

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
MARCH 1, 2005**

**CALL TO ORDER**

**Mayor Bernard** called the 1953<sup>rd</sup> meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Deborah Barnes	Joe Loomis
Carlotta Collette	Susan Stone

Staff present:

Mike Swanson, City Manager	Paul Shirey, Engineering Director
Gary Firestone, City Attorney	Jay Ostlund, Associate Engineer
Stewart Taylor, Finance Director	

**PLEDGE OF ALLEGIANCE**

**PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**

**Award Presentation Police Officer of the Year**

Capt. James Colt and Officer Ryan Burdick recognized **Tony Cereghino** as Officer of the Year and **Danny Hill** as Reserve Officer of the Year.

**Recognize Art Ball for Service to the Community on the Budget Committee**

The Council recognized **Art Ball** for his contributions to the community as a Budget Committee member and Lewelling Neighborhood District Association Chair.

**Celebrate Milwaukie, Inc. Information**

**Mayor Bernard** announced that the Riverfest would be a one-day event this year because of the McLoughlin Boulevard and North Main Village Projects and budget constraints. There will be live music, fireworks, and dragon boat races on July 23. The Farmers Market will begin in May and may be expanded.

**CONSENT AGENDA**

It was moved by Councilor Barnes and seconded by Councilor Stone to approve the consent agenda that consisted of the City Council Minutes of February 1, 2005. Motion passed unanimously. [5:0]

**AUDIENCE PARTICIPATION**

**Donna and Garry Burlingame**, 11404 SE 48<sup>th</sup> Avenue, Milwaukie. She has been a resident in that house since 1991. Ms. Burlingame discussed her neighbor's black walnut tree, which she believed was hazardous. The tree was about 75 to 100-feet tall, and walnuts falling from that height had broken two hard plastic chairs. She did call Les Hall, but he told her she needed to talk to the City Council. He looked at the tree from the front of the neighbor's property, but most of the tree was hanging over the fence on the Burlingame's side. She was paying \$2,900 a year in taxes, and she could not enjoy her yard because the tree was such a mess.

**Councilor Barnes** asked Ms. Burlingame if she had spoken with her neighbors.

**Ms. Burlingame** said the neighbors were renters. A builder purchased it last year, but his phone was unlisted. She did not talk to the renters about contacting the owner. She tried working with the lady who lived there before, but nothing happened. She read in *The Pilot* that code enforcement would help in these situations, so she went that route. She was frustrated because she could not get the original neighbor to do something. The person who bought the property was just going to build on the second lot, and then turn around and sell the whole thing. He would not care. The tree was right on the fence line.

**Councilor Collette** said it seemed that Ms. Burlingame should open a conversation with the property owner. If he were planning major construction, then he would have the ability to trim the tree or cut it. She did not know if the City could help her locate the owner, but she felt that was where the conversation should start because the renter was not able to do anything.

**Councilor Stone** had similar experiences with a tree overhanging on her property. By law, one had the right to trim back overhanging branches, and she asked the neighbor if it was all right to do so.

**Mr. Firestone** clarified that one had the right to remove branches on their side of the property as long as that did not seriously damage or kill the tree.

**Councilor Stone** said in the case of the large walnut tree on her fence line, she spoke with the neighbor before hiring a professional tree service. A large limb was removed, but the tree was not damaged. She encouraged Ms. Burlingame to speak with the owner through the renter to discuss the steps she wished to take.

**Ms. Burlingame** thought it had never been trimmed and would need to be cut way back. It was shaped like an umbrella. It was about 50-feet to the next branch, but it was all hanging over the fence. She had contacted a tree service when the other owners were there, but they wanted about \$1,500 to prune it. It would be difficult to get to because the tree was in the backyards. She had the name of the person making the application, but the name seemed different from the one she got from the tax people. She believed the name on the notice was the builder and not the owner.

**Mr. Firestone** explained anyone could get the name of the property owner through the County Assessor's Office.

**Councilor Barnes** suggested Ms. Burlingame contact the County and let the City know if she was not making good contact so a Councilor could take it to the next step.

**Ms. Burlingame** said she never did get a phone number and felt this was a hazardous situation.

**Councilor Stone** said the tree could be pruned as long as it was not damaged. In her situation because the tree was hanging on her side of the fence, she felt it was her responsibility. She did talk with the neighbors to make sure it was all right.

**Ms. Burlingame** said a tree service would have to go on the neighbor's property.

**Councilor Stone** said that was similar to her experience, and the tree service did go onto the neighbor's property.

**Ms. Burlingame** tried to do that with the first owner, but they were not interested.

**Councilor Collette** thought the new owner might have no idea it was a nuisance.

**Ms. Burlingame** said the previous owner did know there was a problem because of code enforcement. There was a storm, and a large branch broke. Code enforcement made them do it, but the property owner waited until the last minute.

**Mr. Firestone** explained that if things could not be worked out with owner, the City had the authority, if it determined the tree was unsafe, to declare it a nuisance.

**Mr. Swanson** said that was done only occasionally because it was not the first action the City wished to take. It was his decision whether a tree was dead, decaying, or unsafe or if tree limbs presented a safety hazard to the public or adjacent property. Once the nuisance was filed and the property owner did not do anything, the City would appear in court and get a warrant that would allow the City to enter the property and abate the nuisance. The City would have had to make all other attempts to remedy the situation rather than to use the power of government. The City Recorder would send a notice to the property owner or person in charge and post the property. The owner may not know what was going on until the City filed a lien for the cost of the abatement. That was the last resort because it was the exercise of raw power.

**Mayor Bernard** encouraged Ms. Burlingame to contact the owner. If that did to work, he recommended that she write a letter to code enforcement.

**Mr. Firestone** said if things could not be worked out with owner, the City did have the authority to declare it a nuisance if determined to be unsafe. The City cannot try to contact the owner for her.

**Mr. Swanson** added if it did get to the point of being nuisance, he would send Mr. Hall to the site to determine if there was actually a safety hazard. The determination would be done on fairly narrowly construed grounds. It did eventually permit the City to enter the property, which was the last resort.

**Mr. Burlingame** said someone would have to come on the property when the walnuts were actually falling. She did invite Mr. Hall to come to her house so he could see the tree from her side of the fence. He chose to go to the front yard of the house next door, but the tree was in the backyard. One could not get a real view of how dangerous it was. The tree was as wide as her lot was wide.

**PUBLIC HEARING****Certification of Ballot Measure for May 17, 2005 Election on Annexation of the City by Clackamas Fire District No. 1**

**Mayor Bernard** called the public hearing to order at 7:30 p.m. The purpose of the hearing was to give members of the public an opportunity to comment on the proposed ballot measure.

Staff report: **Mr. Swanson** said this was the third step toward annexation of the City into Clackamas Fire District #1 (CFD1). The first step was in January when the City Council requested that the District Board consider annexation of the City. The Board approved the request and set the election date for May 17, 2005. The action at this meeting was certification of the ballot measure for inclusion on the May 17 ballot. Between the time the District Board approved the request and this meeting, the City Council discussed the structure of the ballot measure. A number of cities were requesting annexation to fire districts including Gresham and Oregon City. Last year, West Linn annexed to Tualatin Valley Fire and Rescue. One of the issues that came up was the City's intention with respect to a potential tax increase. The annexation allowed the District to impose its permanent rate on City residents. Currently, Milwaukie was paying the District on a contract out of the City's permanent rate. Without any other action, the City could continue to collect its permanent rate, and the District could collect its permanent rate. That would result in a tax increase, and that was not what the City of Milwaukie wanted to do. The focus was getting the City annexed to the District and making it a tax neutral proposition. The proposed ballot question was, "shall Milwaukie annex to CFD1 for fire and emergency medical services and reduce tax certification to prevent tax increase." The summary statement included, "the measure also requires that the City reduce its property tax certification so that the total rate levied by the City and CFD1 is no more than the total rate they currently levy." In other words, there would not be an increase in taxes upon annexation. Any future increase would require voter approval. The City Council could not increase taxes under this measure. Not only did the measure specifically provide for no tax increase, it also provided that if there were an increase in the future in taxes, it would have to be by a vote of the people. There was a prohibition today and a safety valve for the future.

Why CFD1? The City has contracted with the District since 1998. The District absorbed all of the former Milwaukie firefighters, and most of them were employed with the District today. In 1997 when Milwaukie last had its own fire department, two stations with one at the Public Safety Building (PSB) and one at City Hall served the City. Upon contracting with the District, Milwaukie ended up with a higher level of service. Milwaukie had first response out of four stations, Fuller Road, Lake Road, PSB, and Oak Lodge. Minimum staff when it was a City department was six firefighters. The minimum staffing at any time for the City with the District was 16. That was a threefold increase in the number of professional firefighters serving Milwaukie.

One reason for annexation to the District was to make that permanent and ensure the provision of fire suppression and emergency medical services. A lot of people would argue that could still be done by contract. Milwaukie had a great relationship with the District Board; however, a future Board could choose not to continue the contract.

Apparatus was very expensive and had a 20-year useful life. The District was taking a risk on a 10-year contract. Some Board in the future may wish to negotiate a contract with an added premium. Politically, it was not that long ago that fire districts and cities did not talk. The contract served Milwaukie well since 1998, but it was not a permanent status. The City received excellent services from the District. It also fixed the cost of fire services. Right now the highest the District could charge was its permanent rate. If the District wanted to go beyond that amount, it would have to go to its voters. Annexation would fix the cost of fire suppression and emergency medical services. It was not necessarily fixed under a contract. There was also the argument that Milwaukie did not have a voice in the District. As he said, Milwaukie and the District had good relationships, but Milwaukie residents did not have a voice in choosing the Board members or in putting operating levies before the voters. This made a good relationship permanent, fixed the rate that Milwaukie residents were charged, and gave the voters full power to approve either tax increases by the City or the District. He requested that the City Council adopt the resolution and certify the caption, question, summary, and explanatory statement and direct staff to forward those to the County Clerk.

**Mayor Bernard** said one of the issues that came up was governance. The voters of that District elected the District Board. The Board is separate from any other government agency such as Clackamas County and the City of Milwaukie. He understood the District had some bonds on buildings and that Milwaukie taxpayers were not responsible for anything above the permanent rate.

**Mr. Swanson** replied CFD1 was a special district and separate from any other unit government. CFD1 was a single-purpose District that focused only on fire suppression and emergency medical services. It was governed by its own Board, which was elected by the people living within the District boundaries. The District legal counsel opined that the City would not take over any responsibility for the existing bonded debt, nor would the District take over any responsibility for the City's bonded debt on PSB. The City would enter into a lease with the District for use of PSB. Neither of the two entities would assume responsibility for the other's bonded indebtedness.

**Councilor Loomis** liked the way the resolution was written and would support it.

**Councilor Stone** appreciated Mr. Swanson's clarifying that there would be no increase in taxes. She thought that was why the September measure was defeated.

**Councilor Collette** agreed that the language was very clear. She asked if "tax certification" had to be used.

**Mr. Swanson** said that language had to stay because that was the action everyone took in June in preparation for submitting it to the tax assessor.

**Mayor Bernard** commented the City and District had been meeting weekly, and CFD1 was doing a fantastic job. He believed this was the right thing to do.

Correspondence: None.

Testimony: None.

**Mayor Bernard** closed the public testimony portion of the hearing at 7:43 p.m.

It was moved by Councilor Collette and seconded by Councilor Loomis to adopt the resolution submitting the proposed annexation to the voters of the City and requiring adjustments to property tax certifications. Motion passed unanimously. [5:0]

**RESOLUTION NO. 10-2005:**

A RESOLUTION OF THE CITY COUNCIL OF MILWAUKIE SUBMITTING THE PROPOSED ANNEXATION OF ALL TERRITORY WITHIN THE CITY BY CLACKAMAS FIRE DISTRICT NO. 1 TO THE VOTERS OF THE CITY OF MILWAUKIE AND REQUIRING ADJUSTMENTS TO THE CITY PROPERTY TAX CERTIFICATION.

**OTHER BUSINESS**

**Adoption of Clackamas County Service District #1 Pre-Treatment Regulations – Ordinance**

**Mr. Ostlund** reported in July 2002 the City entered into an intergovernmental agreement (IGA) with Clackamas County Service District #1 (CCSD) and agreed to adopt a pre-treatment program within six months. Since then, DEQ and CCSD worked on the proper adoption of the program. CCSD was already monitoring businesses with permitted uses. These permitted uses were for businesses with unusual or strong discharges that had to be tested for certain chemicals before entering into the sanitary system. CCSD had a program in place, and adoption of this ordinance would give CCSD the authority to enforce.

**Mayor Bernard** understood some companies already treated water before it went into the sewer system.

**Mr. Ostlund** explained Blount was a model business that had a department to monitor discharge and ensure that the pre-treatment was working. He added this would not affect any residential customers or any businesses that were not in the processing type of industry.

**Councilor Stone** noted the staff report indicated no additional costs would be incurred from the CCSD at this time, and she asked Mr. Ostlund if he anticipated any in the future.

**Mr. Ostlund** did not anticipate any costs in the future.

**Councilor Collette** noted one of the alternatives was to adopt Water Environment Services (WES) pre-treatment regulations and asked if there was a difference.

**Mr. Ostlund** replied they were the same.

**Councilor Collette** asked how the discharges were monitored.

**Mr. Ostlund** explained in a pre-treatment program, processing would be closely monitored with a permit attached. The company would have to be below a certain level of contaminants, and tests were made for those. If the company met all of the requirements, then it could discharge into the sanitary system.

**Councilor Collette** asked for clarification of how the discharges were monitored.

**Mr. Ostlund** said CCSD had certain businesses that it monitored closely and tested each discharge. Blount, for example, was not tested every time because CCSD did not feel it had to.

**Mayor Bernard** discussed monitoring at the treatment plant. Each year he filled out forms indicating the chemicals he uses, so if those started showing up at the plant, CCSD would know who was responsible.

**It was moved by Councilor Stone and seconded by Councilor Barnes for the first and second readings by title only and the adoption of the ordinance amending Milwaukie Municipal Code Chapter 13.12 by creating an industrial pre-treatment program. Motion passed unanimously. [5:0]**

**Mr. Swanson** read the ordinance two times by title only.

**The City Recorder polled the Council. Councilors Barnes, Collette, Stone, and Loomis and Mayor Bernard voted 'aye.'**

**ORDINANCE NO. 1948:**

**AN ORDINANCE AMENDING CHAPTER 13.12 OF THE MILWAUKIE MUNICIPAL CODE TO CREATE AN INDUSTRIAL PRETREATMENT PROGRAM FOR NON-DOMESTIC USERS OF THE CITY'S SEWAGE SYSTEM AND AUTHORIZING COLLECTION OF FEES TO IMPLEMENT THE PROGRAM.**

**Mayor Bernard** announced the City Council would go into work session to consider Council goals.

**Adjournment**

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

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

*Pat DuVal*

Pat DuVal, Recorder

**REVISED – FEBRUARY 24, 2005**  
**AGENDA**

**MILWAUKIE CITY COUNCIL**  
**MARCH 1, 2005**

**MILWAUKIE CITY HALL**  
10722 SE Main Street

**1953<sup>RD</sup> MEETING**

**REGULAR SESSION – 7:00 p.m.**

- I. CALL TO ORDER**  
Pledge of Allegiance
- 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
  - A. Award Presentation Police Officer of the Year (Larry Kanzler)**
  - B. Recognize Art Ball for Service to the Community on the Budget Committee (Mayor Bernard)**
- 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.)*

**City Council Minutes of February 1, 2005**

- 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.)*

**Certification of Ballot Measure for May 17, 2005 Election on Annexation of the City by Clackamas Fire District No. 1 – Resolution (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.)*

**Adoption of Clackamas county Service District #1 Pre-Treatment Regulations – Ordinance (Jay Ostlund)**

## **7. INFORMATION**

- A. Center/Community Advisory Board Minutes, January 14 2005**
- B. Design and Landmarks Committee Minutes, August 25, 2004**

## **8. ADJOURNMENT**

**WORK SESSION: Immediately following adjournment of the regular session,**

- **Communications Agreement**
- **Council Priorities**

### **Public Information**

- Executive Session: The Milwaukie City Council may go into Executive Session immediately following adjournment at pursuant to ORS 192.660(2).

All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

# AGENDA

## MILWAUKIE CITY COUNCIL MARCH 1, 2005

MILWAUKIE CITY HALL  
10722 SE Main Street

1953<sup>RD</sup> MEETING

### REGULAR SESSION – 7:00 p.m.

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# MINUTES

## MILWAUKIE CITY COUNCIL WORK SESSION FEBRUARY 1, 2005

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

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

Staff Present: City Manager Mike Swanson and Finance Director Stewart Taylor.

### **Information Sharing**

Mayor Bernard received calls about installing a sign for 22<sup>nd</sup> Avenue off McLoughlin Boulevard. There was a business located on that street that was difficult to find.

**Mr. Swanson** provided a list of proposed goals for Council consideration.

### **Scheduling**

- Goal Setting and Review of Communications Agreement – February 19, 8:30 a.m. in the City Hall Conference Room.
- Council Retreat – April 2 & 3, location to be determined.
- Council photos – February 15.

### **Public Contracting Rules**

**Mr. Firestone** provided information on the 2003 Legislature's major revisions to the public contracting statutes effective on March 1, 2005. The Cities of Milwaukie, West Linn, and Tigard partnered in the preparation of the proposed Public Contracting Rules to be considered for adoption. He reviewed the main sections and discussed the process and application of the rules.

- Section 10 listed exemptions to the requirements for a competitive process, and Mr. Firestone reviewed some of those. He discussed the rules for public improvement contracts that had design and/or construction management aspects. There was a provision that allowed the City Council to create individual exemptions in specific cases.
- Chapter 15 provided details of price agreements.
- Chapter 20 governed brand names or marks. He explained that one could not identify a brand name under state law when preparing specifications. This ensured that the government entity was not unfairly favoring a vendor by specifying a particular manufacturer.
- Chapter 25 addressed emerging small businesses and the requirement that the City consider those.
- Chapter 30 outlined the formal competitive process that was either an invitation to bid or request for proposals. In that process, the Council made

the ultimate decision acting as the Local Contract Review Board. The Council may from time to time hear a procedural question.

- Section 40 spoke to public improvement contracts and competitive bidding requirements.
- Section 50 discussed security for bids and performance bonds.
- Section 60 related to the disposition of personal property and allowed transfers to other government agencies, non-profits, and sales that were designed to achieve maximum dollars at a minimum transaction cost.
- Section 70 discussed personal services contracts, which, if it were a large contract, would be subject to the RFP process. There was an obvious exemption for emergency situations.
- Section 90 had provisions that required recycled or recyclable goods.

**Mr. Firestone** said the proposed Rules would be before the City Council acting as the Local Contract Review Board in a public hearing on February 15.

**Councilor Collette** understood contracts over \$25,000 would still come to the City Council after a process other than a formal competitive process.

**Mr. Firestone** replied that was defined in the Rules. If the contract was between \$25,000 and \$50,000 and did not come under one of the other exemptions, then the intermediate process of soliciting at least 3 bids would be used. Under the current rules, the exemption for contracts under \$25,000 was the same as the city manager's signature authority. He noted this did not raise the authority of the city manager or any other staff member to spend money. There may be contracts coming before the City Council simply because they were greater than \$25,000 but less than \$50,000 that did not go through the formal competitive process. The Council could review the process and could say it did not like the process.

**Councilor Stone** asked for some examples of exemptions that were eliminated because they were not being used.

**Mr. Firestone** said one had to do with library exemptions as well as several others.

**Councilor Stone** asked what was being changed in regards to protests.

**Mr. Firestone** replied the time for some protests was shortened and provided for clearer requirements regarding the City's notice of the intent to award.

**Councilor Stone** asked what compelled the legislature to revise this.

**Mr. Firestone** thought the most important reason was that the chapter with the public contracting statutes grew over time, and it had become very disorganized. This change organized the chapter and split it into 3 sections: the general rules, rules applicable to goods and services, and rules applicable to public improvements. The intent of revising the rules was not to make too many substantive changes, but he did take advantage of streamlining a few things. One substantive change was the exemption for contracts under a certain dollar amount. The state went from a relatively low number to \$150,000 for some

contracts. The group working on the re-write of the rules decided to keep a more active role for the respective Local Contract Review Boards and identified \$50,000 as the point at which a formal process was required. In the old statute, it was not totally clear that a request for proposal process was considered equivalent to an invitation to bid process for goods and services contracts. The City's rules treated those the same over the past several years, and that was one of the changes the legislature made.

**Councilor Loomis** would like red-line version of amendments when possible.

**Mr. Firestone** said there were a couple of new exemptions, but the others were hardly changed. There were few substantive changes other than going from \$25,000 to \$50,000 on the exemption for contracts under a specified amount.

**Councilor Stone** understood if these rules were not adopted, then the City would be subject to state statutes.

**Mr. Firestone** said statutes controlled regardless, but he believed these Rules implemented the statutes. If these were not adopted, they Attorney General Model Rules, which were generally more bureaucratic, wordier, and harder to deal with for both the City and contractors, would apply.

### **Companion Measure for Clackamas County Fire District #1 Annexation**

**Mr. Swanson** discussed the companion measure to the CCFD1 annexation. The City Council requested that the District Board allow Milwaukie to submit at a future election the question of whether or not to annex the whole of the City into the District. Technically, Milwaukie had its own Fire Department by having a contract with CCFD1, and Chief Whiteley was technically its Fire Chief. Currently, the annual budget for that contract was approximately equal to the amount the District would levy as its permanent rate of \$2.4012 per thousand valuation. The District Board approved the Milwaukie City Council's request and scheduled the election for May 17.

When Milwaukie went to the voters in September 2003, the Council committed without any formal action that the net tax effect would be zero. He got a lot of calls before and after that election about how taxpayers could be assured that was the case. If the annexation were approved, the immediate effect would be that the District could levy up to its permanent rate of \$2.4012. Without any other action, that did mean in fact an increase in taxes.

**Mr. Swanson** proposed that when the City Council certifies the measure to the County Clerk that it also takes action to ensure it was clear that Milwaukie's intention was to reduce the levy of the permanent rate by \$2.4012. He believed there had to be some indication that there would not be a tax increase either in a separate ballot question or within the annexation question itself. By doing this, he in no way indicated the City did not need the money. The question before the group was the annexation. Loading the annexation measure with any additional tax questions was probably tantamount to defeating it. The annexation was important because the contract relationship was at the sufferance of the District Board. The City had a history of good relationships with the Board, but some

time in the future a new Board may adopt a policy that said it would no longer provide service by contract. Mr. Swanson saw this as an issue of providing fire suppression, education, and emergency medical services to people in the City. The current contract with CCFD1 expires in 2008, and he had every reason to believe the current Board would execute another contract.

**Councilor Stone** asked for an example of why the Board might not wish to renew a contract.

**Mr. Swanson** said 15 years ago civil words were not spoken between the fire districts and the cities. Milwaukie was, in terms of annexation, potentially a competitor. The effect of a city annexation was to remove the fire district from serving that area. Right now, the effect would be that the contract would have to be renegotiated, and the City would have to pay more to cover the annexed area. A future Board could say a city was too much of a threat because if it did aggressively annex, there was nothing to prevent the city from reconstituting its own fire department, which built a certain amount of competition into the process. Also, people were sometimes elected who had personal agendas to shake things up.

**Mr. Firestone** commented that if Milwaukie were to annex its urban services area, it could be quite a hit to the District. That was one situation in which relationships might sour, and Milwaukie was considering at least some annexations in the future. There was a possibility at some future negotiation of the contract that the District would want an amount the City could not afford.

**Mr. Swanson** added it was not long ago that cities and fire districts regarded each other as threats, and annexation would remove that. He wanted to ensure that services were uninterrupted and were not subject to political or personal disputes. He proposed a net zero. He referred to the staff memo that laid out options for adding back funding for some services and what it would cost to fund a planner, police officer, and current library services. The general fund was the only discretionary money the City had. If the City Council decided it wished to capture a portion of that \$2.40, then he recommended that Measure not designate where the funds were to go. He urged keeping the general fund as discretionary as possible.

**Mr. Swanson** served on the LNIB Board, and he suspected that the City had not seen the last of the County funding cuts. Milwaukie was looking at about a \$120,000 gap in the next fiscal. There was no assurance that the \$6.535 million dedicated to library funding would survive in subsequent years. If the City Council decided on the net zero option, there could be a companion measure that directed the City to levy \$2.4012 less than the permanent rate for an identified number of years. That would mean at the end of that time period, the City could levy its full permanent rate. The other option would be to direct the Council to decrease the levy of the permanent rate by \$2.40. The City would have that room to move but not without asking for voter approval. The permanent rate did not go away – it was the City's taxing authority – but the Council would have to ask for voter approval.

**Mr. Swanson** believed annexing to the District was a positive move and resolved an issue. The City could move on to other issues. He also believed that any increase in taxes that resulted from this would make the annexation a very hard sell. The City would be reducing its levy of the permanent rate by \$2.4012 per thousand valuation.

**Councilor Collette** understood from the staff report that it would only cost about \$.23 to have library services, a planner, and a police officer. Theoretically, if the City reduced its levy of the permanent rate by \$2.15, it could fund those two positions and meet the library deficit. She understood, it would be a harder sell, but it would be much-needed money back into the general fund.

**Mr. Swanson** recommended saying the levy of the permanent rate would be reduced by \$2.4012. He recommend leaving that \$2.4012 on the table, and that if the City wanted to recapture \$.25, then the City would have to ask the voters. That could be done at any other election date.

**Councilor Collette** discussed the feasibility of 2 measures on the ballot.

**Mr. Swanson** said the first question could be, shall the district annex all the territory in the City. The second question could be, if the first question were successful, shall the City Council be directed to reduce its levy of the permanent rate by \$2.4012, which was the District's permanent rate. According to the input he got the last time this was on the ballot, voters thought the measure was complicated and confusing.

**Councilor Stone** asked how the long permanent rate has been \$6.5379.

**Mr. Swanson** replied the permanent rate had been in effect since the adoption of Measures 47 and 50 in 1998.

**Mr. Firestone** added permanent rates were frozen in a moment in time, and the counties were required to establish the permanent rates for all jurisdictions. Permanent rates have been in place since 1998 and would be there forever. Each jurisdiction's ability to tax was dependent upon what they spent in the couple of years prior to 1998.

**Councilor Stone** understood from the staff memo that Mr. Swanson recommended putting this on the ballot with the City's permanent rate less \$2.40 for a period of 3 years. She wanted to clarify that he was dropping the 3 years.

**Mr. Swanson** said that was correct. This was about the annexation. If the City contracted into the future, one would have to hope the annual contract amount would be at the District's permanent rate. Milwaukie was not actually going to lose any spending authority. It would open up the potential for additional tax, but not without the vote of the people. If the District wanted to levy beyond its permanent rate of \$2.40, then it would have to submit a local option tax for a maximum of 5 years to the voters.

**Mr. Firestone** added if the District asked for a local option tax, Milwaukie residents would be able to vote if the annexation were approved.

**Councilor Barnes** understood Mr. Swanson's concerns. Her long-term concern was the library, the police department, and the planner position. Mr. Swanson could only take on additional responsibilities for so long. The police needed more officers. The Budget Committee has had to use contingency to sustain the library services. How did the City provide basic, essential services if it did not have the money? The door was at least open a smidge to fund a part of the 2 most essential City services. Before going into the budget session, she wanted to know what the Budget Committee could tell the public who was clambering to maintain library and public safety services. What did the City Council say to those people when there was a chance for a little bit of money?

**Mr. Swanson** did not believe the City Council would lose the option but rather could exercise it at a time when it would not have an adverse impact on the annexation question. The City could still go back and ask the voters to approve \$.25 at another time. This would be Milwaukie's second attempt at the annexation. In 2002 people said, almost to a person, that if it was revenue the City wanted, then it should ask for a local option tax. If the City wanted an annexation, then ask for an annexation, but do not cloud one with the other. Mr. Swanson was not comfortable asking the firefighters' union to step forward and support a measure he made more difficult to pass. They were the ones who would be carrying the financial burden of making the annexation work, and he felt he had the responsibility to give them every advantage. Oregon City was struggling with this issue right now and would probably do something to both annex and capture some money. He lived in fear that Oregon City would pass the annexation and additional money, but Milwaukie's annexation attempt would fail. He felt, however, this was the best direction. If the annexation passed, then the City would have to make the best argument possible for additional funds in that forum. He believed tax neutral was the measure's best chance.

The group discussed recent levy attempts including the countywide library levy.

**Councilor Barnes** supported Mr. Swanson's proposal, but she went on record to say that the library, police, and planner were extremely important as well. Milwaukie needed a long-range plan to find the money to take care of essential services.

**Councilor Collette** agreed with Councilor Barnes. It was with a heavy heart that she supported Mr. Swanson's recommendation. She did not believe people voted against it because of any revenue issues. She believed people voted against the last annexation measure because they thought they were voting on whether or not Milwaukie should keep its own fire department.

**Councilor Stone** heard it failed because people thought their taxes would go up. When she initially read Mr. Swanson's staff report, she supported the annexation but was apprehensive about voters facing some increases in taxes at the end of a 3-year period. She came in willing to look at some sunset provision that would recoup the money. She agreed with Mr. Swanson that separating the issues had a greater chance of passing because it was clearer. The City could hold its breath and look for the revenue in the budget cycle.

**Councilor Loomis** agreed that people just did not trust it. If the money was there, the City would take it. That was what the voters said. He did not support the 3 years either. He could have supported tagging something on, but he thought Mr. Swanson's comments were accurate. The District could increase the contract amount in the future, and the City would have no power. The hard part was giving up the fire department and never going back because of the expense.

**Councilor Stone** asked how our fire department felt about the annexation.

**Mr. Swanson** said the former Milwaukie firefighters that he spoke to were in favor of the annexation. When the City had its own department, first response was out of 2 stations. Now Milwaukie had first response from 4 stations, and the response capability increased. These firefighters were also working for a department that was fully accredited, and that would enhance their careers whether they stayed with CCFD1 or went elsewhere. He discussed the cost of apparatus and the expense of providing fire services.

**Mayor Bernard** adjourned the work session at 6:53 p.m.

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Pat DuVal, Recorder



**TO: Mayor and City Council**  
**FROM: Mike Swanson, City Manager**  
**DATE: February 17, 2005**  
**RE: Certification of Ballot Measure for May 17, 2005 Election on Annexation of the City by Clackamas Fire District No. 1**

### **ACTION REQUESTED**

The action requested is adoption of the proposed resolution certifying the caption, ballot measure, summary statement and explanatory statement regarding annexation of the City to Clackamas Fire District No. 1 (District) for the May 17, 2005 election.

### **BACKGROUND**

Attached to this staff memo are the following:

- ✓ Staff memo (dated January 9, 2005 for January 18, 2005 Council meeting) and attachment regarding adoption of a proposed resolution requesting annexation to the District;
- ✓ Certified copy of District Board Resolution 05-01 approving the City's request to annex and calling for a May 17, 2005 election; and
- ✓ Staff memo (dated January 21, 2005 for February 1, 2005 Council work session) regarding certification of the ballot measure.

On January 18, 2005 the City Council adopted Resolution No. 4-2005 proposing annexation of the City to the District. On January 24, 2005 the District Board adopted Resolution 05-01 approving the City's request and setting a May 17, 2005 election date. At its February 1, 2005 work session Council directed staff to prepare certification of a May 17, 2005 ballot measure proposing annexation of the City and a reduction of the City's levy of its permanent rate by the amount of the District's permanent rate upon annexation.

The action before Council is certification of the measure for placement on the May 17, 2005 ballot. Upon adoption a certified copy of the resolution will be delivered to the County Elections Office, and the issue will appear on the May 17, 2005 ballot. The deadline for filing the certification is March 17, 2005.

The City seeks annexation to the District for numerous reasons. The District has provided fire suppression and emergency medical services to the City by contract since 1998. The current contract expires in 2008. Our experience with the District over that time has been very positive. While it can be argued that services could continue to be provided by contract into the future, there is no assurance that future District boards would wish, as a matter of policy, to do so. Annexation ensures that these important services will continue to be provided to Milwaukie's citizens into the future. In addition, annexation fixes the cost of service at the District's permanent rate. While the District and City have established annual contract rates that approximate the District's permanent rate, there is no assurance that this would continue. Annexation fixes the maximum annual tax levy, and the amount levied cannot be increased without voter approval. The District will need to acquire new apparatus to replace that it received from the City in 1998. The useful life of such apparatus is approximately twenty years. It would not be unreasonable for it to request a premium in the annual contract cost in order to protect itself. Finally, annexation provides the City's residents with a political voice in District affairs. City residents will gain the right to vote for Board positions and future requests for additional operating and capital levies.

The measure prohibits an increase in the total tax rate levied by the District and City. Any increase in the total rate will require voter approval at a future election. One effect of annexation will be to permit the District to levy its permanent rate (2.4012 per \$1,000 of assessed value) on property within the City. If approved, the measure requires that the City reduce its levy of its permanent rate by a similar amount. Thus, City residents will not experience any increase in the rate levied by the City and District. In addition, this prohibition does not automatically "sunset" at a future date. Rather, an increase in the City's levy of its permanent rate will require voter approval.

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE SUBMITTING THE PROPOSED ANNEXATION OF ALL TERRITORY WITHIN THE CITY BY CLACKAMAS FIRE DISTRICT NO. 1 TO THE VOTERS OF THE CITY OF MILWAUKIE AND REQUIRING ADJUSTMENTS TO CITY PROPERTY TAX CERTIFICATIONS**

**WHEREAS**, on January 16, 2005, pursuant to ORS 198.866, the City Council adopted a proposal for annexation of territory within the City to Clackamas County Fire District No. 1 (CFD1), and

**WHEREAS**, the CFD1 Board of Directors approved the City's annexation proposal on January 24, 2005; and

**WHEREAS**, the Council believes that annexation of the area of the City to CFD1 is in the best interests of the City because it will ensure the provision of fire suppression and emergency medical services to the citizens of the City, fix the costs of the said services at CFD1's permanent rate unless changed by the voters, and allow City electors to vote on CFD1 measures, including election of Board members, serial levies, and bonds; and

**WHEREAS**, CFD1 currently provides service throughout the City under contract with the City; and

**WHEREAS**, the City Council does not wish to increase the tax burden on its citizens; and

**WHEREAS**, the City's annual levy of its permanent rate may be adjusted to avoid an overall tax increase from the annexation.

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

SECTION 1: An election is hereby called in and for the City of Milwaukie for the purpose of submitting to the legal voters the following question:

Shall Milwaukie annex to CFD1 for fire and emergency medical services and reduce City tax certification to prevent tax increase?

SECTION 2: May 17, 2005 is hereby designated as the date for holding the election for the purpose of voting on the question.

SECTION 3: The precincts for the election shall be and constitute all of the territory included within the corporate limits of the City of Milwaukie.

SECTION 4: The ballot title to appear on the ballots shall be:

**CAPTION**

Annexation to CFD1 and reduction of City tax certification.

**QUESTION**

Shall Milwaukie annex to CFD1 for fire and emergency medical services and reduce City tax certification to prevent tax increase?

**SUMMARY**

If approved this measure will annex the territory within the City to Clackamas Fire District No. 1 (CFD1). City residents will continue to receive fire and emergency medical services from CFD1. CFD1 is a service district governed by an elected Board of CFD1 residents; it provides fire and emergency medical services. The City will continue to provide all other services it currently provides. The measure also requires that the City reduce its property tax rate certification so that the total rate levied by the City and CFD1 is no more than the total rate they currently levy. Voter approval at a future election would be required to increase the City's tax rate.

If the annexation is approved, CFD1's permanent tax rate (2.4012 per \$1,000 of assessed valuation) is assessed on real property within the City effective July 1, 2005, and the City will reduce its tax rate certification by the same amount. Taxes cannot be increased without voter approval.

SECTION 5: The Council adopts the Explanatory Statement for the measure that is attached to this Resolution (Exhibit A).

SECTION 6: The City Recorder and other staff shall take all necessary steps to effectuate this resolution.

SECTION 7: This resolution is effective immediately upon passage.

PASSED: This \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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

ATTEST:

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

## EXHIBIT A

### EXPLANATORY STATEMENT

This measure, if approved, will annex the territory within the City of Milwaukie to Clackamas Fire District No. 1 (CFD1) effective July 1, 2005.

Upon annexation, property within the City will be subject to CFD1's property tax, which is 2.4012 per \$1,000 of assessed value. The measure, if approved, will require the City to reduce its tax rate in the same amount when it certifies its taxes to the County Assessor. The result is that total property tax rates of the City and CFD1 within the City will not change.

Voters must approve any increase in the City's taxing authority.

Annexation of the territory of the City to CFD1 will allow City residents to fully participate in CFD1 elections for Board members and money measures such as serial levies and bond measures. If the annexation is approved, City residents are eligible to run for and serve on the CFD1 Board.

CFD1 has provided fire suppression and emergency medical services to the City since 1998 pursuant to a contract. Approval of the annexation will make provision of fire suppression and emergency medical services by CFD1 permanent so that continued service is provided to the City. It fixes the cost of fire protection and emergency medical services at no more than the CFD1 permanent rate of 2.4012 per \$1,000 of assessed value and enables CFD1 to better plan for long-range capital expenses and service requirements. Any increase in CFD1's taxing authority requires voter approval.

The measure, if approved, will incorporate the following provisions into the Milwaukie Municipal Code.

1. All territory within the City of Milwaukie is annexed to Clackamas County Fire District No. 1 effective July 1, 2005.
2. Except as provided in Section 3 below, in order to avoid an overall property tax increase on property within the City, the City shall adjust the property tax rate it certifies annually to the County by reducing the City tax rate by 2.4012 per \$1,000 of assessed valuation for any year in which property within the City is required to pay property tax to CFD1.
3. The City may certify a property tax rate higher than the rate resulting from application of Section 2 only if the voters of the City approve the higher tax rate.



**TO: Mayor and City Council**  
**FROM: Mike Swanson, City Manager**  
**DATE: January 9, 2005 for January 18, 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.<sup>1</sup> 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.<sup>2</sup>

<sup>1</sup> 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.

<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> 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

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

<sup>4</sup> 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.<sup>5</sup> 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.

ccfd1annexationstaffmemo2004

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<sup>5</sup> 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 \$2,891,000 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

# Clackamas County Fire District #1



## CLACKAMAS COUNTY FIRE DISTRICT #1 RESOLUTION 05-01

### **Resolution Approving Proposal of City Council of the City of Milwaukie for Annexation of City Territory by Clackamas County Fire District #1 and Calling an Election in the City Regarding the Annexation**

The Board of Directors of Clackamas County Fire District #1 (the "District") finds as follows:

**WHEREAS**, ORS 198.866 provides that a city may propose annexation to a district by adopting a resolution proposing such annexation; and

**WHEREAS**, the City Council of the City of Milwaukie, Oregon (the "City") has adopted a resolution proposing the annexation by the District of all of the territory within the City for the purpose of providing fire services and emergency medical services, and has provided to the District a certified copy of that resolution; and

**WHEREAS**, the District and the City have enjoyed a beneficial relationship under an Agreement dated December 15, 1997, whereby the District has been and still is providing fire and emergency services to the City; and

**WHEREAS**, the 1997 Agreement provides for planning coordination between the City and the District, and the City recognized the District as the long-term provider of fire protection services for the territory included in the Clackamas County Urban Service Agreement, Phase II. The parties agreed to cooperate in reviewing annexation proposals and to explore the feasibility of annexation of the City to the District; and

**WHEREAS**, the annexation of the City to the District is consistent with the provisions of the 1997 Agreement which is applicable to this annexation under section 3.09.070 of the Metro Code; and

**WHEREAS**, the standards and criteria applicable to this annexation are set forth in ORS Chapter 198, and no existing comprehensive land use plan, public facility plan, regional framework plan or any functional plan, or other local law, as described in the Metro Code is directly applicable to this annexation, other than the 1997 Agreement; and

**WHEREAS**, the proposed annexation will promote the timely, orderly and economic provision of public facilities and services,

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

1. The Board of Directors of the Clackamas County Fire District #1 approves the proposal by the City Council of the City of Milwaukie that the District annex all of the territory within the City;
2. The Board calls an election within City of Milwaukie upon a measure which, if approved by the electors of the City, would authorize the District to annex all of the territory within the City of Milwaukie, Oregon. The election shall be held on May 17, 2005, and shall be conducted by the Clackamas County Elections Division.
3. The Board further calls an election within the District upon a measure which, if approved by the electors of the District would authorize the annexation. The election shall be held on the same date as the election within the City of Milwaukie, namely May 17, 2005. Provided, however, that the call for an election within the District shall only be effective if a timely petition containing the signatures of the requisite number of electors of Clackamas County Fire District #1 is filed petitioning for an election within the District concerning the proposed annexation. Any such election shall be conducted by the Clackamas County Elections Division. The Chief of the District and the Elections Division shall give such notice of the election as is provided for by law.
4. In the event that a petition for an election within the District is filed as provided by law, the Board approves the notice of election and ballot title attached to and made a part of this Resolution, and authorizes the preparation and filing of an explanatory statement to accompany the ballot measure. Upon approval of the measure by the electors of the City of Milwaukie and if required, approval of the measure by the electors of the District, and upon presentation of the appropriate documentation to the Board of Commissioners of Clackamas County, the annexation shall be approved effective July 1, 2005.
5. The Board further authorizes the Chief of the District to make such inquiry of City officials, receive such certificates and execute such agreements with the City as may be desirable to provide for an orderly transition if the measure is approved by the electors of the City.

Adopted this 24<sup>th</sup> day of January, 2005.

  
Chairman, Board of Directors

  
Secretary, Board of Directors



**TO: Mayor and City Council**  
**FROM: Mike Swanson, City Manager**  
**DATE: January 21, 2005 for February 1, 2005 Work Session**  
**RE: Certification of Ballot Measure for May 17, 2005 Election**

### **ACTION REQUESTED**

The action requested is Council direction on the content of a ballot measure submitted at the May 17, 2005 election as a companion to the fire district annexation measure.<sup>1</sup>

### **BACKGROUND**

The City submitted the question of annexation to Clackamas County Fire District No. 1 ("District") at the September 21, 2004 election. No other question was on the ballot. The annexation measure failed by a vote of 1,565 (47.12%) "yes" votes and 1,756 (52.88%) "no" votes.

When placing the annexation question on the ballot, the Council made a commitment to reduce the levy of the City's permanent rate to achieve no net increase in taxes. Many respondents felt that the commitment did not provide sufficient clarity, and, therefore, I propose that the Council certify an additional ballot question ("companion measure") that would speak to the City's tax levy should the annexation measure pass.<sup>2</sup>

I am recommending that the companion measure direct the City Council to reduce its levy of the City's permanent rate (6.5379/\$1,000 of valuation) by the amount of the District's permanent rate (2.4012/\$1,000 of valuation) for a period of three years conditioned on passage of the annexation measure.<sup>3</sup>

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<sup>1</sup> This staff memo assumes an election date of May 17, 2005. That decision is in the hands of the District Board, and official action has not been taken as of this writing.

<sup>2</sup> The District Board will consider the City's request to annex at its January 24, 2005 Board meeting. An annexation measure and any accompanying measure(s) must be certified to the County Elections Officer by no later than March 17, 2005.

<sup>3</sup> I would also recommend that the reduction begin during FY 2006-07. If the voters approve the annexation measure, it would be effective on July 1, 2006, and the City's General Fund commitment to the District would end. The first year of a City reduction should be timed to coincide with the reduction in its contractual

My recommendation of a net zero tax impact is not meant to imply comfort with the City's financial affairs. Each of the past four years we have constructed a budget with great difficulty. The defeat of the countywide library levy in November 2004 sets the stage for an even more difficult process this year. The City will need additional revenues in order to provide services that are demanded by its residents.

However, the issue that is before you is annexation to the District. An affirmative vote is among the City's priorities. There are many compelling arguments in favor of annexation. One is the fact that City residents will become eligible for full political participation in District affairs with annexation. Another argument in favor of annexation is the fact that it affords the District the opportunity to plan for the long term. Finally, annexation to the District ensures that Milwaukie residents will receive uninterrupted, guaranteed fire suppression, education, and emergency medical services into the future.

The contractual relationship with the District has served both parties well. I assume that it will continue to do so. However, there is nothing to prevent a future District Board from adopting a policy that it will no longer provide service by contract. Placing these services on a permanent basis and guaranteeing that they will be provided is the right move.

My recommendation is made with the intent of affording the annexation measure every advantage of passing. Describing the annexation and its impacts is a difficult task—especially within the word constraints placed on the Ballot Question and Explanatory Statement by Oregon Election Law. Adding a tax increase would, I believe, burden it with enough additional complexity to endanger it.

However, the net zero option is not the only option available. The Council could certify a companion measure that directs a lesser reduction and provides that the funds reserved be used for specific purposes.<sup>4</sup>

A number of purposes have been mentioned, including the addition of a Police Officer, the addition of a Planner, and/or filling the anticipated Library funding shortfall.<sup>5</sup> The addition of a new Police Officer would require a levy of

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commitment. In order to provide for unforeseen contingencies, I would also recommend that the measure permit the voters to increase the amount available to the City during the three years.

<sup>4</sup> I am given to understand that the City could propose two companion measures, one of which directs the net zero scenario and one that provides for some tax increase tied to services. The measure receiving the highest number of votes prevails. However, the addition of two measures does complicate the whole package.

<sup>5</sup> The cost of each option has been calculated using the City's 2004-2005 taxable value for property as listed in the Clackamas County Assessor's "Statement of Taxes Levied in Clackamas County, Oregon for Year Ending June 30, 2005." That value is \$1,266,921,744. An initial year cost has been assigned to each of the options, and that amount has been increased by a factor of 3% for each of the next two years. The annual amount required is arrived at by dividing by three, and that annualized amount has then been converted into

approximately .0761/\$1,000 of valuation. The addition of a new Planner would require a levy of approximately .0617/\$1,000 of valuation. Funding the anticipated gap in Library funding would require a levy of approximately .1019/\$1,000 of valuation.<sup>6</sup>

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a levy amount after including a factor for uncollected taxes. The levy amount is applicable only to the taxable value stated above. For those wishing to use a short form calculation, remember that a levy of .10/\$1,000 of valuation will yield approximately \$118,000 after deducting uncollected taxes.

<sup>6</sup> This levy amount is the most speculative as the funding gap is a moving target. I have assumed a first-year gap of \$120,000. Given what we are hearing from the County, the following years might see a bigger number.



**To: Mayor and City Council**

**Through: Mike Swanson, City Manager**

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

**Subject: Adoption of Clackamas County Service District #1 Pre-Treatment Regulations**

**Date: February 4, 2005 for March 1, 2005 City Council Meeting**

### **Action Requested**

Adopt pretreatment program with Clackamas County Service District #1 (the District).

### **Background**

Since 1973, the District has provided wastewater treatment services for the City of Milwaukie with the terms of an inter-governmental agreement (IGA). The IGA was amended on July 25, 2002 and now requires that the City adopt a pre-treatment program that meets all federal and Oregon statutory and regulatory requirements for commercial/industrial wastewater discharges. As an alternative, the City would prefer to adopt the pre-treatment standards of the District and have the District oversee this program.

Under these proposed regulations, City staff would be required to submit a report by the 10<sup>th</sup> of each month notifying the District of any new non-residential users of the City's sanitary sewer system. The District would use these reports to determine if any of these businesses would require permitting of their industrial waste discharges.

Permits would only be required for businesses that have particularly strong or unusual discharge. An example would be Blount, Inc., who manufactures chain saw bars and chains. As part of the manufacturing process chemicals, including acids, are used and then treated and tested before being discharged into the sewer system. These types of discharges have pollutant levels that must meet federally-set limits.

The IGA required that the City of Milwaukie adopt a pre-treatment program ordinance. Adopting these regulations would fulfill that obligation and any permitting and enforcement obligations would be the responsibility of the District.

### **Concurrence**

Engineering staff coordinated with the Director of Community Development and Public Works Operations staff on these regulations.

### **Fiscal Impact**

At this time, no costs would be incurred from the District for the management of this program.

### **Work Load Impacts**

The workload impacts would be the amount of time spent preparing the sanitary sewer connection report to the District.

### **Alternatives**

1. Adopt Water Environment Services Pre-Treatment Regulations
2. Take no action.

### **Attachments**

1. Ordinance

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

AN ORDINANCE AMENDING CHAPTER 13.12 OF THE MILWAUKIE MUNICIPAL CODE TO CREATE AN INDUSTRIAL PRETREATMENT PROGRAM FOR NON-DOMESTIC USERS OF THE CITY'S SEWAGE SYSTEM AND AUTHORIZING COLLECTION OF FEES TO IMPLEMENT THE PROGRAM.

WHEREAS, sewage collected by the City's sewage system is delivered to Clackamas County Service District # 1 (CCSD1) for treatment; and

WHEREAS, CCSD1 requires industrial sewage to meet CCSD1 pretreatment standards; and

WHEREAS, the City wishes to impose industrial sewage pretreatment standards to meet CCSD1 standards, to prolong the life of and reduce the maintenance on the City's sewage collection system and to reduce water pollution; and

WHEREAS, CCSD1 Sanitary Rules and Regulations, a copy of which is attached as Exhibit 1, provides appropriate standards for the City's industrial sewage pretreatment program; and

WHEREAS, the ability to inspect to assure compliance is needed to provide a successful industrial sewage pretreatment program; and

WHEREAS, the costs of the City and District of administering and monitoring industrial sewage pretreatment should be paid by generators of industrial sewage;

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

Section 1. Municipal Code Chapter 13.12 is amended by adding a new section 13.12.065 to read:

**13.12.065 Industrial Pretreatment**

A. The Sanitary Rules and Regulations of Clackamas County District # 1 in effect as of the date of passage of this ordinance is adopted as the City's Industrial Pretreatment Program. All non-domestic users of the City sewer system shall comply with the Industrial Pretreatment Program.

B. Whenever it may be necessary to inspect a building or premises to determine compliance with the Industrial Pretreatment Program, City and District officials may enter the building or premises at reasonable times to inspect, sample and undertake any other activity relating to the Industrial Pretreatment Program.

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

C. The City Council may establish by resolution the amount to be charged for permit fees, user fees, and cost of service fees necessary for implementing the Industrial Pretreatment Program. The amount of the fees shall fully compensate both the City and the District for their services provided under the Industrial Pretreatment Program.

Read the first time on \_\_\_\_\_, 2005.

Read the second time and adopted by the Council on \_\_\_\_\_, 2005.

Signed by the Mayor on \_\_\_\_\_, 2005.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:  
RAMIS, CREW, CORRIGAN &  
BACHRACH, LLP

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

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

**North Clackamas Parks and Recreation District  
Milwaukie Center/Community Advisory Board  
Minutes of January 14, 2005**

**Members present:** Kim Buchholz, Carolyn Mills, Joan Staley, Jane Hanno, Katie Rudfelt, Ben Tabler, Jim McCready, Kathi Schroeder, Malinda Iakob, Eleanor Johnson, Chuck Petersen, Molly Hanthorn

**Member Excused:** Sharon Phillips

**Guests:** Joan Rowe, Joy Estes

**Staff Present:** Joan Young, Don Wiley, Cheryl Nally

**Call to Order:** Chair Kim Buchholz called the meeting to order at 10:05 am. Jane moved to approve the minutes of Dec 10 as printed. Joan S. seconded the motion which passed unanimously. There was no correspondence.

**Special Topics/Discussion Item:** Center Nutrition Coordinator, Don Wiley, described the program and answered questions from Board members. The staff has been cut to the bone but continues to get the job done. Over 65,000 meals, which provide 1/3 of daily requirements, are served each year to homes and to the congregate meals. This is not counting the Bistro. About 450 volunteers help out each month. Primary challenges are funding, funding and funding. Federal funding is \$2.50 per meal and it costs us \$5. The program has lost some corporate funding and fund-raising totals also are down. Joan complimented Don and his crew on their excellent effort to continue the great food service. A number of fund-raising activities are planned for the coming months.

**Action Item:** Joan Rowe spoke about her interest in the work of the Board and answered questions from the members. Chuck moved and Eleanor seconded approval of her membership on the Board. Motion passed.

**Board/Committee Reports**

**Executive Committee:** Did not meet.

**NCPRD Board:** Eleanor reported on the December 22 meeting which had a large attendance by park neighbors. No public input was taken. The consultant for North Clackamas Park planning submitted an initial report. Eleanor advocated for paving the circuit trail and for carefully sited and delineated crosswalks. She also reiterated that this is a community not a neighborhood park. The meeting on Jan 13 was well attended. Lighting was discussed and will be further researched before a final decision is made. New Board members were approved.

**North Clackamas Aquatic Park Task Force:** Did not meet.

**Budget & Finance:** Did not meet.

**Programs and Services:** Did not meet. Molly shared an update from Jan Wirtz on Winter classes.

**Nutrition & Transportation:** Ben announced the candy sale starts soon.

**Building Review:** Jim reported they need new members. Janitorial service is still not satisfactory and a new provider is being sought. The roof and the parking lot are in need of repairs and will be considered during the budget process. A fire drill and inspection of the building went well.

**Friends of the Milwaukie Center:** Eleanor reported that the spaghetti dinner, which is a joint project with the Rotary, will be February 19. The annual campaign begins soon. Everyone is encouraged to contribute. Tax Aide volunteers are being trained and will begin February 4.

**Center Report:** Lin Dahl is retiring after 14 years. A reception in her honor will be January 31 at 3 pm. Rose Britton will be the new facilities coordinator.

**Information/Announcements:** Chuck announced that the Oak Lodge Sanitary District Board was working to implement an assistance program for low income customers. Jim reminded the group to drop off their newspapers at the Center. Kim thanked everyone for their participation.

**Agenda Next Meeting:** Cheryl Nally will discuss Social Services programs.

Meeting adjourned at 11:45 am.

m. hanthorn, secretary

North Clackamas Parks and Recreation District  
**Milwaukie Center Division**  
Monthly Report for January, 2005

***Programs/Services***

Eighteen percent of people over 60 have diabetes. Diabetics are at higher risk for chronic health problems. The Milwaukie Center and Northwest Primary Care partnered for the 6<sup>th</sup> Annual Diabetes Fair in January with an attendance of over 250 persons, primarily older adults concerned about managing their diabetes, including weight, diet, medications and activity level.

Safety of our Transportation Program passengers is a priority. Milwaukie Center drivers need to be Ride Connection approved. What does that mean? They pass a DMV check and criminal background check. They get vehicle training including proper lift operation. They are required to take a defensive driving course and mobility assistance course including blood borne pathogen safety. They also need a medical clearance, and must pass a drug test, and then be set up on a random testing program. The trainings must remain current throughout their tenure. The vehicles also go through a yearly safety check, as well as daily inspection prior to driving.

Winter term is in full swing – 23 classes with substantial attendance numbers. Art, language, Spanish and computer classes are being enjoyed this term, and some of the fitness classes are at peak capacity. A new Tai-Chi class will be added Spring term. Instructor James Lusk will offer a preview of his Tai-Chi talents on March 7, 9:30am. The line dance classes are successfully boot-scootin' and we are currently looking for a ballroom and pattern dance instructor for Spring term.

Quilt Show planning is in full swing for a wonderful weekend event mid-March. Fourteen vendors are ready to promote their wares. The Mill End Store is sponsoring the event with a generous \$500 donation. The Quilt Show will be advertised through WES billing and county employee paycheck stuffers, reaching over 13,000 households and businesses. Raffle tickets are currently being sold for the beautiful "Tulip Cross-Stitch" quilt now on display in the lobby.

Darts Anyone? Look for an addition to our game room. Besides pool, snooker and pinball, we look forward to some healthy competition using an electronic dart board generously donated to the Milwaukie Center. Watch out!

***Fund-raising***

The Transportation Program is in the middle of it's annual See's Candy Valentine Sale. Support older adult transportation and remember your sweetheart at the same time!

The Nutrition Program continues to work on growing the monthly big band dance with Brad Davis' Kansas City Rhythm Kings. This upbeat event is a "must do" for all dancers and a wonderful toe-tapper for the rest of us!

***Staff Changes***

Lin Dahl, who has served as the Facility Use Coordinator at the Milwaukie Center for fourteen years retired at the end of January, 2005. Congratulations and best wishes, Lin! Rose Britton accepted the position as the new Facility Use Coordinator. Rose brings years of customer service and office management experience with her and we are excited to have her join the team.

CITY OF MILWAUKIE  
DESIGN AND LANDMARKS COMMISSION MINUTES  
TUESDAY, AUGUST 25, 2004

**COMMISSIONERS PRESENT**

Brent Carter, Chair  
Barbara Cartmill, Commissioner  
Carlotta Collette, Commissioner  
Nancy Jamieson, Commissioner  
Patty Wisner, Commissioner

**STAFF PRESENT**

John Gessner, Planning Director  
Keith Jones, Associate Planner

**COMMISSIONERS ABSENT**

None.

1.0 CALL TO ORDER

**Chair Carter** called the meeting to order at 6:39 p.m. He announced that review and discussion of the North Main Street Development was postponed to a date uncertain.

2.0 PROCEDURAL QUESTIONS—None.

3.0 CONSENT AGENDA—None.

4.0 INFORMATION ITEMS—City Council Minutes

City Council minutes can be found on the City web site at [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

5.0 PUBLIC COMMENT—None.

6.0 PUBLIC HEARINGS—None.

6.1 Applicant: Lyndon Murray  
Owner: Lyndon Murray  
Location: 9908 SE Cambridge  
Proposal: Change historic designation from “unrankable” to  
“contributing”  
File Numbers: HR-04-01  
NDA: Historic Milwaukie

**Chair Carter** opened the minor quasi-judicial hearing for Community Historic Review HR-04-01 to consider the change in historic designation from “unrankable” to “contributing.” The criteria to be addressed can be found in the Zoning Ordinance Section 19.323, Historic Resources; Section 19.900, Amendments to the Comprehensive Plan; and Section 19.1011.4, Major Quasi-Judicial Review.

**Chair Carter** asked if there were any conflicts of interest or ex parte contacts to declare. There were none. He asked if any member of the Design and Landmarks Commission visited the site; 1 hand was 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

**Keith Jones** reviewed the staff report with the Commission. He displayed slides that explained the designations listed in the Historical Landmarks section of the Zoning Ordinance.

- “Unrankable”—A property that lacks sufficient information and can be ranked once information is available.
- “Significant”—A property that has significant outstanding examples of architecture and history.
- “Contributing”—A property that has less significant examples of architecture and history.

The evaluation scoring worksheet that was used included the following areas:

1. Historical Association (Personal Group, organization)—The subject property scored particularly strong in this area; the house was designed by Morris Whitehouse, known for historic landmark buildings in Portland.  
Event—Scored none.  
Pattern—Scored none.
2. Environment (Is the landmark visually known in the community)—The subject site is located in the middle of Waverly Heights on a large two-acre lot.  
Visual Landmark—Not well known.  
Surrounding Setting—Excellent.  
Continuity—Contributes to neighborhood (important character).

3. Architectural.  
Style—Good.  
Design—Good.  
Materials—Good.  
Integrity—The house was modified in 1967 (removed sunroom and a window on front of house), but the English-style cottage character was maintained.  
Rarity—One of a few.

The applicant is requesting that the ranking of the property be moved from “unrankable” to “contributing” based on the worksheet and the code. Staff believes that the applicant has addressed all the criteria and recommends approval of the request to City Council.

QUESTIONS FROM THE COMMISSIONERS—None.

CORRESPONDENCE—None.

#### APPLICANT PRESENTATION

Speaking: Lyndon Murray, 9908 SE Cambridge Lane, Milwaukie

**Mr. Murray** stated that he does not know why the house was rated “unrankable.” They are starting from scratch and their only source of information is a book that was published in 1981. There is a picture in this book that shows what the house looked like in the 1920s.

The previous owner of the property, who had owned it since 1945, died a couple of years ago. Mr. Murray purchased the house in an estate sale. It is his goal to try to get the structure back to as much of the original character as they can.

They have found that there are other houses by notable architects in the neighborhood. Mr. Whitehouse was a notable architect—he designed the American Embassy in Paris and a number of other historical buildings. In addition to this house, he also designed the Waverly Country Club. The design of this house is based on a house the architect knew in Scotland and it is a very good representation of an English-style cottage in Scotland.

The sunroom was removed and the house extended to take over that space. In doing so, some design elements were lost; however, they think they can get it back to something that would look roughly similar to the original.

The character of the property is that the site is 2½ acres with the area heavily forested with fir, beach, and oak. The house is not visible from the street—it is centered on the lot and very secluded. The tranquility of the environment fits well in the general character of the neighborhood. Across the street is a “contributing” ranked house.

There are anchor homes that provide the character of the neighborhood. He believes that changing the designation would put his house more in character with the rest of the neighborhood.

QUESTIONS FROM THE COMMISSIONERS—None.

TESTIMONY IN FAVOR—None.

QUESTIONS OR COMMENTS

Speaking: Beverly Hass, 1643 SE MacGrove Avenue, Milwaukie

**Ms. Hass** stated that her property abuts the subject site. She was told that this property would never be developed; that it couldn't be changed. That is why they moved here. She asked if this designation request would change the zoning on this area.

**Chair Carter** stated that the zoning will not be changed. The intent of this hearing is to recommend to City Council that the historic qualification of the structure be changed from "unrankable" to "contributing."

**John Gessner** stated that the application does not in any way change the underlying zoning of the property. This will not result in a subdivision, creation of lots, altering property lines, etc. This application is limited to the designation, which allows the property owners to proceed with planned building improvements.

Speaking: Cindy Marie, 9908 SE Cambridge Way, Milwaukie

**Ms. Marie** asked if this hearing was to address the design of the building and not about how the property is zoned. If the property is changed from "unrankable" to "contributing," the zoning will remain as it is. **John Gessner** assured her that the zoning will not change.

TESTIMONY IN OPPOSITION—None.

QUESTIONS FROM THE COMMISSION—None.

ADDITIONAL COMMENTS FROM STAFF—None.

QUESTIONS FROM THE COMMISSIONERS REGARDING CLARITY—None.

APPLICANT'S CLOSING COMMENTS—None.

## DISCUSSION AMONG THE COMMISSIONERS

**Chair Carter** closed the public testimony portion of the hearing and opened the meeting to discussion among the Commissioners.

**Commissioner Cartmill** commended staff on the staff report; as a total package it was very comprehensive and user-friendly. She concurs that this should be upgraded to “contributing” status. She is glad that the applicant is going to go back and reverse the changes made to the house.

**Commissioner Jamieson** stated that she too is in favor of changing the status of this property.

**Chair Carter** stated that he agrees the designation should be changed to “contributing.” He stated that he would have liked to have seen a vicinity map in the package that showed a presence in the context of the neighborhood and the existing landscape in regards to environmental issues. This information could have been made a part of the record.

**Commissioner Cartmill** moved to recommend to the City Council that the historic designation for the property at 9908 SE Cambridge Lane be changed from “unrankable” to “contributing” and adopt the recommended findings in support of approval of file HR-04-01. **Commissioner Jamieson** seconded the motion. **MOTION CARRIED 3-0.**

**Ayes: Cartmill, Jamieson, Carter; Nays: None.**

### 7.0 WORKSESSION ITEMS

#### 7.1 North Main Street Development Informal Review

Chair Carter announced that this issue will be continued to a date uncertain.

### 8.0 DISCUSSION ITEMS

**Chair Carter** introduced the new commission member Nancy Jamieson. Ms. Jamieson comes to the Commission with experience in garden design; she owns a garden design business.

### 9.0 OLD BUSINESS

**Chair Carter** reported that on September 14 there will be a public hearing at the Planning Commission to address the changing of the Design and Landmarks Commission to a Committee.

10.0 OTHER BUSINESS / UPDATES

10.1 Matters from the Planning Director

**John Gessner** reported that September 29 is the alternate date for the North Main presentation. The McLoughlin project may be discussed at the same meeting. There has been interest expressed in Vic's Tavern building. The building does not qualify for local, state, or federal historic preservation; however, there is still architectural interest in the building. The fact that it doesn't meet the ranking system, does not mean that it does not have value to the community. **Chair Carter** stated that he would like to see some photography done of Vic's Tavern for historical value. It has been there for more than 60 years. It will have to be removed for construction of the McLoughlin project.

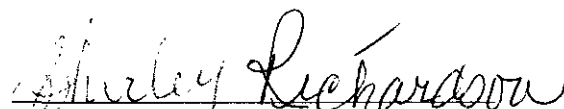
11.0 NEXT MEETING—September 29, 2004

11.1 Continuation of Discussion on Code Amendments

**Nancy Jamieson** moved to adjourn the meeting of August 25, 2004. **Barbara Cartmill** seconded the motion. MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 9:05 p.m.

  
Brent Carter, Chair

  
Shirley Richardson, Hearings Reporter