations ground waters are waters of the state; since groundwater is at zero, any filling of these would be causing pollution to waters of state. Filling of this area would be in violation of ORS 466(b).

There are people who are very interested in the park; she only represents herself. Attorney Ed Sullivan represents the Friends of Clackamas Park. Mr. Sullivan will be looking into land use and wetland issues. She encouraged the Commission to make careful consideration before making further designations on the wetlands.

Speaking: Les Pool, North Clackamas Proper Owners Association

Mr. Pool stated that the habitat and wetlands should be defined. Ms. Cook, with all her qualifications had indicated that there is ground water on the site; if any one did any serious looking and dig a few test holes, the determination would be simple. The wetlands need to be mapped. He likes the idea of the ball fields, and he realizes tonight's subject, but it seems like in order to put the ball fields and salvage the horse arena, what is going to be left for flood control and habitat when you drain the parking lot, eliminate the wetlands and move the water down into the flood plain. This will not work.

He feels that putting in the ball fields is a good idea, he it will be too much in too little space. Kellogg Lake will be affected by what happens at the Park; this environment is connected.

Speaking: Pat O'Donnell, 13318 Kuen Road, Milwaukie

Mr. O'Donnell stated that he has lived near the park since 1965. He agrees with everything that has been said. As mentioned by Ms. Cook, both of the subject areas are wetlands. His property comes up to the wetlands on the park. There are Blue Herons that come down the Creek and last week a Turkey Vulture Landed in his yard an impelling an opossum for an hour and a half. The park is beautiful the way it is now.

Speaking: Rosemary Crites, 4917 SE Aldlercrest Road, Milwaukie

Ms. Crites stated that she has been over at the Mr. O'Donnell's place. She passed out pictures showing the park lands a year ago and the park lands today which shows how wet the land is. Their property goes across Mt. Scott Creek and 150-feet into the park. This has to be marsh land; there is substantial flood already.

Ms. Crites stated that Governor McGrill could not make it here this evening, but she has pictures of the park in the winter to show this area in a marshy and soggy condition. There is a lot of study that still needs to be done on this wetland delineation.

QUESTIONS FROM THE COMMISSIONERS

Chair Hammang voiced concern about the 12,600 sq.ft. of wetlands on the site; that is a large component of the area.

Commissioner Batey stated that there were serious issues brought up that will have to be discussed when there is a land use application. She is concerned about Areas 1 and 3 and how they are connected to private property. **John Gessner** stated that the investigation that the city did was to see if there was a strong connective to an adjacent wetland. From aerial photographs it was noted that there was a historic hydraulic connection prior to the site going into agricultural use. There is no open year round drainage; if there is a hydraulic connection it's through surface flow and ground water. This has been documented in the National Wetland Inventory mapping and evidence is shown in the aerial photographs. The historic use appears to have degraded that condition.

The Park District was asked to check with their Planning Department to see whether or not there were any Title III designations south of the site and there were none. If there are hydric soils that support wetlands, the determination was omitted from the original mapping or it was determined that they did not meet the Title III definition of half-acre or off-land methodology.

An aerial picture of the site was displayed and the areas of concern were pointed out. **Commissioner Carter** stated that in the 60's this site was a geese migratory path; Ducks Unlimited has history on this migration. A good friend of his parent's is adjacent to the park and the whole area floods and swings around up Mt. Scott Creek. The area is wet

throughout the whole winter; some of the flooding goes north towards the Willamette River.

Speaking: Father Matthew Tate, 13515 SE Rusk Road, Milwaukie

Father Matthew stated that he has the church contiguous with the park. If the park has to follow the same guidelines that they do on their property, there is a 50-foot setback on wetlands according to Metro. Going 50-feet out in every direction will increase the size of the wetlands. This setback cannot be built or encroached upon within that 50-foot boundary line. When you're thinking quantity, think this area plus 50 feet in all directions.

Chair Hammang stated that this is a two-edge sword because it is only 12, 500 feet; if you can get good mitigation somewhere else with better soil, it might be worthwhile. He shares the concern; it is a dissected drainage by man. Under future park construction if they want to lower the water table to have better fields, there will be dewater down in the drainage. The fact that it was Wapato means that it was soaked solid for hundreds or thousands of years. In his opinion, nothing is disconnected, but there needs to be accommodation. There can be good mitigation and help a lot of the other area. He doesn't know enough about the site to make a decision. Not knowing what building project is contemplated, it is difficult to tell how significant these pieces really are.

John Gessner stated that if the ball field project fails, there still is the issue of whether or not there should be regulatory control and a buffer. With small wetlands, it is found that the regulatory burden is exaggerated for the size of the 50-foot buffer; then is there excess of regulation for that 50-foot setback. The key question is whether there is sufficient quality to warrant preservation. If the Commission wants protection, staff would have to be directed to do so. The applicant can come in later for the elimination of the wetlands and the city would not have the regulatory authority to prevent that; the city would not have the ability to catch up with the application once it is submitted subject to the regulations in effect at the time.

John Gessner indicated that Alison Rae could be asked to present the formal analysis to determine whether or not the wetlands meet the Title III definitions. This will establish a basis for evaluating the policy decision as to whether they should or should not. The uncertainty is bad for the applicant. The city is not in an advocacy position in relationship to the Park's District.

Commissioner Carter asked if wetlands 1 and 3 are the last two based on their standing or could there be more. **John Gessner** stated that the wetlands are mapped under city regulations. The neighboring properties are not subject to wetland regulations now so they could build up to the property line freely. The choices the Commission has are to do nothing, map the wetlands or investigate the wetlands. If the site is mapped, there will be a mandatory 50-foot buffer established around each of the wetlands; that buffer will be

disproportionately larger than the wetland itself and have a significant effect on the useable portion of the park.

Commissioner Carter suggested mapping wetlands #1 and wetlands #3 so the entire area is mapped, recorded and in compliance with all necessary agencies (Metro, DEQ, State, LUBA, Milwaukie Comprehensive Plan, etc.). He asked that the study include ramifications of filling on the site and how it will affect the displaced water.

It was the consensus of the Commission to have a study conducted of the wetlands on the site to provide additional analysis.

Recess was taken at 8:22 p.m. and the meeting reconvened at 8:33 p.m.

8.0 DISCUSSION ITEMS - None.

9.0 OLD BUSINESS - None.

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

10.2 Design and Landmark Commission Report

Brent Carter reported that there will be a meeting tomorrow night at 6:30 p.m.

11.0 NEXT MEETING - October 12, 2004

Jeff Klein moved to adjourn the meeting of September 28, 2004. **Teresa Bresaw** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:05 p.m.

Donald Hammang, Chair

Shirley Richardson, Hearings Reporter

PUBLIC SAFETY ADVISORY COMMITTEE MEETING NOTES

October 28, 2004

Present:

Larry Kanzler, Chief of Police

Ray Bryan – Historic Milwaukie Neighborhood Association

Dolly Macken-Hambright – Linwood Neighborhood Association

Gene Covey – Lewelling Neighborhood Association

Marie Watkins – Island Station Neighborhood Association

West Linn Public Safety Advisory Committee

The meeting was called to order at 6:10 p.m.

The members of the Public Advisory Committee from West Linn introduced themselves to the group. Both groups were formed approximately two years ago. Each of their neighborhoods is represented on their committee – they have ten neighborhood associations. Both groups went over the procedure for becoming a member of their committee. Dolly explained that a lot of their time has been spent in learning the operations of the police department, procedures, etc. West Linn PD has been dealing with some changes in personnel and morale problems. They go on ride-alongs with the officers. Dolly said that Milwaukie PD is trying to work toward better community policing. West Linn has been working with their Chief on a strategic plan. Dolly asked how they liked having their Code Enforcement officer within the PD – they said it's a new position and they're still defining their role/assignments. They don't have a transit center. Everyone compared notes on gang/drug problems, skate park problems, etc.

Chief told the group about the survey that was taken at the neighborhood association meetings recently – the members of the committee brought back the results. The citizens were supposed to put a rating on their public safety concerns (drug enforcement, traffic problems, etc.). He explained our nuisance property ordinance and the trespass/exclusion ordinance and gave some examples of our successes with them. He explained what geo-based policing is. We try to have a police officer attend all the neighborhood association meetings – but they are on-duty and have to respond on calls. Both departments have a detective assigned to the Regional Economic Crime Intelligence Committee – they work on fraud/identity theft cases. DMV has had a huge problem with issuing false identification – they are trying to obtain Homeland Security grant money to start a fingerprint program. The majority of identity theft is drug-related.

West Linn asked what the Chief feels the committee can do to help him and the department. The Chief explained that the department wants the committee to understand what our role is. We're also working on the traffic management plan – to improve the procedures when someone has an issue. The department also wants to know what the neighborhood associations want from the department - what are their priorities? We also came up with a new mission statement. He wants a direct line to the community we

serve. The PD is going to participate in a citizen's academy – they will be trained by police officers on police procedures, firearms training, scenario training, driving skills, etc. It gives a chance for officers to relate to citizens in a non-threatening manner. It gives the citizens a chance to see what officers go through and situations they become involved with. The members of West Linn's group were interested in participating.

The Chief discussed the National Accreditation program – it is very expensive and requires a full time employee dedicated to it. You have ongoing responsibilities also – it's not just a one-time thing. There is a State Accreditation program now – it's much easier and cheaper to operate.

The Chief suggested that the two committees get together when we have similar issues to discuss. Both groups agreed that it was a good idea. Milwaukie's group would like to attend one of West Linn's meetings also.

The Chief explained the training process that new recruits go through – 10 weeks at the State Academy, then they train with Portland Police for 16 weeks, then field training. We provide some training officers in exchange for the training.

The Chief talked about a recent meeting of RECIC (Regional Economic Crime Investigation Center) here at the PSB. There were representatives from the Inspector General's offices from all over the country. Every Inspector General's office was represented, IRS, FBI, U.S. Attorney's Office, Social Security Administration, etc. We got one-on-one contact information for our investigators to use. There is a huge problem with student loans being obtained with false identification – the cases aren't reported for ten years.

The Chief discussed a recent issue with the D.A.'s Office failing to prosecute approximately 50% of our misdemeanor crimes. The Captain reviews every rejection report to determine whether it's a problem with the officer's report, etc. The Chief sent a letter to the District Attorney asking for an explanation and documentation. If the City annexes the Clackamas Town Center area we will look at the possibility of having our own Municipal Misdemeanor Court. The decision would be up to the City Council. We would need the additional tax dollars from the annexation in order to operate the court. There was discussion regarding the transition period.

Next meeting is scheduled for November 17th.

PUBLIC SAFETY ADVISORY COMMITTEE MEETING NOTES

November 17, 2004

Present:

Larry Kanzler, Chief of Police

Karen Martin – Campbell Neighborhood Association

Ray Bryan – Historic Milwaukie Neighborhood Association

Dolly Macken-Hambright – Linwood Neighborhood Association

Susanna Pai – Lake Road Neighborhood Association

Marie Watkins – Island Station Neighborhood Association

The meeting was called to order at 6:10 p.m.

The Chief went over the recent events regarding the Property/Evidence Technician for the Police Department. There was an article about the situation in the Oregonian last week. We are conducting an audit of the property room, which will take approximately a year. We have hired a retired Sergeant to take over the job temporarily. The position will be upgraded to Police Officer when we hire a replacement.

Marie said her house was burglarized twice and asked if taking fingerprints was standard procedure. The Chief said it depends on the circumstances and if there is a printable surface.

The Chief spoke with Chief Ellison from West Linn PD – he wants to collaborate with us on the citizen's academy. Dolly asked how much it costs to put on the program. The Chief said most of the cost is for salaries for the instructors/officers (eight weeks) – approximately \$10,000 total.

Susanna went on a ride-along recently. She feels that educating the businesses in Milwaukie regarding fraud, theft, etc. would be very helpful.

The Chief heard that this committee will be tasked with the job of determining school zone signage. No one else has received any information on it yet.

The Police Department applied for a Police Activities League grant and received funds in the amount of approximately \$24,000. The money will be used for athletic equipment, uniforms, etc. for kids activities and our Cadet program. The Cadets will be working on a reading/mentoring program with local kids.

Robbie Graves will be promoted to Sergeant on the 24th at 10:00 a.m. Dolly feels that the members of the PSAC should make an effort to attend events like this to show their support and get to know the officers. Everyone agreed.

The Chief explained that up until this year the American Legion has held an awards ceremony/dinner for the Officer and Firefighter of the year. We have decided to continue the tradition internally. He will notify the PSAC of the time/date. Officer Cereghino received the award this year. Dolly felt that the PSAC could take over the organization of this event. Everyone agreed. The Chief suggested combining it with the Citizen's Academy. Everyone agreed that was a good idea.

Dolly said they had a great turn out at the recent landlord-tenant training.

Chief discussed the possibility of annexing the Clackamas Town Center. The City has hired a consultant who will be putting together an annexation package to present to the Council and citizens. The PD would have a substation located at the Town Center. Light rail would be coming there in the future. We would also have a municipal court there. The Chief will recommend a phased program to annex the area between the City and the Town Center.

The Chief received a letter from Senator Kate Brown regarding the photo radar program. She is in support of the measure. It will go before them in January.

Chief asked if everyone read the minutes from the last meeting. Marie made a motion to approve them. Dolly seconded the motion. Passed unanimously.

Marie asked about homeless camps in her neighborhood. The property owners have to sign an "Agent In Charge" form so that the PD can act as their representative and trespass the people from the property.

Meeting was adjourned at 8:40 p.m.

Next meeting is scheduled for January 27th, 2005.

**Minutes
Riverfront Board Meeting
October 12, 2004**

Members present: Terrie Darling, Mitch Wall, Dave Green, Michael Martin, Gary Klein
Absent: Mike Stacey
Guests: Richard Newman (prospective member)

Minutes: Mitch Wall suggested some modifications to the August 10 meeting. The minutes as modified were approved 4-0 with Terrie Darling abstaining.

Oregon Solutions

Herrigel reported that the Riverfront Plan may be selected by a group called Oregon Solutions as a focus project this year. She said she and the City Manager had met recently with a representative of Oregon Solutions.

Following is a polished version of what Herrigel described:

Oregon Solutions grew out of the State's Sustainability Act of 2001. At first it was inside the Executive Branch of Oregon's state government and then in January of 2002 it became a program of the national Consensus Center at PSU.

Oregon Solutions promotes a style of community governance based on collaboration, integration and sustainability.

- *They look for projects in the state that address at least one of the sustainable community objectives (This round they were looking for a project in the Portland area and one that was on the Willamette...)*
- *Once a project is selected and announced, the Governor appoints a "neutral convener" (or Chair) from the local community who can lead a team to address the challenge*
- *A team is assembled of federal, state, local, and other government entities, businesses, non profits, and citizens who are needed will contribute to the solution. I am developing a list of local stakeholders now.*
- *The team looks for an integrated solution that leverages the resources of the Team to meet the challenge at hand*
- *Team members sign a declaration of cooperation that commits their resources and time in an integrated action plan*

Herrigel said that the announcement of projects will take place in November. If the Riverfront Project is picked, she said, the Oregon Solutions Team and maybe the Governor will visit Milwaukie in January to tour the site.

Herrigel said that she had been thinking of possible “conveners” and Brian Newman seemed to be a good choice for this project. Herrigel said she had mentioned the project to Brian and he had indicated that he would be interested.

Martin asked whether there was funding involved. Herrigel said that she thought that this process might “uncover” funding from various sources but that Oregon Solutions does not bring any money (per se) to the project.

Klein said he thought it sounded good but hoped that the group would not “veer off on their own” taking control away from Milwaukie.

Green added that he thought it was important for us to have a good convener who knows the project and is local.

Darling said she would prefer to not have a politician as a convener, especially one from Metro. She said she thought Brian’s association with Metro might bring folks out against this project. She asked what this convener would do?

Green said he thought they would do outreach, “hobnobbing” and bring attention and potentially funding to the project.

Darling said she’d like to have someone from the media involved. She felt strongly that the development of the project and the project itself not be taken away from Milwaukie citizens and given to Metro.

Green said that hopefully the convener would not wield power but rather convene. They should be a neutral person not interested in a particular position. Green asked for names of other possible candidates.

Darling concurred that this should be someone that doesn’t have a stake in the project but that can get passionate about it. She added that she hoped the group would “support” the citizens in developing the Riverfront following Milwaukie’s Riverfront Plan guidelines.

Herrigel said she would keep the board posted on any developments regarding Oregon Solutions.

Boat Ramp Update

Herrigel she had brought a resolution to Council authorizing staff to pursue emergency funds from the Oregon Marine Board for repairing the boat ramp. Council passed the resolution. Herrigel said she sent a letter to the OMB requesting guidance on how to apply for the emergency funds and she has not heard back from them. She noted that Council also asked that the Oregon Marine Board be invited to an upcoming work session and this has been done as well. Wall noted that he recollected Council stating that the Riverfront Board should be present at that work session. Herrigel said she would make sure the Board was notified.

Darling asked for clarification on the history of the boat ramp and what role the ramp played in getting the Riverfront Plan done. The group filled her in.

McLoughlin Project

Dave Green reviewed an almost final McLoughlin plan design with the group. He noted that staff is considering various types of materials for marking crosswalks so that they stand out and are user friendly. He suggested that the crosswalks at Monroe be extra wide since this was to be the main entrance to the park.

Gary Klein noted that the employees at ODS often use the crosswalk on the northern side of Harrison at McLoughlin. He noted that there does not appear to be a crosswalk on the design in this location. Herrigel said she would ask about that crosswalk and would suggest that ODS at least be notified (by letter) of the removal of this walkway since they seem to use it fairly regularly.

Questions:

- Can Dave Green get a copy of the 90% plan set to review?
- Will Riverfest be ok during construction? (Herrigel said she has been assured that it will be ok.)
- What is the completion date for McLoughlin?
- Newman: Is a tunnel feasible? (Group sigh)
- Darling: What about a bridge? (Another group sigh)
- Has staff looked into financial obligations associated with boat ramp removal? (A staff sigh)

Meeting Schedule

After some discussion, the group agreed to set their regular meeting date on the First Monday of every month. However, since Dave Green is unable to attend a meeting on the first Monday of November, that month's meeting was set for November 3 at 6 pm. Herrigel asked if the group still wanted her to get dinner for the meetings. All agreed that they did. She asked if individual contributions toward the cost was okay (as opposed to one host per meeting) and all agreed to that as well.

Johnson Creek Watershed Council

Dave Green said he thought it might be good for the Riverfront Board to coordinate more closely with the JCWC. He said JCWC is changing the way they operate from a quasi-public organization to more of a true non-profit. He said they have become an organization that can leverage funds and labor. Dave said by working with them more closely maybe we might be able to eek out bits of our park. Herrigel asked if the Board wanted her to invite the Director to the next meeting. The group said they thought that JCWC should get a standing invite to our meetings and then when there is a specific issue to address together we could alert them. Herrigel said she would contact the JCWC and

invite them to the next meeting to re-introduce ourselves and discuss our relationship further.

Gary Klein noted that he is now a volunteer with JCWC's as a "Tool Specialist" and on the Restoration Committee. They have three committees (Outreach Committee, Restoration Committee & Land Use Advocacy Committee) & the main broad. He announced many work parties will occur on March 5, 2005 in the Johnson Creek watershed area and maybe one near the Milwaukie Riverfront.

Wall motioned to adjourn Darling seconded and the meeting adjourned at 7:55.

Riverfront Board Minutes
November 3, 2004

Members Present: Green, Stacey, Darling, St. Clair, Klein, Wall
Members Absent: Martin
Guests: Michelle Bussard – Johnson Creek Watershed Council

Minutes

Wall motioned that the minutes of the October meeting be approved as written, Darling seconded. Motion passed 6-0.

Johnson Creek Watershed Council

Michelle Bussard, Executive Director of the Johnson Creek Watershed Council (JCWC) gave an overview of the Council's current activities and status.

- The JCWC has been around for about 10 years and became a 501C3 organization 2 1/2 years ago
- Its original objective was to increase the water quality of Johnson Creek but their mission and scope has grown over the years
- They have evolved from a "Friends" group into a Council
- They are the smallest but densest watershed council (in the state?)
- There are seven member jurisdictions and the area they cover has a population of 170,000
- They have a new office facility off Millport Dr. in Milwaukie (the Bromar Building) donated to them by Howard Dietrich
- They have a Resource Room and a meeting room that can be used by others
- Looking to have their Board membership filled out with more skilled resource people, such as an engineer, a lawyer and a financial person.
- They currently have 15 members on their Board but no one from Milwaukie currently
- They meet monthly
- Projects they have done in Milwaukie include, work with ODS on revegetation plan, work with St Johns Church, and work with Waldorf School on their planting plan
- They created a watershed action plan that was adopted last summer. An update will start soon.
- March 5, 2005 there will be a watershed-wide event at 12 sites along the Creek for which they need partners to underwrite, host sites and work on crews
- There will be a second event in June
- Funding for the Council comes from OWEB and public funding sources including jurisdictions, foundations and individuals.

Board questions/comments:

Green: the Riverfront Board's charge goes beyond the riverfront to encouraging connectivity with the two creeks. Our cooperation with the JCWC is important. Should the Board be involved in the March event – maybe host a site at the mouth of Johnson Creek (ODS or our property)? We should all at least volunteer.

Klein: Hoping to work with ODS in March. He approached Murry Tod at ODS.

Bussard: The JCWC would like to see the City and this Board host a site

Green – is the mouth of the creek still a priority?

Bussard : yes

Klein: Blackberry removal and replanting is what's needed at the City property south of the Creek. Plants installed previously didn't do too well.

Bussard: Christine Hurst would do a site visit and walk the site with Gray or Dave or JoAnn and plan out what could be done on March 5.

Darling: What schools do you work with ?

Bussard: dozens – last year they had over 400 people at 12 sites)

St. Clair: Has anyone kayaked it? What would make a difference in the water quality?

Bussard: Two big things impact the creek: agricultural run off in the upper water shed and stormwater run off in the lower watershed. Behavior change and infrastructure are both needed. It's got to be about more than the salmon. We need to make a commitment to valuing habitat more than developable lots.

Bussard described the on-going discussion at Metro regarding Goal 5 and encouraged folks to attend a hearing the next day at Metro at 2 pm.

St Clair moved that the next Riverfront Board meeting be held at the JCWC meeting room. Klein seconded and the motion passed 6-0.

Special Note

Gary Klein invited the Board members to his house on December 9 at 6:30 for a party to view the Christmas Ships. He noted that spouses and others were invited as well.

McLoughlin Project

Green updated the group on the status of the McLoughlin project. He said he had reviewed the plans and had submitted comments regarding the crosswalk width and color as well as the slope of the lawn from the sidewalk back toward the river.

Wall asked if we had contacted ODS regarding the walkway at Harrison that is being eliminated as part of this project. Herrigel said she had passed on this information to the staff that is responsible and assumed that they would contact ODS.

What's Next

St Clair asked if there was any budget for the Riverfront at all. He asked if there was a final plan for the park and a list of goals the board has for it. He noted that it would be great if the marina paid for the park. He noted that it is problematic to put in and take out a boat at this site. He felt that we should really use the River more wisely since we have such a great resource right here in the City. He asked again what the group's mission was.

St Clair asked if we could have annual goals

Green said that we did a lot of work on the McLoughlin design this year and that is on its way to construction now. The next step will be to complete the final design for the park and maybe that could happen as part of the Oregon Solutions project.

St Clair said he thought the Board should do a facilitated “brainstorming” meeting at which we established ideas for what should be in the Park.

Darling asked what the group’s charge was.

Green said that the Riverfront Board is advisory to Council but that we could change our role if we want or need to.

Darling made a motion that the next meeting be focused on visioning and what our mission statement is. St Clair seconded and the motion passed 6-0.

Herrigel had noted that Celebrate Milwaukie Inc. (CMI) had given the city \$3,000.00 for the Riverfront. Herrigel said she had created a reserve account for these funds. She added that CMI still had \$2,000 for the Riverfront that they said the City could have if they needed it. The Board voted 6-0 that Herrigel should ask CMI for the remaining funds.

Darling said she would like all the Riverfront Board members to volunteer at Riverfest this year. Wall agreed that that was a good idea. St. Clair suggested that maybe the group have a booth. The group liked this idea.

Next meeting

The next meeting was set for **December 6 at City Hall**. All agreed that in January we would begin meeting on the 2nd Tuesday of the month (January 11) and we would meet at the Watershed Council’s meeting room.

The group requested that staff send them a JPG file of the Riverfront Plan.

Stacey motioned to adjourn, St Clair seconded and the meeting adjourned

**North Clackamas Parks and Recreation District
Milwaukie Center/Community Advisory Board
Minutes of November 12, 2004**

Members present: Chuck Petersen, Jim McCready, Ben Tabler, Katie Rudfelt, Jane Hanno, Kathi Schroeder, Joan Staley, Eleanor Johnson, Molly Hanthorn

Member Excused: Kim Buchholz, Sharon Phillips

Guests: Joy Estes, Carolyn Mills

Staff Present: Joan Young, Charlie Ciecko, Cheryl Nally

Call to Order: Vice Chair Joan Staley called the meeting to order at 10:06 am. Chuck moved and Molly seconded a motion to approve the October 8 minutes as printed. Motion passed. Membership applications were considered. Carolyn Mills was nominated by Eleanor, seconded by Ben and approved. Malinda was nominated by Eleanor, seconded by Kathi and approved.

Special Reports: Cheryl Nally presented the 2003-2004 Annual Report. The report is shorter this year due to cuts in programs and services. Cheryl reviewed the format and answered questions. The Board thanked her for producing a good document. Charlie commented on a projection of \$1 billion less of State funding in the coming year and asked how this would impact the Center programs. Joan said 2 programs are 100% State funded: Special Transportation Fund and Oregon Project Independence (which we have learned not to count on for Nutrition and Respite). She also commented that funds which trickle down from Federal sources can at any time be diverted by the State.

Board/Committee Reports

Executive Committee: No meeting.

NCPRD Board: Eleanor reported that two meetings had been held for public comment on the North Clackamas Park plans. The Board approved the 2nd alternative which would provide youth fields, preserve the horse arena and save the oak tree. A site plan will be developed to address public concerns. A few District fee changes were approved. The Quarterly Budget report was shared. A Trolley Trail update was given. A report on the costs of the Center Nutrition Program and alternatives was presented.

North Clackamas Aquatic Park Task Force: No meeting.

Budget & Finance: No meeting.

Nutrition & Transportation: Ben reported the new steam table requires new wiring before it can be used. Customer satisfaction surveys for Congregate and Home-delivered meals were reported and were mostly excellent or good. As a result of County Health Department inspection, we are replacing all paper towel dispensers in the kitchen. This is an unanticipated expense. Insurance cost increases on busses are being worked on. Happy Valley staff and a committee from the Parks District are discussing ways to provide services to Happy Valley area.

Building Review: Will meet in January.

Friends of the Milwaukie Center: Eleanor reported an Estate Planning meeting to be held on December 6. The Holiday Party will be December 16.

Center Report: Joan reported she had received an inquiry from Milwaukie City staff about including our Board members in their volunteer recognition. The Board has always appreciated having someone from the city attend our annual Volunteer Recognition function and hope they can continue to do so. Budget process for next year has begun. Joan mentioned several big projects that need to be considered: Parking lot, roof, HVAC units, data base replacement and insurance for Transportation. Eleanor raised the issue of the need for a volunteer coordinator at the Center to increase and maintain the number of volunteers we need.

Next Month's Agenda: Board members have suggested that staff bring forward the reports from each department.

Meeting adjourned at 11:15 am.

m. hanthorn, secretary

North Clackamas Parks and Recreation District
MILWAUKIE CENTER DIVISION
Monthly Report for November, 2004

Programs/Services:

In the last year (four terms of classes), 52 scholarship requests, totaling nearly \$1,500, were processed at the Milwaukie Center, allowing older adults in the community to actively participate in classes despite financial constraints. Scholarships are provided by the Friends of the Milwaukie Center, Inc. through fund-raising efforts and the generous donations of community supporters.

The Milwaukie Center makes every effort to bring experts to the Center on a regular basis to discuss topics of interest to the older adult population. Two such programs happened during the month of November:

The Medicare medical insurance program undergoes changes periodically. Recently a prescription drug benefit has been added to Medicare, providing different benefits to different groups. Cindy Zimmerman from Clackamas County Social Services Medication Assistance Program spoke at the Center about these changes and assisted older adults to find appropriate benefits and resources as well.

Dr Gregory Garcia, Providence Health Systems, provided an informative session on Post Herpetic Neuralgia, a condition that can affect people who have had shingles, to a packed room of fifty older adults.

The Milwaukie Center Transportation Program works closely with the Milwaukie Center Travel Program's 39ers volunteers to provide affordable day trips for Milwaukie Center clientele. Volunteers plan and escort the trips, while the Transportation Program provides drivers and the busses. Recent trips include a winery tour, and the Verboort Sausage Festival and the Pittock Mansion. Traditionally, the Travel Program volunteers plan a trip to see the Christmas lights in December – and currently reservations for two busses are fully booked for this popular event!

Fund-raising:

The Nutrition Program held it's ever-popular Famous Sunday Thanksgiving Dinner on November 14, serving 207 community folks a delicious turkey dinner with all the trimmings, netting just over \$900 supporting older adult nutrition services.

Coming up:

Estate Planning Seminar – Mon, Dec 6, 10 am, sponsored by Friends of the Milwaukie Center. Learn what you need to do to have your bases covered.

Adult Holiday Party – Thurs, Dec 16, 1 pm – entertainment by the Chuck Karsun Big Band, refreshments, and a visit from Santa! Bring a can of food for Operation Santa Claus and join the fun. Sponsored by the Friends of the Milwaukie Center.