

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
MARCH 15, 2005**

**CALL TO ORDER**

**Mayor Bernard** called the 1954<sup>th</sup> meeting of the Milwaukie City Council to order at 7:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Deborah Barnes	Joe Loomis
Carlotta Collette	Susan Stone

Staff present:

Mike Swanson, City Manager	Paul Shirey, Engineering Director
Dom Colletta, City Attorney	John Gessner, Planning Director
Stewart Taylor, Finance Director	

**PLEDGE OF ALLEGIANCE**

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

**Clackamas Fire District #1 Capt. Tony Vilhauer** reported on the March 14 fire at 2516 SE Harrison Street. The fire went to three alarms, and there were about 70 firefighters at the scene. It took an hour to fully contain and control the fire. After interviewing multiple residents, the cause was as yet unknown. In major loss fires, it was extremely difficult to determine not only the point of origin but also the exact cause. Nine units were involved, and four of those were destroyed. Displaced residents were aided by the Red Cross. There were no civilian injuries, but one firefighter was injured as a result of a partial roof collapse. A sprinkler system would have put the fire out or contained it before major property loss occurred.

**Councilor Barnes** urged the public to send donations to the Red Cross for those families displaced by the fire.

**Milwaukie High School Student of the Month**

The City Council recognized Milwaukie High School Senior Kari Streicher as a wonderful example of a student who participated fully in her high school program and used her experience to prepare for college and a career. Ms. Streicher was an advanced Health Services student at the Schellenberg Center and had been on several medical rotations in the community including the Portland Pediatric

Clinic and Providence Milwaukie Hospital. She also volunteered countless hours as she prepared for a career in nursing.

**Principal Aeylin Summers** was very proud of Ms. Streicher and noted she was hoping to attend Concordia in the fall. She wished the Milwaukie High School Dance Team the best of luck at State.

### CONSENT AGENDA

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

- A. City Council Minutes of February 12 and 15 and March 1, 2005;
- B. Resolution No. 11-2005: A Resolution Transferring Appropriations Authority;
- C. Resolution No. 12-2005: A Resolution of the City Council of the City of Milwaukie, Oregon, for the purposes of budgeting for design, engineering, and construction of sidewalk and streetscape improvements; and
- D. Resolution No. 13-2005: A resolution of the City Council of the City of Milwaukie, Oregon, for the purposes of budgeting for project grants.

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

### AUDIENCE PARTICIPATION

**Roger Cornell** read a letter to the City Council and City Manager into the record on behalf of the Historic Milwaukie Neighborhood District Association.

"On behalf of the Historic Milwaukie Neighborhood, I would like to thank Engineering Director Paul Shirey for his efforts to address the traffic issues in our neighborhood. After years of public testimony, City resolutions, Council directives, traffic studies, and paid consultants, work is finally beginning.

As part of the adopted Downtown and Riverfront Development Plan, City Council directed staff to develop a Downtown Parking and Traffic Management Plan to address the traffic impacts to the Historic Milwaukie neighborhood. Budget was allocated, consultants were hired, and a working group developed the Downtown Parking and Traffic Management Plan. This Plan has sat in draft form for a year until recently when Paul Shirey committed to get it adopted and implement mitigation measures.

Paul discovered an adopted 1997 Municipal Code that prohibits cut through truck traffic on Monroe and Lake Road and has notified the community as well as posting signage on the impacted streets. He recently met with the Historic Milwaukie Neighborhood and is in the process of developing a team to explore traffic calming measures. Budget has been approved and a number of options are under discussion for immediate implementation.

Again, thank you Paul for your willingness and commitment to address the livability issues in our neighborhood."

## PUBLIC HEARING

### Stormwater Master Plan Adoption

**Mayor Bernard** called the public hearing to order at 7:12 p.m. The purpose of the hearing was to consider public comment on the proposed stormwater program and associated stormwater rates.

Staff Report: **Mr. Shirey** explained the Stormwater Master Plan and rate resolutions could be acted upon separately. The last Stormwater Master Plan was completed in 1997, and it provided the projections for the future in terms of how much the utility needed to spend to keep up with infrastructure investment. The stormwater utility was created about 10 years ago, and the infrastructure was a work in progress. The proposed Plan looked at completing that infrastructure to keep streets and properties flood free. Milwaukie was required to comply with the Clean Water Act and Safe Drinking Water Act, which added costs. At this time, the presentation would focus on the consultant's work and the recommendations.

**Krista Reininga**, URS Corporation. Ms. Reininga said the last Plan was done in 1997 by Clackamas County, and it only covered the part of Milwaukie that was in the Kellogg Creek Basin. In looking at it closely, there was a lot of guesswork in some areas, which made it a very rough study. The Capital Improvement Projects (CIP) that developed over time were based on problems observed by field personnel, so the projects were reactive. The physical information for Milwaukie's storm system was not available in 1997, but the City was currently working on gathering that data and storing it in a geographical information system (GIS).

The new Plan used hydrologic/hydraulic models to simulate flows in the pipe system using rainfall, land use, and future build-out conditions to determine where flooding problems might occur. Fifteen-inch diameter pipes and greater were modeled, but the Plan did not consider stream systems. It was focused on the piped drainage system and any open channels that acted as a pipe drainage system. GIS information was used as well as some survey work to fill in the gaps. They also looked at water quality and some habitat issues because the Endangered Species Act (ESA) affected Milwaukie. There was a task to conduct a stream survey of Spring Creek because it was wholly in Milwaukie, and change could be affected there. There was a school along the system, so it would be a great public education opportunity. URS did not look at ESA issues on Johnson or Kellogg Creeks because those were parts of larger watersheds. The results were considered under the terms of National Pollution Discharge Elimination System (NPDES), total maximum daily loads (TMDL), and Underground Injection Control Program (UIC) requirements all of which related to water quality.

**Ms. Reininga** pointed out the major drainage areas: Johnson Creek, Kellogg Creek, Willamette River, and the subsurface which was 188 drywells and 25 miles of storm pipes. The model was run for 10-, 25-, 50- and 100-year storms.

She addressed water quality requirements. The NPDES permits were required for the municipal stormwater system. It covered many things including public education, maintenance, and erosion control, and capital projects were one subset of the program. They wanted the City to look at its retrofits in terms of opportunities for addressing water quality impacts. Some of the requirements were becoming more stringent based on a recent lawsuit.

The next regulation had to do with TMDL. If data was collected from a stream that indicated water quality standards were violated, then it was put on a list at the Department of Environmental Quality (DEQ). DEQ would have to eventually develop a TMDL for it. Ms. Reininga discussed phosphorus levels and allocations among parties discharging phosphorus into a body of water. Milwaukie did not have TMDLs, but both Johnson Creek and the Willamette River were on the verge. Kellogg Creek was already on the TMDL list. Potentially, Milwaukie would be required to have capital projects that would address loads to those creeks as well.

The UIC program required best management practices to treat water before it went into the ground. The UIC requirements applied to a rather large area of Milwaukie that discharged into the ground through sumps. Those monitoring requirements were somewhat stringent with specific discharge rules including proximity to drinking water.

The ESA was the greater unknown because there were no specific requirements; however, an entity was liable if a species were harmed through water quality. There were endangered species in the Willamette River.

Flood control projects were developed for flooding issues, and they looked for opportunities to address water quality in conjunction with flood control projects. Ms. Reininga considered the flood control locations in respect to where the City would get the most for its money in terms of water quality. They looked at the most downstream portions of the system to treat the largest drainage areas. The result was 15 CIPs proposed at a total cost of about \$10.7 million. Eight of those projects were almost strictly for flood control; however, with every project, there was an opportunity to look at water quality. One could think about handling increased flows in swale-like channels in a parkway. The Master Plan stated that water quality would be considered during the design phases of those projects.

Two of the CIPs were identified just to handle the flows resulting from the decommissioning of dry wells as specified by UIC rules. Two projects were for flood control and located at the downstream ends of outfalls. Those looked like good opportunities for water quality treatment devices such as underground structural controls to filter the water before it went into the receiving water. Two of the flood control projects were adjacent to parks or open fields where there could be a surface facility to provide aesthetics and enhance habitat. They also put in additional funding to act as a safety net for two additional water quality projects to address TMDL allocations. Two of the 15 projects were not confirmed with observations in the field, and modeling indicated the flooding problems were

not significant. Maintenance would be watching those during future storms to determine whether or not those projects were needed.

The CIPs were prioritized for implementation. The top projects addressed UIC requirements because it appeared the drywells would have to be decommissioned in 10 years. The second tier projects were those where flooding problems had been observed.

Correspondence: None.

Public Comment: None.

Questions of Council: **Councilor Collette** discussed the first priority projects and the Brookside project and asked if there was a way to retrofit the stormwater pipe in with this summer's sidewalk project on 42<sup>nd</sup> Avenue.

**Mr. Shirey** replied that there was.

**Councilor Stone** asked how that factored in doing the work to improve the stormwater drainage, and was it more economical to do it in conjunction with the sidewalk project?

**Mr. Shirey** said a little would be saved because if the stormwater project were done on its own, then the trench would have to be paved. In this case, resurfacing was being paid for by the street project, so it did help.

**Councilor Stone** read through the material and the Stormwater Master Plan and understood those things needed to be done. She asked if the City was looking at it in terms of future stormwater management practices or was this it?

**Mr. Shirey** said the City would take advantage of research or actual implementation of stormwater management techniques that were not so structural. It was difficult to manage stormwater and flooding in the retrofit situation that Milwaukie was facing. He thought there were opportunities for innovative approaches such as building streets without curbs. This was called the green street approach and incorporated swales to enhance water quality. The challenge of the green street treatment was the substantial amount of right-of-way needed to build the street, sidewalk, and a swale wide enough to collect and manage the stormwater. It was already a challenge to meet street standards when doing retrofit projects in established areas. That was not to say the City would not do those things, but this Plan was focused on the pipe system to meet stormwater requirements. Future innovations should be considered, and some of the CIPs may be replaced. He did not know if it would be less costly.

**Councilor Collette** suggested it might be more sustainable over time and require less maintenance.

**Councilor Stone** liked the idea of looking at something more sustainable over time if it was doable within the constraints of the right-of-way.

**Mayor Bernard** commented that the North Main Village Development had a green stormwater treatment facility funded by Metro.

**Councilor Collette** understood that by adopting the Master Plan the City would not be locked into those 15 projects if it found better, cheaper, and more innovative ways to address those priorities.

**Mr. Shirey** said, if the Council directed staff to look at doing the projects more sustainably than simply putting a pipe in the ground, then staff would report on the opportunities and their associated costs. The department may not have time to do that on the Brookside project and others that were at the top of the list. The Master Plan did provide a roadmap to the coming years but did not necessarily lock the City into a solution.

**Mayor Bernard** understood the Master Plan would be reviewed in five years. He closed the public hearing portion of the testimony at 7:35 p.m.

**It was moved by Councilor Stone and seconded by Councilor Collette to adopt the resolution adopting the Milwaukie Stormwater Master Plan. Motion passed unanimously. [5:0]**

**RESOLUTION NO. 14-2005:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING A STORMWATER MASTER PLAN.**

**Stormwater Rate Adoption**

**Mayor Bernard** called the stormwater rate hearing to order at 7:40 p.m. The purpose of the hearing was to consider public comment on the proposed stormwater rates.

**Staff Report:** **Mr. Shirey** introduced John Ghilarducci, Financial Consulting Solutions Group (FC.SG), Associate Engineer Brenda Schloining, and Operations Supervisor Jack Perry. He and Mr. Perry received many phone calls, and he did not like imposing additional costs on those already challenged with rising costs in almost every facet of their lives. However, the City was at a point at which it had to comply with the requirements or taking the risk of not complying. He brought an expert to discuss those risks later in the presentation. Milwaukie needed to spend capital dollars to take drywells out of commission and replace them with pipes, and that was expensive. The City needed to inspect and clean the existing drywells on a more consistent basis, and that required a new two-person team in the stormwater operations group. There were both capital and operating costs involved. Mr. Shirey indicated he was open to suggestions and alternatives.

At this time, staff recommended a rate increase that would allow the City to pay for the capital and operating requirements. It changed the rate for a single-family home from \$6 per month to \$15 per month over a five-year period. The Council indicated in a work session last fall that it supported the pay-as-you-go method that loaded the cost more on the front end. That was a policy decision, and that was staff's recommendation.

**Mr. Ghilarducci** discussed the background, key assumptions, and the results of the study. The task plan included looking at both stormwater rates and stormwater system development charges (SDC). There were certain core principles in all rate studies. The utility had to be self-sufficient with the rates and charges being based on the cost of providing utility service and was the basic means for recovering costs. There was also a clear distinction between operating needs and capital requirements and how those were funded. If existing resources were not enough to meet the operating, capital, and policy needs, then there were only two options. Those options were to either increase rates or reduce costs. When one looked at the needs from rates, three things were considered: capital costs, operating costs, and policy requirements, which together equaled the full cost of service.

For operating costs, the available resources were rates and miscellaneous fees. For capital costs, there were stormwater rates, SDCs, debt proceeds, grants, and developer contributions. The current rate in Milwaukie per equivalent service unit (ESU) was \$6. One ESU was equivalent to 2,706 square feet of impervious surface area. All single-family residences were charged for one ESU. Others were charged a number of ESUs based upon the measured impervious surface area. The current SDC was \$473 per ESU and was paid at the time of development. SDCs were a means for growth to pay for its share of capital facilities. Milwaukie's budget SDC revenue was \$14,000, so it was not a very significant funding source.

**Mr. Ghilarducci** reviewed the current status of the utility. It showed an operating deficiency of about \$40,000 before any capital construction needs were addressed. Those projects were \$1.7 million. There was some SDC revenue; however, it fell far short of capital construction needs. The numbers clearly indicated the need for a rate increase.

Key assumptions were the addition of two FTE for a total of about \$150,000 including fringe benefits in FY 2005 – 2006. Those employees would begin to address maintenance requirements and specifically the UICs. Operation and maintenance costs were added in the last year of project construction. Customer growth was projected at slightly more than 1% annually.

**Mr. Ghilarducci** discussed four revenue requirement scenarios that had to do with the speed at which the City addressed the needed capital improvements. Two considered 12-year project construction schedules. One was based on no debt and the second with debt issued. The other two schedules were 21-years with no debt and with debt. The 12-year scenario was about \$1 million in projects annually, and the 21-year scenario was about \$500,000. At this time, staff could handle one major project annually at the \$500,000 level. He reviewed the rates related to those four scenarios. One of the benefits of debt was that the repayment of those capital costs was spread over a 20-year period. The increases would be smoother; however, they would be in place for a much longer period of time. Then, presumably, the rates would go back down. The proposed scenario was 21-years with no debt and would require an increase to \$9.13 in 2005 – 2006 with steady increases up to \$15.05 in 2009 – 2010. The fourth

scenario, 21-years with debt, kept the rates under \$10 to 2009 – 2010. He reviewed a graph and the project costs in certain years.

While the Council was not being asked to make any changes to the SDCs, Mr. Ghilarducci provided information based on projected capital needs. The amount per ESU was estimated to be \$1,177, and the current SDC was \$473 per ESU. He provided a chart comparing SDCs and rates with other cities in the region.

**Councilor Collette** asked what happened after 2010 in the 21-year rate calculations.

**Mr. Ghilarducci** said in the no debt scenario, rates stayed at the \$15 level. In the debt scenario, the City would have to continue to issue debt as it addressed new projects, and rate increases would continue to increase gradually over time.

**Councilor Collette** understood then that it was assumed that these 15 projects were all that needed to be done over the next 21 years.

**Councilor Barnes** asked the current average bill for stormwater for Milwaukie residents.

**Mr. Ghilarducci** replied that the stormwater fee was \$6 per month for single-family residences.

**Councilor Barnes** said the bills were for two months.

**Mr. Shirey** explained the City sent bills every two months, so people found it confusing.

**Councilor Barnes** asked why some people were charged more than others in Milwaukie. Some people had more than \$12 on their monthly bills for stormwater, and it was not sewer or water. Two people told her they had higher rates. For the records, everyone had the same amount charged to them for stormwater for residential service. She thought there was some confusion over sewer, stormwater, and sewer. Frankly, most people got a bill for two months, and they saw the set amount. There was a panic feeling that there would be another \$30 on their bills. Will the City come back and ask more for water? How far did this go? Something needed to be done to help people understand the breakdown. What the Council was discussing tonight had to do with stormwater and did not have to do with sewer service. She asked for an explanation for sewer versus storm.

**Mr. Shirey** planned to create a brochure that explained what would happen starting July 1. He noted that the City was also in its second year for increases in water and wastewater. He would explain in common terms what people were paying for. Obviously, for water, it was turning on the tap. For wastewater, it was what went down the drain or when someone flushed the toilet. For stormwater, it was rainwater moving from a person's house or yard to the street. Some people have argued that they did not have a stormwater drain in front of their house, so why were they paying this. It was for the common good to keep the streets flood-free. Streets with curbs collected water that had to go somewhere. To the extent one drove a car or used the street system, one was

paying for that overall community benefit. He thought the brochure would help answer those questions. The challenge was that there was a different way to meter the cost. For water, there was a meter that said how many units were consumed. With wastewater, there was no meter, so a volume-based system was implemented. With stormwater, the common unit was the ESU, which was the same for everyone.

**Councilor Barnes** referred to the comparative monthly rates. Under that scenario, in two years Milwaukie would be at \$9.13, which was right under Portland. By 2006 – 2007, Milwaukie would be at \$11.75. By the end of the scenario, the rate would be \$15.05. Why was Milwaukie so much higher than everyone else?

**Mr. Ghilarducci** did not believe Milwaukie was actually that much higher. It was actually a function of the timing of this list. If one looked at the Puget Sound area, on a list like this there were six or seven communities already well over \$10 per month. He thought it would only be a year or two before one saw these rates going up similar to Milwaukie's projections. He thought Milwaukie was a little ahead of some of the cities in addressing its needs.

**Mayor Bernard** noted that Wilsonville was a growing community that did not have wells or could make adjustments for new environmental demands coming down from the federal government. If one looked at the entire list, it was true of all of them.

**Mr. Shirey** added Milwaukie only started building its system about 10 years ago, so the City was in that intensive capital expenditure side. In areas with new development, SDC charges were helping defray the costs.

**Councilor Loomis** commented that one did not know under what scenario these cities established their rates.

**Councilor Collette** agreed it was possible that some of these were debt financed, so the rates appeared lower. Milwaukie was saying it was going to buy a house by paying cash and did not wish to debt finance. That did put a heavier burden on the current ratepayers to come up with the funding. Was the City not creating a bigger problem by paving more streets and widening them to include bike paths and curbs? Would impermeable surfaces not, in fact, compound the problem?

**Mr. Shirey** explained that every street with a curb was a water collection device, so the water needed to be managed. It was an interesting philosophical question. There were standards adopted for streets that perhaps had unintended consequence of stormwater. Now the stormwater had to be treated to meet a relatively high standard of cleanliness. This was a subject of a lot of debate, and there was a shift in thinking about building streets with curbs. People were looking at green street approaches. On the other hand, curbs represent safety. There was the land intensive nature of a green street, and the City would have to grapple with those issues.

**Councilor Collette** referred to Exhibit A and the 50% low-income discount. She asked how that would be set.

**Mr. Swanson** believed it was tied to the family income as defined by the federal government and adjusted annually.

**Councilor Collette** hoped when complaints did come in that the low-income process was explained. This was a serious rate increase and would affect many households. Exhibit A also addressed on-site mitigation reduction factors and credits for removing downspouts. She asked if there were currently commercial/industrial credits.

**Mr. Shirey** replied that there were. It was his intent to amend the code to include a downspout disconnect program similar to Portland. The individual would still have to pay a discounted stormwater fee. Typically commercial/industrial customers had enough land to install devices that reduced the contribution to the system, so they received a credit. Single-family homes generally did not have enough land to manage runoff, so everyone had to pay. He agreed those who contributed less by disconnecting their downspouts should receive a credit.

**Councilor Stone** referred to the wide range of SDCs in the chart Mr. Ghilarducci provided. She asked how long Milwaukie's had been at \$473 and was it feasible to think about increasing that amount to gain some revenue to offset capital improvements.

**Mayor Bernard** noted that Milwaukie got \$14,000 from stormwater SDCs, so the increase would have to be quite large.

**Mr. Ghilarducci** explained growth in Milwaukie was not substantial, and SDCs would not be a major source to address capital project funding needs.

**Councilor Stone** asked if there were grants to help fund some of the CIPs.

**Mr. Ghilarducci** did not assume any grant or special loan funding into the analysis. Those were competitive, and the City might or might not be successful in its applications. He would always recommend that the City pursue grants.

**Mayor Bernard** understood the City received grants for Johnson Creek Boulevard.

**Mr. Shirey** said that was correct, but it was part of a street project. He understood there was a special public works fund at the state that had money available to communities for this purpose. He confirmed that the City would pursue grants.

**Councilor Stone** referred to the fee schedule and debt. She asked if the 12 and 21 years were for construction.

**Mr. Ghilarducci** said that was correct. That was the number of years it would take to construct the entire list.

**Councilor Stone** understood that staff could handle one major project per year at the \$500,000 level.

**Mr. Shirey** explained that the City had the internal capacity to handle about \$2 million in projects annually, which was \$500,000 for each utility. To do more than that, the department would have to increase staff or hire more consultants.

**Councilor Stone** understood there were 15 projects on the list.

**Mr. Shirey** said the list was made up of 15 projects that were broken down into manageable segments.

**Councilor Stone** thought that even with two FTEs that it would be difficult to get everything done.

**Mr. Shirey** explained operations and maintenance were separate. The two FTE were added to the stormwater crew to do the inspections and cleaning required for the UICs.

**Councilor Stone** understood additional staff was needed to get this going. Completed projects would be many years down the road, and she asked why the rates were so high. She asked if it was feasible to take a pay-as-you-go approach.

**Mr. Shirey** explained the City had a track record of being able to do a certain amount of capital projects in one year. So he figured it would take 21 years to do \$10 million in projects.

**Mr. Swanson** referred to the question about the low-income utility program. Milwaukie Municipal Code Section 13.20.060 required that the City Council establish by resolution the minimum income level, which was tied to a federal standard that changed annually. The actual income level right now was \$23,750 for one person living alone, and \$27,150 for more than one person living in a residence.

**Councilor Loomis** asked for a breakdown on the 21-year with debt scenario.

**Mr. Ghilarducci** said instead of a rate increase to fully fund the \$500,000 annually for projects, the City would issue debt. The rates would be increased gradually to pay that debt service. The City would be paying for 20 years for everything that was financed. The curve would go up for that full 21 years, and as the City started to pay things off, the curve would go down. In the no-debt scenario, the City would reach a certain level at which it was generating the cash it needed to fund \$500,000 in projects annually. At the end of 21 years the rates would drop back down assuming there were no further projects.

**Councilor Loomis** understood that the projects were the same, but the difference was in the funding method.

**Mr. Ghilarducci** replied that construction schedule was the same.

**Councilor Collette** asked how much the debt would cost versus paying cash.

**Mr. Ghilarducci** assumed the terms, but he had not added up the payments. He assumed 20-year debt at 6% or less. The coverage was 1.25, which was important consideration in terms of revenue bonds. He would provide information on the total payments.

**Councillor Stone** asked if the City Council had to adopt fees pending additional information from the consultant on debt financing.

**Mr. Shirey** recommended that the City Council take action so that new rates could go into effect on July 1.

**Amy Connors**, HDR Corp., provided regulatory background information. Ms Connors dealt with regulatory compliance issues for about 8 years and worked with the City on addressing the DEQ regulations. The Safe Drinking Water Act was enacted in 1974. In 1984, the Environmental Protection Agency (EPA) gave the Department of Environmental Quality (DEQ) primacy to enact the Safe Drinking Water Act in the State of Oregon. At that time, there were provisions that related to injection wells or UICs. In 1994, the Sierra Club sued the EPA for the inadequacies of these protections. Out of that came the regulations related to the UICs. DEQ then revised the Oregon statutes related to protection of drinking water sources. Those rules were completed in 2001. Out of those 2001 OARs came requirements related to the management, monitoring, and inspection of these dry wells.

She discussed municipal systems. These were drywells that were in areas that had less than 1,000 average daily trips and those with more than 1,000 trips. For those areas with 1,000 or above, there were requirements for the operations and cleaning. Those were monthly visual inspections, cleaning every six months, and monitoring of the drywells at least two times in the first year and annually thereafter. About 56 of the City's 188 drywells were located in those traffic areas. The associated cleaning and monitoring requirements were all part of that. DEQ could choose to take enforcement actions if the conditions were not met. Additionally, there were also requirements that allowed for rule authorization. As opposed to going for permits for all of these facilities, drywells may not be allowed within a two year time of travel of drinking water wells. The 15 wells that were proposed for decommissioning were within that time of travel.

The Safe Drinking Water Act had a provision for third party lawsuits, and class action suits have been enacted on behalf of individuals suing municipalities under that provision. Typically, EPA and DEQ have been sued for failure to implement the programs. That often resulted in consent decrees from the courts that required the program revisions and enforcement. DEQ enforcement actions were varied. It looked at the alleged violations, the history, degree of negligence, and economic benefit to the party for noncompliance. Review of enforcement actions have resulted in fines from \$250 to \$9,000 per incident. An incident in this case would be a discharge to a drywell or failure to clean under the provisions.

#### Public Testimony

**Juli Howard**, 9705 SE 37<sup>th</sup> Avenue. Ms. Howard was shocked when she got the notice of the proposed rate increase. In 2009 – 2010, it was 2-1/2 times what was currently paid today. Tonight she heard a lot of information as to why that needed to happen. She called 10 different municipalities to find out how much they were charging, and those numbers were covered in the presentation. A

couple of cities told her they were not anticipating any increases. Three different municipalities actually offered exemptions or discounts to individuals who had drywells. She owned a home in Milwaukie for a little over 10 years. In 1998, she added 1,200 square feet to her house, and the City required her to sink a drywell to contain runoff. She lived on an unimproved street that would probably never be improved. The limited traffic was one of the reasons they decided to stay and add on to their home. The proposed rates would be a huge burden for a lot of people, and she thought it would be fair to give people with drywells some kind of discount. It cost Ms. Howard about \$900 to install the drywell. When she got the permit for the addition, she asked why stormwater fees had to be paid. She was told it was to drive in the City as Mr. Shirey indicated. She believed she should get some discount for containing her own stormwater. Ms. Howard worked for the City and sometimes filled in at the front desk. There were a lot of complaints about rates, but people did not come to the hearings to testify. Staff would get the aftermath once customers were billed. The City did have a low-income program, but there were people that did not meet the criteria. She thought the \$18 dollars she would be billed in July was a lot of money. The City of Gladstone, for example, did not charge any stormwater fees. She hoped the City Council would consider offering a discount to those with drywells on their properties.

**Mayor Bernard** closed the public hearing at 8:30 p.m.

**Councilor Collette** was very concerned about the rate increase. She was not on a fixed income or low income, and it looked like a big deal to her. She could imagine how it might feel for people facing a lot of other bills. She recommended that the City consider debt financing rather than paying cash out of hand. That was the way most cities would operate. She understood the City Council made a decision last fall. She did not wish to vote against the increase because she understood the importance of the work. She hoped the Council would take the time to reinvestigate debt financing.

A member of the audience asked if he could speak. Mr. Colletta recommended re-opening the hearing so all of the public comments could be taken into consideration during Council deliberations.

**Mayor Bernard** reopened the hearing at 8:32 p.m.

**Walter Stark** was a 35-year resident. Mr. Stark thought there should be a long-term thing to bring the prices down. Everyone knew in the past few years there were a lot of increases. This money would not be worth as much money down the road as it was now. It was difficult for a retired person to make ends meet. Maybe he did not fall into the low-income category, but he would like to be independent for the rest of his life. It was getting worse every year.

**Mayor Bernard** closed the public testimony portion of the hearing at 8:34 pm.

**Councilor Loomis** agreed with Councilor Collette that the Council needed to look at the 21-year with debt scenario. He also agreed with Ms. Howard, and he had talked with other citizens about drywell discounts because the City required

them. He did not wish to increase the rates at all, but he understood the need. He could not support the proposed no-debt scenario, but he could support the 21-year with debt option.

**Councilor Stone** wanted to see discounts for those who disconnected their downspouts and managed water on their properties. She would like to see the information on the scenario with debt and hold off on making the decision until that time.

**Councilor Barnes** called Mr. Shirey on a regular basis. She felt every time it came to making this type of decision, she pictured a 75-year old couple sitting at home and hearing that their rates were being raised again. This was the key issue for her. As ex-Councilor Lancaster told her, these things still needed to be fixed. She agreed with Councilor Loomis that this hurt badly for those in the community who were on fixed incomes and older. She did not recall why the decision was made last fall to go with the 21-year no-debt scenario. She did not mind going forward with 21-year debt option. It did not sound like the City had any more time to play with this issue because the Feds were knocking on the door to get these things fixed. It was time to make a decision.

**Mayor Bernard** agreed. This increase was nothing compared health care costs. He hated to put debt on others, but he had to agree that the 21-year debt scenario looked better. He agreed with Ms. Howard's comments about drywell. He understood she had to install a drywell because she lived on a street that did not have storm drainage.

**Councilor Collette** assumed that at one time Mr. Swanson looked at the debt option.

**Mr. Swanson** explained it was presented at a September Council work session. At the time, there was some disagreement but there was a sense that the City should not incur debt. That would be the ideal in an ideal world. With debt, the annual costs could be controlled, and the impact on the ratepayers would be reduced. The total outlay would be more, however. He thought the intentions were good in September. As long as the revenues held steady, he did not see any difficulty.

**Councilor Stone** asked if this resolution should reflect discounts for drywells and disconnected downspouts.

**Mr. Swanson** replied that could be adjusted later. There was some time sensitivity, so the Council could enact the resolution and adjust it in a month or so.

**Mr. Shirey** said the recommendation was for this rate increase to go into effect on July 1. If the Council approved the rate based on the 21-year debt scenario, then that would be the rate in effect. He had a concern about the change in rules for drywells on private property. If they were close to drinking water wells, then they were not legal. He would look into that issue and the downspout disconnect program in Portland.

**Mayor Bernard** thought Milwaukie should consider those programs as well, but how did one police them.

**Mr. Shirey** thought perhaps the meter readers could check the downspouts.

**Councilor Collette** understood that some downspouts could not be disconnected because it would run too much water near the foundations.

**Mr. Shirey** believed there were specifications, and he would gather more information.

**Councilor Loomis** understood the direction was for Mr. Shirey to research the issues and provide the Council with information. He thought Portland's issue had to do with the combined system issues.

**Councilor Stone** thought Councilor Barnes brought up a good point about being out of compliance. The rates would not go into effect until July 1, and she asked if that changed things.

**Mr. Shirey** said the agencies would look at the City's intent to meet the requirements of the law.

**It was moved by Mayor Bernard to adopt new stormwater fees based on the 21-year with debt option.**

**Mr. Colletta** asked if the rates as listed in the schedule were estimates only or if they would suffice for adoption.

**Mr. Ghilarducci** said those were calculated on the best current information available.

**Councilor Collette** seconded the motion to adopt new stormwater fees based on the 21-year with debt option. Motion passed unanimously. [5:0]

**RESOLUTION NO. 15-2005:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MLWAUKIE, OREGON, ADOPTING NEW STORMWATER FEES AND CHARGES AS PROVIDED BY MILWAUKIE MUNICIPAL CODE CHAPTER 13.14 AND 13.20; CLASSIFYING THE FEES IMPOSED BY THIS RESOLUTION AS NOT SUBJECT TO ARTICLE XI, SECTION 11(B) OF THE OREGON CONSTITUTION, AND REPEALING RESOLUTION NO. 9-2000.**

**OTHER BUSINESS**

**Advisory Board Appointments**

**Mayor Bernard**, with the consent of Council, appointed Joan Rowe to the Center/Community Advisory Board, Catherine Brinkman to the Planning Commission, and Julie Wisner to the Public Safety Advisory Committee. He also extended the appointments of David Aschenbrenner, Leslie Schockner, and Mike Miller to the Budget Committee; Molly Hanthorn to the Center/Community Advisory Board; Patty Wisner to the Design and Landmarks Committee; Sherri Dow and Ray Harris to the Park and Recreation Board; and Dick Newman to the

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Planning Commission. All of those interested in re-appointment would be interviewed.

### **Goal 5 Update – Fish and Wildlife Habitat Protection**

**Jack Hoffman**, Metro Policy Advisory Committee (MAPC) Chair and Lake Oswego Councilor and **Malu Wilkinson**, Metro Planner. Mr. Hoffman said the Metro Council was considering an ordinance that required cities and counties to take certain steps to protect fish and wildlife habitat. MPAC would consider the proposal on March 23 and accept input from the jurisdictions in the Metro region. The Council was scheduled to take action on the ordinance on May 19.

He provided maps and explained the 7-section program. The purpose of the program was to conserve, protect, and restore the continuous ecological streams. Metro was charged by its charter and statute to manage issues of regional concern including the lakes and creeks. Over a 2 to 3 year period, Metro mapped the entire region and identified areas of regional concern. The inventory map identified Class 1 and 2 riparian areas and upland areas. Metro decided to regulate on the critical streams, which for the most part were already regulated by the City's Title 3 ordinance. Milwaukie would probably find by overlaying the Goal 5 and Title 3 maps that it was already regulating 60 – 85%.

Metro identified three types of areas: high habitat and high conservation areas, medium conservation areas, and low conservation areas. Ms. Wilkinson said an area's being in a town center and regional center modified certain elements. Metro sought an economic and environmental balance. Existing backyards were exempted.

**Mr. Hoffman** said a property owner could do as he wished close to the habitat area as long as a grading or building permit was not required. An addition, for example, could invoke some of the regulations.

**Mayor Bernard** commented that the Willamette Greenway and other overlays would address many issues.

**Mr. Hoffman** said there was a mechanism in the proposed Functional Plan so a homeowner could work with the City to verify the map. Jurisdictions may adopt the Metro Model Ordinance and Map or determine if it substantially complied with their Comprehensive Plans and Maps.

**Mr. Gessner** said the City of Milwaukie reviewed the maps as part of Goal 5, but he had some site-specific concerns. He wanted to look specifically at the process as to how the City or individual property owners could verify and/or amend the map.

**Ms. Wilkinson** said Metro did not want to say that the entire habitat was not regionally significant; however, the focus of the regulatory component was narrowed. A portion of the Functional Plan would be non-regulatory and encouraged incentives. The Metro Council also committed to putting a bond measure on the November 2006 ballot that would appropriate a local share to focus on the upland areas not covered under the regulations. This was being put forward as portion of a Nature in the Neighborhoods Program. Only a portion of

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it focused on the Functional Plan, and the rest of it focused on incentives and changing the way things were developed across the region. She was pleased to hear during the stormwater presentation that the Milwaukie Council was interested in innovative approaches.

**Mr. Hoffman** added that Metro was sensitive to Measure 37 issues. Cities needed to have the ability to handle or minimize claims or allow a variance process of some kind. Metro did not intend to increase demands on the cities.

**Mayor Bernard** heard a lot of the concerns about regulations, and he believed this was a much better process.

**Mr. Hoffman** discussed habitat-friendly development practices such as clustering and reducing setbacks to save the streams.

**Ms. Wilkinson** discussed the implementation timeline, which was two years from the time the Metro program was acknowledged by DLCD.

**Mr. Gessner** believed the City would find that most of Title 3 covered quite a few areas subject to the upland habitat section. Staff might be able to do that.

**Mr. Hoffman** heard comments about staffing issues in many jurisdictions.

**Ms. Wilkinson** said the Metro Council discussed that issue in a work session and wanted to remind jurisdictions that it had a history of providing extensions. It was also very interested in providing technical assistance. She discussed building upon Title 3 and the efforts to avoid, minimize, and mitigate in those sensitive areas. The proposal was to apply the same Title 3 standard to the high conservation areas, which resulted in laterally expanding the Title 3 area. The medium conservation areas would be minimized and mitigated, and the low conservation areas would be mitigated. The Functional Plan would provide the discretionary framework and create a model code that would comply with the Goal 5 rule.

**Mayor Bernard** announced that the Council would meet in executive session pursuant to ORS 192.660(2) (f) – exempt public records immediately following adjournment of the regular session.

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

**Mayor Bernard** adjourned the regular session at 9:15 p.m.

*Pat DuVal*

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Pat DuVal, Recorder

# AGENDA

## MILWAUKIE CITY COUNCIL MARCH 15, 2005

MILWAUKIE CITY HALL  
10722 SE Main Street

1954<sup>TH</sup> MEETING

### REGULAR SESSION – 7:00 p.m.

**I. CALL TO ORDER**  
Pledge of Allegiance

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

**Milwaukie High School Student of the Month**

**3. CONSENT AGENDA** *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*

**A. City Council Minutes of February 12 and 15, and March 1, 2005**

**B. Resolution Transferring Appropriations – Computer Aided Drafting Software**

**C. Resolution Transferring Appropriations -- Special Public Works Loan Fund for North Main Village Project**

**D. Resolution Budgeting for Project Grants**

**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.)*

**A. Stormwater Master Plan Adoption – Resolution (Paul Shirey)**

**B. Stormwater Rate Adoption – Resolution (Paul Shirey)**

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.)*

**Advisory Board Appointments**

7. **INFORMATION**

- A. **Citizens Utility Advisory Board Minutes, January 5, 2005**
- B. **Ledding Library Board Minutes, January 24, 2005**
- C. **Park and Recreation Board Minutes, December 28, 2004**
- D. **Public Safety Advisory Board Minutes, February 24, 2005**
- E. **Riverfront Board Minutes, December 6, 2004 and January 11, 2005**
- F. **Transit Center Update**

8. **ADJOURNMENT**

**Public Information**

- Executive Session: The Milwaukie City Council will go into Executive Session immediately following adjournment at pursuant to ORS 192.660(2)(f) – exempt public records.

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

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

## **CITY COUNCIL SATURDAY COFFEE HOUR**

**February 12, 2005**

**8:00 a.m.**

### **Public Safety Building Community Meeting Room**

Attendees: David Aschenbrenner, Jenny Bajwa, Deborah Barnes, Lisa Batey, Jim Bernard, Dave Brown, Ray Bryan, Rosemary Crites, Terrie Darling, John Denny, Rick Frank, Sean Kearney, Jeff Klein, Joe Loomis, Bob Moore, Jim Murphy, Ed Parecki, John Pennington, Sharon Phillips, Steve Rowe, Eric Shawn, Dion Shepard, Jessie Sladek, and Ed Zumwalt.

### **Neighborhood District Association (NDA) Updates**

#### Island Station -- Lisa Batey

- Clackamas County Water Environment Services (WES) was debating on what to do with a house it owned at 19<sup>th</sup> Avenue and Eagle Street. One option was to demolish it and add the land to the park property.
- The neighborhood was continuing to work in Spring Park with native plantings and cleanup.
- The main topic of interest in the neighborhood was the removal of the Kellogg Treatment Plant. She understood from Paul Shirey that the County Commissioners would go forward even if Oak Lodge voted against removing its facility. She was worried that as a community, Milwaukie was being too passive. She spoke with a downtown salon owner who was not even aware removal of the Plant was on the table. She thought the downtown businesses could be more involved. Obviously it was more of an issue to Island Station than Linwood, but Ms. Batey thought it was an issue Milwaukie could rally around. She would like to see the community do something more active and perhaps try to lobby Oak Lodge voters to support the consolidation and take back the waterfront.

#### Historic Milwaukie – Ed Zumwalt

- The next NDA meeting was on Valentine's Day, and Paul Shirey would talk about the Downtown Parking and Traffic Management Plan. Every thing that happened downtown spreads out to the rest of the City. If traffic were not controlled downtown, it would go into all of the neighborhoods. One thing that bothered him was parking. Ms. Crites talked to the Council about parking for retail a couple of weeks ago. Park-and-rides just planted the cars in Milwaukie, took up the tax base, and sent the jobs and money to downtown Portland. Something needed to be done to revitalize Milwaukie, and parking was necessary. He discussed the North Main Village and its 9,000 – 10,000 square feet of retail. Kemper plans for 97 parking spaces or one for each housing unit. Mr. Zumwalt guaranteed there would be more cars than that. He would conservatively guess there would be 130. This traffic plan needed to come into effect soon, and he discussed the trigger point for parking and traffic management. The traffic consultants hired by the City said there would

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be an additional 3,000 trips per day up Harrison Street. Those 3,000 cars would affect every neighborhood. Something needed to be done immediately. There was about \$45,000 budgeted for traffic calming – he would call it neighborhood livability – and another \$10,000 from Gramor. He got a big, blank stare when he asked what ODOT was bringing to the table. He asked Mr. Bernard why ODOT would not participate in the Gramor development at Oak and Hwy 224.

**Mr. Bernard** did not believe that was confirmed. The application still had to go through the City Council and development process. He thought it was too early to ask ODOT to resolve a situation that might be a couple of years out.

#### Lewelling -- Jeff Klein

- The NDA was making strides in the Park, and Dieringer's donated dirt and delivery for the park on Willow and Stanley. They also planted eight new trees, and Mr. Klein noted that the Mayor made a donation.
- He and Jason Wachs were going to Salem for a grant writing class, and he hoped to have a new grant submitted by April 15.
- He discussed the neighborhood focus on Logus Road sidewalks. Jeff King and Paul Shirey were working with him on finding out if the neighborhood was eligible for some grants.
- The neighborhood would be in favor of working with Island Station on the removal of Kellogg. It was an issue for all of Milwaukie, and removal of the plant would have a huge impact on the visibility of the waterfront.

#### Hector Campbell – Dave Aschenbrenner

- The split rail fence was put in on the Garrett Street side of Homewood Park.
- The Parks District and Fire District would be guests at the March meeting.
- He encouraged people to apply for vacancies on the Budget Committee.

#### Lake Road – Bob Moore

- The main topic at the last neighborhood meeting was the ballfields at North Clackamas Park, and the NDA looked forward to more discussion. Some of the main questions had to do with access, parking, pedestrian and bike traffic. He thought everyone in the Association was in agreement that it needed to be changed because the park was getting tired. The Park could be put to better use, but the design needed to be tweaked. The Association would look at the issues and make some recommendations.
- The neighborhood was working on installing its sign.

#### Linwood – no one present

#### Ardenwald – no one present

Everyone present introduced himself or herself.

**Sean Kearney**, Milwaukie High student, was seeking volunteer hours for his college transcript. He discussed the E-School.

**Mr. Loomis** got e-mail from the City Manager regarding the proposal for North Clackamas Park. He wrote a reminder that the City anticipated a land use application that would be considered by the Planning Commission and potentially

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appealed to the City Council. Mr. Swanson recommended the best course of action would be to not allow a presentation or participation in discussion regarding the issue. The City Council may be called upon to sit in a quasi-judicial capacity.

**Mr. Bernard** discussed the application for funding for the Lake Road Multimodal Improvements Project. It was a \$6 million project, and it typically got bumped off the MTIP recommendation list. Milwaukie was currently in an appropriations bill, but it was not over yet. He encouraged people to attend the Metro hearing on February 15 to support the project. He would be going to Washington, DC in March with the Oregon delegation to seek transportation funding.

**Mr. Bernard** discussed the proposed annexation to Clackamas Fire District #1. The City had a permanent tax rate and so did the District. Milwaukie would lower its levy of its permanent tax rate by the amount of the District's permanent rate. The City Council could tax up to the permanent rate, but the City Council was considering to only raise the levied amount if approved by the voters. He wanted to make it clear the levy would be lowered temporarily or until the voters approved any increase to support City services. He explained the District had its own board and was not governed in any way by the Clackamas County Commissioners. Milwaukie dissolved its fire department in 1996, and the City could never afford to reconstitute it in the future without great expense to the taxpayers. Milwaukie residents could run for a position on the District Board if the annexation took place. Annexation would provide uninterrupted fire suppression, education, and emergency medical services to Milwaukie residents. If voters rejected the annexation proposal, the City would continue to contract. That contract would expire in 2008 and would have to be renegotiated. He did not believe the price would be the same.

**Mr. Shawn** asked if the employees worked for the District or the County.

**Mr. Bernard** responded that they were District employees and were not managed by the County.

**Mr. Bryan** asked if the District would rent space in the Public Safety Building if the annexation passed.

**Mr. Bernard** said that would be another advantage. Right now the District used the facility for very little rent. If the annexation was successful, the District would have to rent that portion of the building, which would be a good thing.

**Mr. Loomis** explained the District would have to help pay for upkeep.

**Mr. Aschenbrenner** asked if Milwaukie would continue its fleet maintenance agreement with the City

**Mr. Bernard** said that contract would continue. He urged that people ask questions because there were a lot of restrictions on how ballot measures were written. The firefighter's union will support this measure.

**Mr. Aschenbrenner** commented that Oregon City was also going out with an annexation measure but had made it clear that it was not going to lower its taxes. He wanted to make it was clear that Milwaukie was going to make the annexation

revenue neutral unless voters decided otherwise at some time in the future. People would read a lot about what was going on in Oregon City that did not reflect what was going on in Milwaukie.

**Mr. Bernard** discussed the ballot measure in the Oak Lodge area that asked people if they were in favor of the proposed consolidation of sewage treatment facilities. It was possible that Clackamas County would eliminate Kellogg even if Oak Lodge voted against it. Lake Oswego was interested in connecting and would reduce the overall cost. The whole idea of removing the treatment plant was not about the riverfront or about the smell. It was about the cost and economy of scale by reducing the number of treatment plants. It would be one plant versus four that could be operated by fewer employees. Each of the current plants was aging and needed to expand, and that would require an influx of money. Kellogg had two choices – expand into the neighborhood or expand into the industrial area, which he considered Milwaukie’s job base. He believed it was important to preserve the industrial area.

**Ms. Batey** thought it was a sound economic decision. It was also a policy decision about the river and parks and Greenspace.

**Mr. Bernard** said a pipe could be run all the way down the Trolley Trail to Oregon City, instead of going down the highway or buying easements. That was why the savings existed. The issue was not just Milwaukie although the City would love to get rid of the Plant. It was really about what happens in the future to treatment rates and creating economies of scale for many years to come. Others did not care that it smelled or took up the Milwaukie riverfront. It was valuable property that could be sold and developed.

**Ms. Batey** said the NDA wrote a letter to the Clackamas County Commissioners. WES already went through the public involvement process, and she suggested letters to the editor. She felt there needed to be some sort of public involvement.

**Ms. Crites** thought people were inundated with flyers and information and do not read the papers. She thought it was important to go door-to-door.

**Ms. Batey** suggested involving the downtown business owners because their input was important to the viability of the economy.

**Mr. Bernard** commented that there were a lot of absentee property owners who simply did not care. When he was MDDA chair, he found that people’s vision went to their front doors.

**Ms. Batey** thought the business owners on the south end would be interested in a turnaround.

**Mr. Klein** believed the downtown was on the cusp. North Main Village will get the businesses excited about revitalization. He suggested approaching it on a grander scale that included North Main Village, the McLoughlin improvements, and the waterfront. Taken as a whole and not as single projects it was a revolution of the entire downtown area.

**Ms. Crites** cared about the downtown because it was the heart of the community. She introduced Ed Parecki. The downtown was repressed, and

redevelopment was difficult because of the expense. A developer who put his money into the investment needed to make a yield. She discussed the renovation of Mr. Parecki's building on the corner of Scott Street and McLoughlin Boulevard. The building was L-shaped with metal siding that would be beautiful stucco. She also provided some drawings of North Main Village that had 97 housing units that were a combination of condos, townhouses and rentals. If one was going to do retail, who do you bring in? For example, she spoke with New Seasons – but Milwaukie had a bad reputation. There were 700 employees in downtown Milwaukie, and 50,000 people drove by on McLoughlin Boulevard each day. If she was going to sell Milwaukie, what could she offer? It would not be the businesses that were there now. She was looking for suggestions on bringing in higher-end businesses. Why should anyone come to Milwaukie?

**Ms. Darling** suggested capitalizing on the riverfront.

**Ms. Crites** said they did not care about that. They just wanted people to buy their products.

**Mr. Klein** said it was not just one project – it was everything combined. The surrounding things needed to fall into place to bring in new people and customers that New Seasons wanted. It was not just one issue, and the riverfront was a huge part of that. It was a case of re-branding. Milwaukie right now began at the Acropolis. Milwaukie was the downtown and the riverfront.

**Mr. Frank** said it had to do with getting rid of the stigma of stagnation. Milwaukie did not show a lot of progress over the past 20 years. He thought some grand steps had been made in creating a new image.

**Mr. Parecki** called Milwaukie a sleepy town trying to wake up. The City needed to attract the right people. It was not just one project although he thought the North Main Village was the first wake up call. Something else needed to be started downtown to show that the town was waking up. He understood at one time downtown Milwaukie was very vibrant.

**Ms. Crites** observed that at one time there was little difference between Milwaukie and Lake Oswego.

**Mr. Bernard** was working on a presentation on downtown redevelopment as a strategy for livability and sustainability. The downtown would have new sidewalks and underground utilities. Every \$1 invested would bring in \$38. He guessed this project would put \$20 million into downtown. That was probably the biggest investment made in Milwaukie from the day it was created. The potential was there, and he hoped to get people excited about keeping the projects going. The McLoughlin Boulevard improvements were \$4 million.

**Ms. Crites** discussed development in Lake Oswego. Property in Lake Oswego was now \$50 a square foot up from \$20, so businesses were looking for other places to go. She discussed encouraging quality retail.

**Ms. Batey** discussed Trader Joe's expansion plan.

**Mr. Klein** felt it was important to support the businesses that were already downtown. Go to Ray's instead of Starbucks. It was an important change of the

mindset. When he needed something, he stopped at Wichita Feed and Hardware before going to Home Depot.

**Ms. Crites** agreed. She tried to buy in Milwaukie but there was not that much.

**Mr. Aschenbrenner** thought once the ground was broken and McLoughlin Boulevard was under construction that it would be easier to go after the property owners.

**Ms. Crites** commented that these property owners owned their properties free and clear, and they were comfortable. They got a check every month and were not interested in selling.

**Mr. Aschenbrenner** discussed moving the viable businesses to North Main Village and Mr. Parecki's property. The other property owners would see they needed to do something to maintain their incomes.

**Mr. Loomis** said some people see downtown Milwaukie as being depressed, but the property owners did not see it that way. His theory was that right now it just did to pencil out. As improvements occurred, then it would pencil out. It was not depressed enough, and that was why there had not been movement in 25 years. The buildings are filled, but they did not attract people. The Farmers Market was packed every Sunday. People go downtown if they have a reason. It is not just crossing Hwy 224. The location was good – Milwaukie was right next to Portland.

**Mr. Bernard** observed that everyone downtown thought his or her property was more valuable than it really was.

**Mr. Loomis** distributed a sign-up sheet for those who were interested in working with Ms. Batey on the sewage treatment plant issue.

**Mr. Shawn** had a process question. He worked in the private sector and was trying to understand how the public sector worked. When a public body went out with a design and hired a company to do the work based on specifications, then he understood that was all out in the public arena. He asked what happened if changes were made.

**Mr. Bernard** discussed the Downtown Plan and the public process. The Plan went to the Planning Commission and some changes were made. Then the Plan went to the City Council, and that body could make changes or not.

**Mr. Shawn** asked about a project that went to the City Council and the contract was awarded. As the project went along, the decision was made to not implement a certain specification. How did that occur? What were the dynamics of the public process? He was talking about a specific project, and there was not public record.

**Mr. Bernard** discussed change orders on public contracts and said those would be documented.

**Mr. Moore** added from his experience in home remodeling, some issues did occur when construction started. There were adjustments along the way from the original plan.

**Mr. Parecki** understood that Mr. Shawn's point had to do with the Planning Commission's and City Council's approving something that was changed by the developer and the manager. What happened to the original proposal and approvals.

**Mr. Shawn** discussed the City's building a building that went through the Planning Commission and City Council, and the contract was issued. What if the kind of pipe was changed, was there something in the public process by which that specification was changed or was it just an agreement between the contractor and the City employee that was managing the project.

**Mr. Loomis** said everything was documented and part of the public record.

**Ms. Batey** thought Mr. Shawn's example had more to do with the building codes. He was making the assumption that what went to the Planning Commission and City Council got into that level of detail. She discussed the North Main Village project and the variance and setback issues that came before the Planning Commission for approval. The Commission did not get into the type of plumbing or color of paint.

**Mr. Shawn** said it was an issue of specifications. If a public contract was issued for a certain specification, and in the course of the project that specification was changed, then would it be documented. It seemed like there was a shift from a public record to a private agreement.

**Mr. Loomis** said change orders were recorded.

**Mr. Frank** added a lot of these projects were approved as a whole but were actually implemented in phases.

**Mr. Aschenbrenner** discussed project phasing. There may be new technology or standards that would make it a better project, and those types of changes would be documented.

**Mr. Shawn** said that did not really answer his question.

**Mr. Aschenbrenner** suggested Mr. Shawn go to the people who made the change or decision and ask them why the standards were changed.

**Mr. Shawn** was doing that, but he was asking to get a better understanding of the bigger picture.

**Mr. Bryan** thought a better example might be the North Main Village Project that was required to have a certain number of parking spaces. If adjustment in the number of spaces had to be made, at what point did it go back to the Planning Commission?

**Mr. Shawn** explained his question had to do with the complete elimination of a specification. In his example, there were no specifications for what was implemented.

**Ms. Crites** said she was on the Planning Commission when Centex was doing its development. They were not supposed to cut down certain trees but did it anyway. Centex was fined \$500, but that was nothing to them. She thought the

issue had to do with the arrogance of certain developers who would do what they pleased. What was the recourse?

**Mr. Shawn** indicated that did not really address his issue.

**Jim Murphy** attended the session on behalf of the Special Olympics and was catching up on what was going on in local communities and finding out how to develop programs a little more.

**Ms. Shepard** mostly agreed with Mr. Klein's earlier comments about Milwaukie's projects coming together. She had a real concern about the North Main Village Project and what businesses it would attract based on the current transit situation. If she was a developer and saw that, she would not want to come here. The other issue was parking. With everything that was happening on North Main to keep the transit center where it was at would be a liability with construction and that element. There were all of those nice projects, and then the City had that. It would take away from the efforts and might cause failure, which she would hate to see happen.

**Mr. Bernard** attended Portland State and used the bus everyday. Transit was important and needed to be provided. People living in those 97 units will, in theory, be using transit. He was concerned about generalizing that transit was a negative thing.

**Ms. Shepard** was not referring to the regular riders because she rode the bus for 12 years before she got a car. She was well aware of the need for transit. Some of the element that people saw was not the positive side of the City and needed to be addressed.

**Mr. Klein** referred to the book "Tipping Point" which was a great marketing book and reminded him of Milwaukie. It said that change came when one little thing sparked others. It reminded him a lot of the potential that Milwaukie had.

**Ms. Darling** put in a plug for the Riverfront Board. It was putting together some new schematics for the riverfront development and was asking for public input. She invited people to attend the Board's March meeting. The Riverfront Board would be responsible for the design process, and Oregon Solutions was resource driven. If people had something to bring to that table as far as volunteers, money, technology, etc., they should go to the Oregon Solutions meetings. The Riverfront Board would arbitrate the boat ramp and parking issues.

**Mr. Frank** appreciated the economic development efforts underway. He did not want the City to forget about livability and improving the area for families He commented on the importance of youth sports to keep kids out of trouble and away from the transit center.

**Mr. Denny** represented Kids First of North Clackamas that was a group of 16 youth outdoor sports organizations that served the North Clackamas School District. He urged the City Council to support the North Clackamas Park project when it comes before the body.

**Mr. Brown** lived at 37<sup>th</sup> and Harrison Street and had some traffic management concerns. He discussed a no-parking strip and change in the location of the stop bar, which he thought was set too far back.

**Mr. Bernard** directed him to Paul Shirey in the engineering department. Mr. Loomis added there was a form that Mr. Brown could fill out.

**Ms. Bajwa** was a graduate student at Portland State and she was present as part of her citizen participation class.

**Mr. Rowe** attended in order to become acquainted with issues. He understood there was a Task Force being put together on annexation. He started his business in downtown Milwaukie and moved to 82<sup>nd</sup> Avenue in the unincorporated area of Clackamas. The area behind him was always an area of concern because of the sewers. Developers have discovered that area. They were buying large lots with small houses and building three houses. There was money going into that area that would help solve problems in that neighborhood. Milwaukie needed to get into the game. Happy Valley saw it as a gold mine.

**Mr. Bernard** commented on annexation efforts and discussions with Happy Valley. Milwaukie thought it was an issue of balance. To serve the sewer and law enforcement needs of the residential area, the Town Center was needed.

**Mr. Rowe** drove through that neighborhood all the time, and saw that the developers saw it as a gold mine. The sewer issues would only get worse because of the additional housing. He noted sewer covers in the street, so that implied to him there was some infrastructure in place. The area was known as "Felony Flats", and there were a lot of rentals. He also believed there were a lot of permanent residents who took pride in living there and wanted to see it improved. It was kind of a forgotten group, and the County was not making any effort to make things better.

**Ms. Sladek** and Mr. Pennington attended with Ms. Bajwa.

Hector Campbell would provide refreshments for the March meeting.

The session adjourned at 9:30 a.m.

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Pat DuVal, Recorder

# MINUTES

## MILWAUKIE CITY COUNCIL WORK SESSION FEBRUARY 15, 2005

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

Council Present: Councilors Barnes, Collette, and Loomis.

Excused: Councilor Stone.

Staff Present: City Manager Mike Swanson, Information Systems and Technology Director Esther Gartner, Planning Director John Gessner, Engineering Director Paul Shirey, GIS Coordinator Kate Rosson, and Information Systems Analyst Linda Noren.

### Information Sharing

#### Scheduling

- JPACT Hearings at Metro, February 17
- Town Hall with Rep. Carolyn Tomei, February 17
- Mayors' Day at the Capitol, February 23
- Clackamas Cities Dinner Meeting, February 24 hosted by Happy Valley
- Meeting with Congressman Blumenauer, February 24

#### Enterprise GIS Project

**Ms. Rosson** provided a PowerPoint presentation about the components of a GIS system and its value in managing information for the organization. City staff currently relied on hard copy maps to assimilate information, many of which were deteriorating after years of use. The information was potentially inaccurate, and Milwaukie lagged behind other similarly sized cities in its deployment of an enterprise GIS system.

**Mr. Shirey** provided examples of some of the 2,200 hard copy maps currently being used that were tattered and fading. That was the sort of data that needed to be standardized and made available to all users. The issue was being able to share accurate data. GIS expanded from a niche technology used by specialists to an integrated information technology used within and between organizations and agencies. Data may be collected once but used many times, and a map can be created at any time at any scale for anyone.

**Mr. Gessner** added GIS would allow staff to do other things it would not otherwise be able to do. There was a lot of information regarding a particular site, and the planning department constantly struggled with history and conditions at a certain point in time. GIS would allow staff to take vast amount of data associated with individual locations and provide analytical opportunities. Information could be used to identify emerging trends and land use scenarios.

**Mayor Bernard's** main concern was funding and the amount of time it would take to enter the data.

**Ms. Rosson** said a lot of the data already existed, and part of the process would be taking a more complete inventory of what the City had and needed. The project would probably not entail hiring new staff. There would be some cost involved with scanning old paper maps into a digital format.

**Councilor Collette** asked if enterprise was a term of art or a specific system.

**Ms. Rosson** replied "enterprise" meant citywide. The system Milwaukie used was ESRI, which was used consistently throughout the region making it relatively easy to share data with other agencies such as Clackamas County and Metro. Ms. Rosson demonstrated Oregon City's online GIS system to give the Council an idea of what would be possible with the proposed project.

**Ms. Rosson** discussed the project team made up of representatives from various departments. The goals were to have a user friendly application that was available to all staff; convert hard copy maps to electronic format; build GIS links to existing applications; and develop a public website for citizens. She reviewed the hardware, software, and data needs.

**Councilor Barnes** asked how the City would choose its vendors, how many people would get the software, and the costs per person. There was a proposed budget for this phase, but there were unidentified software upgrades and training expenses. \$52,000 was for the initial start up that included a certain number of stations. As the system expanded, she understood the software would have to be purchased for each additional station.

**Ms. Rosson** explained staff would use the web browser, which all users currently had. The power users were already identified, and the cost of that upgrade was included in the initial budget. There could be new versions of the web-mapping software in 5 or 10 years, but that was not an immediate expense.

**Ms. Gartner** said the servers had capacity and were suitable for the proposed application.

**Ms. Rosson** said training was budgeted, but some could also be done in-house. Software costs for the laptops used in the field were included. In moving forward, the team would want to provide organization-wide access to GIS data, ensure the data was accurate in a centralized location, ensure compatibility with vendors and contractors with whom the City was sharing data, establish a standard software platform, and keep current with technology.

Phase 1 of the project was from now to the end of this fiscal year. During this time, staff would take stock of its data and identify priority data. The second phase would be July 2005 through December 2005. The departments would begin purchasing and installing software and start training. Phase 3 would be October 2005 through March 2006 when all paper maps were scanned and a mobile GIS solution was deployed. Phase 4, April 2006 through September 2007, would be implementing interactive web-mapping for the public and linking GIS to the legacy applications.

**Ms. Rosson** reviewed the budget. Phase 1 would involve normal staff time. Phases 2 and 3 would include the hardware and software purchases and training that would cost approximately \$52,000. The costs for linking to legacy applications in Phase 4 were not determined at this time. She discussed linking the SQL-based information.

**Ms. Rosson** said the benefits included more effective use of staff time in looking for information and fewer errors and delays on projects caused by information gaps. Milwaukie would be able to exchange data with partner agencies and consultants more effectively and citizens would be able to research information on their properties and neighborhoods. GIS would also benefit the City's economic development efforts by providing information on the Internet.

In summary:

- This was an important foundation for planning and sharing information within the City and with partner agencies;
- The cost savings would offset the initial expenses; and
- The team would appreciate the City Council's support of this project.

**Mayor Bernard** commented Milwaukie was creating a virtual City but it could not pave its roads. The City had a great computer system, but it could not pave King Road. He realized there would be savings, but he did have some major concerns. He supported the project.

**Mr. Shirey** discussed the pavement management system that worked most effectively when integrated with GIS.

**Councilor Loomis** commented this would be a tool for providing better service.

**Councilor Collette** asked how all of the information was collated to build the many layers.

**Ms. Rosson** said there were ways to automate the systems, and Milwaukie also go a lot of data from other agencies. She discussed geographically referenced aerial imagery. The City got its tax parcel information from Clackamas County, and the proposed software would be compatible.

**Mr. Shirey** discussed the Stormwater Master Plan update that began with a lot of inaccurate data related to the location and elevation of the manholes. It was expensive to make it right. To him it was very important to connect GPS information to mapping. The project would be funded from the four utilities, and he discussed assessing other departments such as community services and police.

**Councilor Collette** thought this would be an investment that would pay off in the future.

**Councilor Barnes** supported the technology but was concerned about software upgrades in the future.

**Ms. Gartner** discussed desktop applications and the cost of deploying software on individual PCs. This proposal was for a web-based program, so the City would pay about \$8,000 for the web program. The browser was already on

everyone's desktop and would be the tool the used to access the information. The information would be stored and crunched by the web server itself. She believed that would be the most economical way to address distribution and maintenance. The initial investment was \$8,000, and there would be an annual maintenance cost that covered future versions.

**Mayor Bernard** requested information on the annual maintenance costs.

**Ms. Gartner** discussed the various vendor formulae for annual software maintenance agreements.

**Mayor Bernard** announced that the goal setting work session scheduled for February 18 was cancelled. He urged people to attend the JPACT hearings and to show their support for Lake Road Improvement Projects and the Main Street Improvements funding.

**Mr. Swanson** added that one of the projects that had some challenges to its total funding was Metro's Urban Regional Centers Program. Milwaukie received \$455,000 from this program for the North Main Project, and he would testify in support of that program. He believed Metro was very loyal to Milwaukie and stepped up to the plate to provide needed funding. He felt a responsibility to do the same for Metro.

**Mayor Bernard** and **Councilor Collette** agreed to go to the Metro hearing.

**Mayor Bernard** encouraged people to attend the Rep. Tomei's Town Hall.

**Mr. Swanson** commented on street funding and annual street lighting costs of about \$300,000. Every year an organization announced Tax Freedom Day at which time everyone was freed of his/her burden of working for the various units of government. Last year, Tax Freedom Day was April 11. Those units of government supported by property taxes typically covered between January 1 and January 11. These were the units of government that delivered the services. He felt this illustrated the difficulty faced by cities.

**Mayor Bernard** discussed the option of adding a fee to residents' PGE bills to pay for street lighting.

**Mr. Swanson** believed people were feeling beleaguered by taxes. Although local entities represented 11 of the approximately 101 days of the tax burden, cities and districts were still on the front lines. He understood people's concerns but wished those who delivered the services had a way to access the funds necessary to actually deliver those services. Milwaukie had a good group of people delivering a lot of services. He provided a list of draft priorities that he prepared for the goal setting process. It was an ambitious list of projects that were currently underway.

**Mayor Bernard** adjourned the work session at 6:30 p.m.

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Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
FEBRUARY 15, 2005**

**CALL TO ORDER**

**Mayor Bernard** called the 1952<sup>nd</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

Excused: Councilor Stone

Staff present:

Mike Swanson, City Manager	Paul Shirey, Engineering Director
Gary Firestone, City Attorney	Brenda Schleining, Associate Engineer
John Gessner, Planning Director	Grady Wheeler, Information Coordinator
Stewart Taylor, Finance Director	

**PLEDGE OF ALLEGIANCE**

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

**Milwaukie High School Student of the Month**

The City Council recognized **Agustn Ramos** as the February Milwaukie High School Student of the Month. After having arrived in the United States just four years ago, Agustn grew academically strong and had top grades in his classes. He was a member of the Respect and Tolerance Committee and was part of a group that wrote the new position statement about respect and diversity for the entire school. He was the first junior recognized by the Council for his academic knowledge and leadership.

**Mayor Bernard** welcomed **Justin Stangel** of Troop 144.

**Mayor Bernard** encouraged residents to attend Metro's transportation funding hearings to support Milwaukie's Lake Road Multimodal Improvements Project.

**Annual Financial Report**

**Mr. Taylor** introduced **Tom Glogau** of Grove, Swank and Mueller. He thanked finance staff particularly Judy Serio and Merlin Becker for their work.

**Mr. Glogau** reviewed the significant items in the audit report. He commended Ms. Serio, Mr. Becker, Mr. Taylor and the entire finance department for their work. The audit went very smoothly which spoke highly of the processes that were already in

place. He referred to report page 7 called the “*Statement of Revenues, Expenditures and Changes in Fund Balances – Governmental Funds*” which he likened to the profit and loss statement. The total change in fund balances was \$950,456 which meant the cost of providing governmental services during the year was less than the revenues the City took in associated with providing those services. He noted many cities in Oregon wished they could say that. He attributed this to City employees being cost conscious.

**Mr. Swanson** noted although the City did dip into the general fund, the contingency was not impaired. That was the net change.

**Mr. Glogau** noted the total balance as \$4,625,000, which was in a general sense the amount the City had available on June 30.

**Mr. Swanson** believed water constituted a lot of that. The City did experience a net decrease in its general funds reserves to fund some operations. A majority of that \$4.6 million was probably in the enterprise funds for a specific purpose.

**Mr. Glogau** referred to page 10. Cities existed for the purpose of providing governmental services to citizens and to conduct activities that everyone needed but could not do for themselves such as water and sewer. The governmental funds were subsidized activities and were not provided for a fee. On the other hand, water and sewer activities had customers, and a service was provided in exchange for a fee. The change in net assets for the year was \$66,832. The total operating revenue was \$6,056,000, so this was essentially a breakeven year. This meant the cost of providing services was about the same as citizens were charged.

Page 27 gave instances during the year where the City violated state statutes. The violations were equivalent to driving 36 in a 35 mph zone. There was a violation, but it was not serious and did not have negative repercussions. The over expenditures in those six funds could have been avoided if there had been a transfer of appropriations by June 30. It was a clerical oversight and not a substantive violation of Oregon law. It was a technical violation and was reported, but it was not serious because the City actually had the authority to spend that money. Mr. Glogau referred to pages 68 and 69 and the auditor’s comments. In summary, on June 30, 2004 the City was in stable financial condition. The enterprise funds just about broke even for the year, which kept good faith with the citizens. The City paid its bills when they came due.

## **CONSENT AGENDA**

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

- A. City Council Minutes of February 1, 2005;**
- B. Intergovernmental Agreement with Oregon Department of Transportation for the 42<sup>nd</sup> Avenue Improvements Project;**
- C. North Main Public Professional Development Services Contract Award; and**
- D. Resolution 8-2005: A Resolution of the City Council of the City of Milwaukie, Oregon, in the Matter of Authorizing a Milwaukie/North Clackamas County Enterprise Zone Boundary Change.**

The motion to adopt the Consent Agenda passed unanimously among the members present. [4:0]

Mayor Bernard changed the order of business.

### **OTHER BUSINESS**

#### **Amend Code Section 13.28.120 to Add Public Improvement Credits for Development Subject to Systems Development Charges – Ordinance**

**Mr. Shirey** explained the amendment would allow public improvement credits on certain improvements to the transportation system. Certain improvements might correct an already existing deficiency for which the developer should receive credit.

**It was moved by Mayor Bernard and seconded by Councilor Barnes for the first and second readings by title only and the adoption of an ordinance amending Section 13.28.120 of the Milwaukie Municipal Code to add public improvement credits under certain land division and land use approvals. Motion passed unanimously among the members present. [4:0]**

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

**The City Recorder polled the Council: Councilors Loomis, Barnes, and Collette and Mayor Bernard “aye.” [4:0]**

#### **ORDINANCE NO. 1946:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING SECTION 13.28.120 OF THE MILWAUKIE MUNICIPAL CODE TO ADD PUBLIC IMPROVEMENT CREDITS UNDER CERTAIN LAND DIVISION AND LAND USE APPROVALS.**

### **AUDIENCE PARTICIPATION**

**David Aschenbrenner**, 11505 SE Home Avenue, Hector Campbell Neighborhood District Association (NDA) Chair. He discussed SB 295 that would give the state authority to redirect traffic citation funds from cities.

**Mr. Firestone** said the sponsor of that bill was Sen. Prozanski. The basic provisions of the bill would required the City to turn over half of the fines collected in municipal court.

**Mr. Aschenbrenner** urged people to attend the Town Hall meeting on February 17 with Sen. Schrader and Rep. Tomei.

### **PUBLIC HEARING**

#### **Public Contracting Rules**

**Mayor Bernard** called the public hearing to order at 7:25 p.m. The purpose of the hearing was to give members of the public an opportunity to comment on the findings developed in support of exemptions from the competitive bidding requirements.

**Staff report: Gary Firestone**, 1727 NW Hoyt Street, Portland. This was a resolution proposing to adopt new public contracting rules with the City Council was acting as the Local Contract Review Board. He discussed the recent revisions by the 2003

Legislature, which were extensive but not substantive. The statute still allowed local governments to adopt exemptions and procedures that had to be in place prior to March 1, 2005. The City had always adopted its own rules different from the Attorney General (AG) Model Rules. It took the position that it could provide a more clear and simple set of regulations. Further, the AG Model Rules did not provide for exemptions other than those explicitly stated in the statutes. The City felt there were some areas that should be exempt from the requirement to have a formal competitive bidding process.

The proposed rules were largely based on the existing rules, and many of the provisions were the same. There were some tweaks throughout to make them consistent to the statute revisions. Mr. Firestone reviewed the nine sections: competitive process and exemptions, price agreements, brand names or marks, emerging small businesses, formal competitive processes, public improvement contracts, waiver of security bid and performance bond, property disposition, personal services contracts, emergency contracts, and recyclable and recycling purchasing.

State statutes required a public hearing whenever exemptions to competitive bidding or formal requests for proposal requirements were considered. Findings were prepared that justified each of the proposed exemptions. The exemptions were:

- Exemptions of contracts under certain dollar amounts. Staff recommended a \$50,000 threshold that was lower than the \$150,000 provided by statute.
- Contracts for price regulated items
- Library periodicals
- Advertising contracts
- Equipment maintenance repair and overhaul
- Purchases under established price agreements
- Gasoline, diesel fuel, heating oil, lubricants and asphalt
- Investment contracts
- Insurance contracts
- Employee benefit insurance
- Office copier purchases
- Single seller of product
- Contract amendments in a limited amount (including change orders and extra work)
- Affirmative action contracts
- Purchase off contracts by other public agencies
- Oil or hazardous material removal
- Contracts with qualified non-profit agencies
- Ammunition
- Public improvement contracts involving design or construction management

He concurred with staff that there was a good reason for each of these. Some were based on statute and others based on the City's experience that there could be a competitive process that encouraged competition but avoided the expense of the formal process.

**Mr. Firestone** requested that the City Council acting as the Local Contract Review Board adopt the resolution approving these rules.

Correspondence: None.

Testimony: None.

**Mayor Bernard** closed the public testimony portion of the hearing at 7:35 p.m.

**It was moved by Councilor Loomis and seconded by Councilor Barnes to adopt the resolution adopting new public contracting rules and findings. Motion passed unanimously among the members present. [4:0]**

**RESOLUTION NO. 9-2005:**

**A RESOLUTION OF THE CITY COUNCIL OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, REPEALING EXISTING LOCAL CONTRACT REVIEW BOARD ADMINISTRATIVE RULES, ADOPTING NEW PUBLIC CONTRACTING RULES AND FINDINGS, AND STATING THAT THE MODEL PUBLIC CONTRACTING RULES PROPOSED BY THE ATTORNEY GENERAL DO NOT APPLY.**

**Gramor Development, Oak Street Rezoning**

**Comprehensive Plan Map Amendment**

**Transportation Review**

**Files CPA-04-02, ZC-04-02, TPR-04-07**

**Mayor Bernard** called the public hearing on the Comprehensive Plan Amendment CPA-04-02, Zone Change ZC-04-02, and Transportation Plan Review, TPR-04-07 to order at 7:36 p.m.

The Planning Commission considered this request at its January 11 and January 25, 2005 public hearings and recommended Council approval of the land use change and zoning designation with conditions. This was a de novo hearing, and Council recognized all persons wishing to speak on the proposal. Council used the testimony it received in coming to a decision on the proposal.

The purpose of the hearing was to consider the Milwaukie Planning Commission's recommendation to approve the request for a Comprehensive Plan Map Amendment and zone change to property bounded by Oak Street, Campbell Street, Myrtle Street, and Hwy 224. The applicable standards were in Zoning Ordinance Section 905.1 (Amendments) and Comprehensive Plan Chapter 2, Objective 1, Policy 7. Mayor Bernard reviewed the order of business for the hearing.

The applicant had the burden of proving that the Comprehensive Plan amendment and zone change proposal conformed to all applicable criteria of the City's Comprehensive Plan and Zoning Ordinance. All testimony was to be directed toward the applicable substantive criteria. Failure to address a criterion or raise any issue with sufficient detail precluded an appeal based on that criterion or issue. Failure to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow a response precluded an action for damages in circuit court. Any party with standing could appeal the City Council decision to the State Land Use Board of Appeals (LUBA) according to the rules adopted by that Board. Persons with standing were those who submitted written comments or testified and signed the City Council attendance sign-up sheet.

**Mayor Bernard** reviewed the conduct of the hearing.

Site Visits: All Council members present had visited the site.

Ex parte Contacts and Conflicts of Interest: **Mr. Firestone** explained that any discussions other than with staff regarding this matter needed to be disclosed, and that included the Planning Commission.

**Councilor Loomis** spoke with Planning Commissioner Lisa Batey and asked for a summary of the process because he did not have a chance to read the minutes. Ms. Batey believed the applicants were straight up people. She had some questions about the public need. He asked her if there was any discussion about other residents on Myrtle Street, and she did not remember any.

**Councilor Collette** spoke with two Planning Commissioners Lisa Batey and Jeff Klein about concerns that were raised about the project. Traffic and the need for the development were both raised.

**Councilor Barnes** did not speak with anyone. She read the minutes.

**Mayor Bernard** disclosed that the applicant donated to his County Commissioner campaign last year. He considered the matter very carefully and did not believe that would influence him in any way. He felt comfortable that he could render a decision based on the facts of the matter. That was not a conflict of interest.

Challenges to Impartiality or Ability to Participate: None.

Jurisdictional Issues: None.

Staff Report: **Mr. Gessner** stated the Planning Commission forwarded a recommendation to the City Council to approve the Comprehensive Plan and zone change. He was joined by Engineering Director Paul Shirey, Associate Engineer Brenda Schleining, and consultant Randy McCourt of DKS and Associates who was retained by the City to provide independent peer review of the applicant's traffic study.

It was the applicant's burden to demonstrate how it met the code notwithstanding the Planning Commission's recommendation. Many questions the City Council may have would likely be answered through the applicant's testimony. He provided an overhead of the site and indicated the block being considered at this hearing and the Milwaukee Marketplace. He noted an orphaned site next to the property being considered for rezone. The Commission directed staff to look at rezoning that remaining property to commercial. Staff would do that pending City Council's decision on this proposal.

There were two code criteria that needed to be met in order for a Comprehensive Plan amendment and rezoning to occur. Those criteria were found in the Comprehensive Plan and Zoning Ordinance and were very specific as to what the applicant must demonstrate. The first was consistency with Comprehensive Plan criteria that were not only site-specific conditions but also consistency with the economic development, housing, jobs, and transportation policies. The Planning Commission found that the applicant did demonstrate compliance with those various policies. The Zoning Ordinance was specific with regards to the quality of the site, the location, and the ability to serve the site with needed infrastructure. The Planning Commission found that the applicant did demonstrate compliance with those applicable criteria. The ordinance in

the staff report (pages 9 – 18) detailed specifically how the Commission found that the applicant demonstrated compliance with those criteria.

The Planning Commission heard a number of concerns in the two public hearings. Would there be economic impacts to the downtown, and would this development have an adverse impact by drawing market demand away from the downtown? What would the neighborhood traffic impacts be? Mr. McCourt would detail the scope of the traffic work. Mr. Gessner was confident that with Mr. McCourt's watching the City's interest, there would be a good understanding of those impacts both in terms of the Hwy 224/Oak Street intersection and the neighborhoods to the north and south. There were also concerns about the site design. At this point in the process there were neither processes nor criteria to evaluate the proposal. The application would go back to the Planning Commission for a transportation review to evaluate compliance with zoning standards for a C-G zone if approved by Council.

**Mr. McCourt**, 1400 SW 5<sup>th</sup> Avenue, Portland. He provided an overview of how the City evaluated the project's traffic impacts. The City requested that the applicant prepare a traffic analysis for this rezone and that it be comprehensive and provide an understanding of the motor vehicle impacts and alternative mode impacts for pedestrians and bikes as well as neighborhoods considerations.

**Mayor Bernard** asked Mr. McCourt how many years of experience he had.

**Mr. McCourt** had 25 years of experience. The current R-2 zoning had the potential to generate about 600 trips per day with about 55 – 60 trips during the evening peak hour. The proposed zoning would generate about 2,500 per day with about 320 – 330 trips during the evening peak hour. He discussed a variety of uses including a shopping center, pharmacy, and grocery store of different sizes and characteristics that would fit on this site. The trips generated were appropriate for those types of uses in a reasonable-case scenario in terms of land coverage. Approximately half of those would come from trips passing by on Hwy 224, Oak Street, or nearby streets that were already on the network but diverted to this site. About 65% would go south toward Hwy 224 versus 35% going to the north toward Monroe Street. Of the trips going to the south of Hwy 224, a little less than half crossed Hwy 224 and the rest got onto Hwy 224. The applicant was asked to look at current conditions and conditions 15 years out. He also studied Hwy 224 and Oak Street and other key intersections. The key impact area was Hwy 224 and Oak Street intersection. The location today was somewhat congested at certain times but did operate acceptably. In the future he found that location approaching capacity. With the proposed rezone, it exceeded capacity and recommended mitigation measures were identified within the proposal to address the deficiency. Oak Street driveways were considered to conform to the City's spacing standards and assured that setbacks for driveways were far enough back for safe access. Local streets such as Sellwood Street and 31<sup>st</sup> and 32<sup>nd</sup> Avenues had less than 20 vehicle trips, which was the criteria for local streets for mitigation. Mitigation was recommended to them in terms of providing a contribution to the Neighborhood Traffic Management Program and made part of the conditions of the proposal.

**Mr. McCourt** said the most significant improvements were on Oak Street in front of the project site. Today, there were four lanes on Oak Street in front of the Milwaukie

Marketplace. He recommended adding a fifth lane and identified a future sixth lane. There would be an exclusive left-turn lane on Oak Street and an exclusive right-turn lane. The exclusive left-turn lane was required for geometry so vehicles were aligned going across the intersection with a complementary left-turn lane in the northbound direction. That improved the operating performance to correct the deficiencies identified in the applicant's study. It also improved queuing conditions on the street so that vehicles did not back up and cover up the driveways. The right-turn lane was identified in the future conditions as a means of further mitigating queuing conditions on the site. Those improvements required right-of-way modifications, right-of-way setbacks, and roadway improvements that were part of the applicant's proposal.

**Mr. Shirey** discussed the lane configurations, when the lanes would be constructed, and the actual cost contributions. He referred to staff report page 150, Attachment 6 that showed the six-lane configuration. This was the mitigation that was developed, and the developer's consultant prepared the drawings that showed a fifth lane that would allow southbound traffic to turn east on Hwy 224. The eventual sixth lane would allow a right turn to on westbound Hwy 224 from Oak Street. Other improvements on the south side of that intersection needed to be made. Most importantly a dedication of 20 additional feet of right-of-way was required on the developer's side of the property to accommodate the full six-lane improvement. It was determined the re-striping at Monroe Street, Oak Street, and Railroad Avenue would fix the problem at the north location. The developer worked on some cost estimates and came up with the unit prices. He asked for credits, which the City can now do because of the ordinance the City Council just adopted at this meeting. With the credits, the developer's total investment was reduced. The citizens would have an enhanced intersection that would not only meet the needs of this development but would also address future traffic needs over the next 15 years. At that period, a sixth lane would be required, and the City would bear that cost. There was a lengthy discussion of cost sharing and both parties agreed to a 50/50 sharing of \$280,000 in improvements for the five-lane fix. The incremental cost of adding the sixth lane was an additional \$80,000, but it would not be needed for another 15 years. The City had greater needs for its scarce resources, so the City chose not to go ahead with the sixth lane at this point. The \$280,000 worth of work was required of the developer as a condition of the rezoning. The funds were in the City's budget for 2005 – 2006.

**Councilor Loomis** asked if the intersection at 32<sup>nd</sup> Avenue and Harrison Street was studied.

**Mr. McCourt** replied that the applicant's traffic engineer looked at about ten intersections including those on Harrison Street at Hwy 224 and 32<sup>nd</sup> Avenue. They found that intersection to be acceptable in the future given the geometry.

**Mr. Gessner** explained the term "acceptable" referred to traffic engineering standards.

**Councilor Collette** understood he looked at Washington, Monroe, Oak, 42<sup>nd</sup>, and 34<sup>th</sup> in terms of impacts. She asked what the impacts were to 34<sup>th</sup> Avenue because it was a cut through for a lot of people. Mr. McCourt had stated that about 65% of the traffic would come from the south with a lot of it using 34<sup>th</sup> Avenue.

**Mr. McCourt** said it would be approximately 30%. The applicant's consultant identified about 160 additional vehicles on 34<sup>th</sup> Avenue and 200 – 250 on Washington Street. That split was how the consultant identified the traffic share.

**Mr. Gessner** addressed the question of public need. He referred to staff report page 11, Finding B that specifically addressed that issue. There was an assumption that a Comprehensive Plan designation was made for a specific reason, and that reason would hold over time. As the world changed, the Comprehensive Plan would need to change. The applicant would describe a real estate market analysis that identified about a 10-acre shortfall of retail-commercial zoning within the City. That was one demonstration of need that the Planning Commission accepted. There were other public needs that the Planning Commission found were being advanced by this project. It increased employment, which addressed specific economic development policies. The site was designated for commercial redevelopment in the Milwaukie Town Center Plan, although the City had yet to adopt implementation measures. There was already a vision adopted by this Council for commercial redevelopment of this area. One assumed that did in fact advance that public need. In this time of fiscal stress, tax base improvement was a public need. The real market value was presently \$3.2 million, and the applicant indicated the post-development property value would increase to about \$5.5 million. There would be a proportional impact in terms of revenues to the City with an expected decrease in demand for public services typically associated with residential uses.

#### Applicant's Presentation

**Matt Grady**, Project Manager, Gramor Development, 19767 SW 72<sup>nd</sup> Avenue, Suite 100, Tualatin, Oregon 97062. He noted that Gramor had been working on this project with the City since August 2004. He introduced Barry Cain, President of Gramor Development; Nick Diamond, Gramor ; Jerry Johnson, Johnson Gardner; Todd Johnson and Chris Clemow, Group Mackenzie; and Steve Abel, Stoel Reeves.

**Mr. Grady** reviewed correspondence that was distributed including a set of photographs and a letter from Mr. Abel reiterating some points on a letter submitted by the Pan Pacific Corporation. Milwaukie was a new area, but Gramor has been in business for about 20 years and has done about 35 developments. Gramor focused on the Portland metro region including Canby, Molalla, Lake Oswego, Beaverton, Sherwood, and Clark County. The company was founded on doing small neighborhood centers that typically involved a grocery store with other services around that. Gramor since evolved into mixed-use and residential on the side. He provided photos of a Fred Meyer project in Canby that included brick in the design. Another project in Mill Plain involved a Target with arches and masonry columns and a Baja Fresh that had a fountain and plantings. More attention was being given to detail and making more pedestrian scale developments. The "A" Street Station in Lake Oswego was a two-story structure with office and retail on the bottom floor and tuck-under parking. The architectural style on that project was governed by Lake Oswego codes that included masonry and lighter wood on the top. The Murray Scholls Town Center project in Beaverton was on 20 acres with 11 buildings that featured awnings, outdoor spaces, a fitness center, and a Beaches restaurant. Gramor managed many of its projects and took pride in its landscape maintenance and zero tolerance for graffiti.

**Mr. Grady** said Gramor provided notice to people living within 300 feet of the project and all the Neighborhood District Association (NDA) chairs were invited to a community meeting. There was a good turnout, and Gramor had individual conversations in the community and particularly with the Historic Milwaukie and Hector Campbell NDAs. In addition to conversations, Gramor made a full presentation at the Hector Campbell meeting and visited the Lewelling NDA. Gramor had a number of ideas of what it wished to do but had not solidified on one particular idea at this time.

He showed an aerial photograph and discussed why the project made sense to Gramor. The site was zoned R-2 with a very small piece of R-1. That spot seemed to Gramor to be a great place for development. The residences were isolated between the railroad track and Hwy 224. Oak Street was a passage serving the Milwaukie Marketplace. Dr. Chung, Comfort Care Dental, was operating under a conditional use permit in that location. He was part of the transition zone on that block, and he agreed to go in under the Gramor application. Dr. Chung was supportive every step of the way and appeared before the Planning Commission. He would probably enjoy having some signs and lights that he cannot have at this time under the current conditional use permit.

Mr. Grady commented on the criteria of approval that included economic development, transportation, housing, and employment. The applicant demonstrated compliance with those criteria, and staff made the finding that it concurred with the applicant's report. There were benefits with increased property values, jobs, and additional neighborhood shopping. He also believed the Oak Street and railroad intersection would actually be a safer place. There were a number of conditions within the February 4, 2005 staff report that described a series of transportation improvements. The first was for five-lanes with a future sixth lane on Oak Street. Gramor would participate fully in the five-lane improvement and would dedicate land for that use. The configurations on Attachment 6 indicated that nothing was required out of Milwaukie Marketplace. The sidewalks and curbs would not have to be rebuilt. The necessary right-of-way would come out of the Gramor side. The applicant did the survey work reflected in the diagrams, which showed an area on the south side that allowed for the proper alignment of the streets and new lanes. Gramor would limit itself to certain prime trip generators that were shown in condition of approval A. Those would actually limit the trips from typical shopping center or shopping center worst-case designation. Gramor would also contribute to neighborhood traffic calming. He believed this would be a positive change to Oak Street and the area itself. He thanked staff for working with the applicant and the multiple competing interests.

**Jerry Johnson**, Johnson Gardner, discussed the public need analysis portion of the project. Milwaukie was in a generally strong retail market with occupancies over 90%. Demographics were strong and improving, and incomes were rising. All of these were things that supported higher retail levels over time. He looked at supply and demand in the currently retail-zoned parcels to determine if there was a shortage or surplus of demand and found there was about a 10-acre need for locally originating demand sources. This meant that people were shopping but not shopping locally in the City of Milwaukie. Because of that, he found there was support. Additionally, there were public policy goals related to local employment. This development would provide between 60 – 85 jobs with a payroll just over \$2 million annually. There was a section of the

Comprehensive Plan that noted new commercial development along McLoughlin Boulevard, 82<sup>nd</sup> Avenue, and Clackamas Town Center lured many people from downtown Milwaukie. He believed this project was consistent with the public policy goals and that Milwaukie had perceived this as a commercial area since Hwy 224 was built and the area orphaned. This project made the highest and best use of the property.

**Councilor Barnes** read the Planning Commission minutes and had some questions. She discussed the number local jobs identified at about 81 with an annual payroll of about \$2 million. That came to about an average annual income of \$23,000. That was not a wage she wanted someone in her town to realize. It was less than \$2,000 a month, and in her opinion it was not that strong. She would like community members to make \$2,000 to \$3,000 minimum. What kind of businesses would Gramor bring in that would pay people \$23,000? She noted some contradiction in the Planning Commission testimony that said, "Prospective tenants cannot locate in Milwaukie now because there is no place that gives them the kind of visibility and quality they want." She requested that the applicant explain that comment.

**Mr. Cain** said there was not a new center like the one being proposed in the City of Milwaukie that prospective tenants wanted to go to.

**Councilor Barnes** understood that right now in the City of Milwaukie there was no open space, no retail environment that people could be proud of.

**Mr. Cain** explained the Marketplace was full. Retail tenants wanted visibility and accessibility and to be in places where people were coming and going. They wanted to be in new, modern facilities that give them the type of situation they need. There has not been much new built in Milwaukie. When Gramor did something new, people would come into town that either had not been looking in Milwaukie because there was nothing new to look at or had been looking but could not find anything that suited their purpose.

**Councilor Barnes** asked which businesses Gramor had contacted who had not been interested in Milwaukie but indicated this development might be it for them.

**Mr. Cain** commented on the types of businesses that would go into this type of development. Gramor had about 40 developments in the Portland area, and by and large they were all full. He guaranteed he did not go to all the effort to build these centers for them to be empty. The type of tenants would be those looking for easy in-and-out and accessibility from cars. There would be restaurants like Baja Fresh, a Cold Stone Ice Cream store, candy store, coffee shop, or a larger restaurant like Newport Bay. There would be people interested in this area if there were good, visible locations. There would also be professional types like real estate, title, insurance, and medical. There were other types of uses that also wanted the visibility and were looking for that type of space.

**Councilor Barnes** understood the higher incomes would go to the professional types versus the kids who worked at the fast food places.

**Mr. Cain** pointed out that kids needed places to work. He just opened a restaurant in Lake Oswego called Five Spice and hired 50 people. There were kids who were bussers to students who were servers to people who had been in the restaurant

business for a long time as cooks. That industry had a whole gamut of incomes. Some people open up their own insurance agency or doctor's office, and others start something like a Cold Stone franchise.

These would be different uses than those one would see in a redeveloped downtown. From a retail perspective, people were looking for a shopping experience that might include women's apparel, jewelry, home decorating, bath and body, and kitchen stores. The retailers in the Lake Oswego center were the ones Milwaukie would want in the downtown. He did not see any way this project would hurt future downtown redevelopment, and it would likely help. The proposed development showed that someone could come in and take an area that needed to be redeveloped and build high quality buildings at today's rents and make it successful. Every little bit helped as Milwaukie was trying to redevelop, and he thought this development would have a positive impact. He anticipated the assessed value to be approximately \$8 - \$9 million.

**Councilor Collette** asked Mr. Cain if he had looked at the Milwaukie downtown. Obviously the intent was to redevelop downtown and not to draw business away.

**Mr. Cain** said no he didn't but yes he would. Sometimes all it took was a good start. He was interested, but the downtown was not what brought Gramor here initially. This piece of property was what brought his company. This project could actually be the precursor of Gramor spending more time looking downtown.

**Councilor Barnes** asked Mr. Cain of which development he was most proud and why.

**Mr. Cain** chose Lake View Village. It was fun, and everyone gave his or her hearts and souls to that project. It taught a lesson that in all the developments Gramor did it was worth the time to get into the details. There was a financial and emotional payback.

**Todd Johnson**, Group Mackenzie, 0690 SW Bancroft Street, Portland. The applicant completed a transportation study based on the highest reasonable use. The analysis was not based on any specific development proposal but did include intersections identified by City staff with input from ODOT. He pointed out the intersections on a map. The analysis showed that the impacts anticipated from the proposed development was an increase in primary trips during the PM peak hours by about 36 trips. That was after the diverted, pass by, and shared trips were subtracted. The trips related just to the new development were 36. The impacts from the development could be mitigated at the intersections studied. The transportation facilities in the project vicinity would operate at an acceptable level of service with the proposed zone change and Comprehensive Plan amendment through 2019. City transportation staff previously identified a six-lane roadway section for Oak Street as part of its long-range planning. Because of the needs of the City and the public input on the existing transportation challenges, the applicant agreed to participate in the construction of the improvement. The zone change as conditioned would dedicate right-of-way for the six-lane section and assist in funding the five-lane prior to occupancy of the future buildings. The intersection at Oak Street and Railroad currently operated at a failing level of service. The existing failure was not the result of the proposed activities on the site, but it actually existed today. The applicant agreed to improve the operation of the intersection by providing some additional lane striping that would increase the capacity of the intersection and provide an acceptable level of service.

Because the project occurred in the vicinity of an ODOT transportation facility, the analysis included an assessment of the Oak Street/Hwy 224 intersection. The project as proposed maintained an acceptable level of service at that intersection throughout the planning period. This was confirmed by ODOT in a letter dated February 1, 2005 and submitted as part of the Council packet. The applicant completed a neighborhood through-trip study that was generally required when more than 25 trips were added to local streets. The study was conducted to address concerns raised by staff and other citizens who participated in the earlier process. The findings were that no local streets were impacted by more than 25 trips. The 85 percentile travel speeds were consistent with the posted 25 mph speed limits. Mr. McCourt testified that there were significantly higher volumes on streets that were generated above the 25, but those were actually collector roadways. An additional 200 trips in that area was not a significant amount compared to the existing volumes. The local streets all had 20 or fewer trips. Even though there were no substantial impacts resulting from the proposed zone change, the applicant agreed to participate in funding traffic calming measures to be identified by the Planning Commission. Mr. Shirey mentioned the out of pocket expenses and the application of TIF credits. It was important to note that the applicant was actually constructing or funding improvements in lieu of paying for the TIF credits. It was not really lessening the out of pocket expenses but paying directly for improvements and was an offset rather than a decrease.

In conclusion, the applicant performed an extensive analysis on the transportation network working closely with City staff to mitigate for anticipated impacts and to improve the transportation network beyond the required share. The proposed Oak Street improvements would lower the travel time by approximately one minute for vehicles leaving the north access of Milwaukie Marketplace, turning left onto Oak Street, and then left on Hwy 224 and continuing east. The proposal included a budget for traffic calming measures and would provide additional benefit to the community beyond the required mitigation for this proposal. The development maintained the required level of service standards and appropriately mitigated for impacts and should therefore be approved.

**Mr. Johnson** provided a handout that clarified the understandings regarding the development impacts and proposed mitigation measures. He referred to Condition A and the clarification of how the limitation on uses that the applicant agreed to would go away. At the time when the applicant could demonstrate that there was additional capacity at that intersection through some other project or City of State funded improvement, then the applicant would be able to come back before the City Council and request that the condition be eliminated. Condition B said the additional right-of-way was coming from the Gramor site and not the neighbor's, and the applicant was trying to get some recognition from staff that those attachments in the packet were close to what would occur. Survey work was done, and he was confident those five and six lanes would fit. Condition C added reference to the five and six lane cross lane sections in the concept plan and recognized that these five and six-lane sections as proposed were acceptable to staff. That gave staff the assurance that the applicant was committed to participating in those sections as proposed. Some language was added that as part of the redevelopment of the site to include anything that occurred there. Condition F further clarified that the Planning Commission had sole discretion to decide

on the appropriate traffic calming measures and clarified the applicant's level of responsibility. Those were not actual mitigation measures that were required, and the applicant proposed the dollar value to limit his liability.

**Councilor Collette** asked if there had been any thought to increasing pedestrian, bike, or other mode of access to the site. She noted the curb tight sidewalk.

**Mr. Johnson** said the applicant did look at different modes of transportation in that area and found this was not a pedestrian-friendly environment. The area was segregated by the railroad and Hwy 224 and did to really have a lot of pedestrian activity. The main focus was to improve the main mode of transportation, which was the vehicle trips. The attentions were focused on how best to move cars. There were pedestrian amenities that Gramor liked to incorporate in its designs, but there was a limited amount of space. In some locations there might be room to meander the sidewalk a bit. If the sidewalk were pulled back further, there would be some additional impacts at the corner because of the narrowness of the site. The sidewalk would be constructed in the ultimate six-lane location to facilitate future expansion. This would lower the cost for the City in the future. There would be a greenspace median or landscaped strip until the six-lane section was constructed.

**Councilor Collette** asked for a description of the access between the two developments.

**Mr. Johnson** said the primary pedestrian connections were at the signals. These would be addressed further in the site design. One of the ideas in this type of retail development was to make it as easy as possible for people to get there

Testimony in Support of the Application:

**David Aschenbrenner**, Hector Campbell NDA Chair, 11505 SE Home Avenue, Milwaukie. The neighborhood had a presentation by Gramor, and the members voted to support the project although Hector Campbell did not directly touch the property. His neighborhood was concerned about the transportation and pedestrian issues. The neighborhood was hoping that ODOT would do some signal changes at the Oak Street intersection and add a left-turn light or stagger the lane turn traffic so that drivers could make left-turns more easily. He understood asking ODOT to do anything on Hwy 224 was not easy. The NDA was also concerned about the railroad crossings but understood it was outside the parameters of this particular project. There were projects in the budget for improvements, and he hoped that some of the money being set aside would help those projects. He understood the applicant looked at the intersection at 32<sup>nd</sup> Avenue and Harrison Street and hoped for some realignment to make it less confusing for drivers. He understood Gramor was not looking for any drive-through types of facilities, and the neighborhood would encourage that not to happen. He hoped for a restaurant on the order of McGrath's. The neighborhood felt this was a good development and a first step in telling the community and investors that things were happening in Milwaukie. He commented on the North Main Village project, the King Road Safeway, and the Gramor proposal.

**Councilor Loomis** commented that one of the conditions was that drive-thru's were not allowed.

**Diane Quick**, 12694 SE Where Else Lane, Milwaukie. She was a 10-year Milwaukie resident. Prior to that, she was president of the Happy Valley City Council. She served on the Clackamas County Economic Development Commission, was Citizen Involvement chair for all of Clackamas County, and served on the Children and Youth Coordinating Council. This was the first time she had ever spoken on behalf of a developer. She read about this proposed development in *The Pilot*. She knew Gramor and knew its quality of work. If they said they would do something, then they would unlike other developers who would promise the moon and pave Mt. Hood if they thought there was a profit. She worked part-time at Chico's in Gramor's Lake Oswego development. She commented on wages and noted that people working in Gramor centers made far above minimum wage. There was something to be said about where one worked. In Lake Oswego, there were part-time people, women who wanted to get back into working as well as college students. Depending on the tenant, these people were trained to be managers and assistant managers and transferred to other stores. She was impressed with what she saw being done in Milwaukie and appreciated the Council and staff. For so many years Milwaukie was segregated by animosity and bad feelings. When one saw a company like Gramor coming into community, one was talking about class and vision. She thought this development would enhance the community. Gramor had little turnover in any of its projects. That could not be said for Pan Pacific in the Milwaukie Marketplace. When reading Pan Pacific's comments, she thought there might be another purpose in speaking about how they wanted to protect their people and access. She believed they wanted to protect their business because Pan Pacific saw a company with a lot of class locating in the City. She saw this as a first step in a partnership with Gramor. Milwaukie was already going to do the Village, and everyone was excited about that project. She knew Barry Cain and his company. She knew what the company did and how they did it. She saw this as a first step to prove to Milwaukie what kind of a developer Gramor was. She thought the Council would see other things happening in the downtown. The kind of businesses that Gramor located enhanced areas and did not take away. She hoped the City Council would go with the Planning Commission's recommendation and thanked the group for putting Milwaukie back on track.

Meeting recessed at 8:50 p.m. and reconvened at 9:00 p.m.

Testimony in Opposition to the Application:

**Julie Wisner** and **Patty Wisner**, 3325 SE Wister, Milwaukie. They provided a packet of information. **Ms. J. Wisner** was a member of the Milwaukie Traffic Safety Board for 10 year and co-chair of the 34<sup>th</sup> Avenue Task Force that was a volunteer citizen group committed to solving excessive speed and volume problems on 34<sup>th</sup> Avenue. The 34<sup>th</sup> Avenue Task Force, Milwaukie Traffic Safety Board, and City Council worked cooperatively to install a speed bump pilot project in 1992 that won statewide recognition for Milwaukie from ODOT and the Alliance of Community Traffic Safety. As a Traffic Safety Board member, she helped write the Neighborhood Traffic Management Plan and the Traffic Calming Manual with installation guidelines. She studied neighborhood traffic management issues at Portland State University taught by the City of Portland Bureau of Traffic Management. She worked as a volunteer on several regional transportation working groups including the Regional Center Working Group

that focused on cars and freight and laying out truck routes in Milwaukie. She attended numerous traffic management seminars by the City of Portland Bureau of Traffic Management at Portland State University and Oregon State University. Her involvement in traffic issues began in 1986 when Hillman Properties proposed the Milwaukie Marketplace. It caused quite an impact on 34<sup>th</sup> Avenue. Overnight it went from 1,500 cars a day to over 3,500 trips per day when the shopping center doors opened. She had Tom Lancaster's traffic engineering study on 34<sup>th</sup> Avenue from January 1994. There was not a problem before the Marketplace opened. After it happened, the 34<sup>th</sup> Avenue Task Force was formed and reported problems with excessive traffic volumes and speeds. It was believed that 34<sup>th</sup> Avenue was used by through traffic that had neither an origin nor a destination on that street or in the neighborhood. The speed bump program was born, and after that the first neighborhood traffic management plan was introduced to the City of Milwaukie. She worked hundreds of hours with the City of Portland traffic engineers to adapt and downsize their plan for a city of Milwaukie's size. The Traffic Safety Board labored over that document and brought a good program to Milwaukie. It was working. Speed bumps addressed speeds and not volumes, at least those on 34<sup>th</sup> Avenue. They were 22-foot Seminole speed bumps that allowed traffic to flow. They did not address the excessive volumes, which she was told would be addressed later. It was not addressed yet, and that was 1994. The speeds were slower, and she was happy with that. Now the street was threatened with more volumes because of the development at Hwy 224 and Oak Street. The concern of the neighborhood was large volumes of through traffic used 34th Avenue. Through traffic was defined as traffic that had no destination on that street. In the packet she provided a list of trucks on page 16 that used 34<sup>th</sup> Avenue since the Marketplace opened. There were no trucks before. Some of those were Anheuser-Busch, Resers, Englander 18-wheelers, Koala Springs, Miller Beer, Frito Lay, Hostess Cakes, Pepsi, Coca cola, Wonderbread, Ocean Beauty, 7-Up, Dreyers, Entemann's, Albertson's 18-wheelers, Little Debbie's Eagle Snacks, Pierre's, along with Silver Eagle, Parr Lumber, and list went on. From this problem, it took years to get "No Trucks" signs which did help; however, they were still experiencing trucks even with the speed bumps. Trucks were getting lost, and Ms. J. Wisner suggested larger signs at either end of the street. Metro did a study for the Hillman property. During the process of approving the shopping center, Metro kept talking about the traffic study it did. They ran the numbers and found the traffic impact would be low. By its own admission, there would be 773 cars. After the shopping center went in, there were 2,000 more trips per day on her street. She contacted Metro about the study because she wanted to know the validity. Metro was approached to do the traffic study because they thought it would put an undue burden on the streets. When she approached Metro she got a fax (page 19 of the material submitted by the speakers) that said Metro did not produce a formal report. The scope of work only called for a sketch analysis to determine potential vehicular flows. The City staff was responsible for documentation and presentation of the data from Metro. People thought a comprehensive traffic study was done, but she came to find out it was a sketch analysis. That was long after the problem started. Ms. J. Wisner referred to the City Council notes on page 22 from 1986. The street has been compromised, and the livability would never be the same. In the December 16, 1986, City Council minutes, Public Works Director Steve Hall said staff was concerned about

traffic intrusion into the neighborhood and that steps would be taken to minimize any problems. That did not happen. It was not until 1992 that the 34<sup>th</sup> Avenue Task Force was formed and brought the Neighborhood Traffic Management Program to Milwaukie. She personally spent thousands of dollars adding laminated glass windows to abate the noise problem. She erected a six-foot cedar fence to block the view of the 2,000 plus cars that went by each day. She was a lifelong Milwaukie resident and remembered the quality of life people once had. She believed the quality of life could be somewhat restored if there was neighborhood traffic management. Gramor proposed \$10,000 for traffic calming. Ten years ago the five speed humps cost \$4,000, so \$10,000 would not go far. She was on the phone most of the day with Kathy Mulder from the City of Portland Bureau of Traffic Management. She pulled up the entire Oak Street area on her global imaging program. She said that because of the sight distances the dogleg curve and site distance at the top of the hill that 34<sup>th</sup> Avenue was already carrying too much traffic. It was dangerous. There were tons of accidents on that street. The speed bumps did mitigate some of that. The street would need curb extensions which were much more expensive than speed bumps. She wondered about the accountability of the developers for the things that happened to the neighborhood. She went to a seminar called Calming Cascadia at Oregon State University. If all else were equal, most people with a choice between living on a high volume, high speed street or a quieter street would choose the quieter street. They did choose that way. As a result, people with fewer choices resided on streets with poor environments. People with little choice living in a harder environment would care less for their surroundings and inevitably the neighborhood would deteriorate. As the neighborhood deteriorated, people with fewer choices replaced the people leaving, and a variety of social problems began. The trend caused property values to drop and eventually led to ghettos in central areas. Realtors said to her the houses on 34<sup>th</sup> Avenue would have to be devalued because of the amount of through traffic. The through traffic had no destination on that street, and traffic calming could mitigate that as promised in 1986 in the City Council minutes. Drivers had a choice. They could choose a different street. They could quit cutting through the neighborhood. They could stay on McLoughlin Boulevard instead of cutting off to Hwy 224 and skirting over 34<sup>th</sup> Avenue to get to Oatfield. They can stay on McLoughlin Boulevard and go all the way to Oak Grove. Traffic was coming from Oak Grove, and sometimes she followed it. Tom Lancaster also said that one of the objectives of his project was to reduce the amount of through traffic on 34<sup>th</sup> Avenue. She had a lot more to say and wished she had as much time as the developers. She lived for the last 20 years with the impacts left by developers.

**Ms. P. Wisner** discussed traffic impacts after shopping centers were developed. In the early 1990's 3,500 cars were documented. There were at least 3,500 cars going by her house lately. Today, Kathy Mulder told her that was equivalent to having one car every ten seconds every day. This really impacted livability. She had to listen to constant engine noise and constant loud stereos. There was constantly litter in front of the houses. There were traffic problems. There was speeding sometimes. Sometimes cars were hit. There were little kids on the street. The speed bumps helped but did not solve the volumes. She wanted the City Council to understand from what she heard at the Planning Commission meeting when Gramor stated its traffic counts for one hour of peak time, they said that 36 cars would likely be generated. The City of Portland traffic

engineer told her today that that had to be multiplied 10 times to get the daily count of traffic per day. According to the City of Portland that would be 300 – 400 cars per day generated by the new development and not 36. 34<sup>th</sup> Avenue was a local collector intended to carry local traffic in the City of Milwaukie and not to carry regional traffic that should be on arterials. 46% of the trips were regional, non-Milwaukie trips on 34<sup>th</sup> Avenue. She asked that the City Council step up to the plate and seriously look at this livability and traffic problem on a medium density local collector street. It was getting out of hand. People sold their homes and moved away from the neighborhoods, and they had kept up their properties. Now their houses were being bought and not kept up. Property values were going down. It was not pleasant to live on a busy street. One woke up every morning to lots of road noise even on weekends. She also went to bed with a lot of road noise. Only when it snowed and the City was brought to a halt was there a time of quiet. That only happened every few years. She asked that the City of Milwaukie and the developer do a traffic volume mitigation study on 34<sup>th</sup> Avenue and look at and implement a re-routing of non-local traffic from 34<sup>th</sup> Avenue. The material she provided had some layman's ideas of what mitigation measures might be taken. Many of those were suggestions from Kathy Mulder in the City of Portland. Ms. Mulder was familiar with the street and was on site during the speed bump program. Ms. Wisner wanted to see some actual physical changes to drop the volumes and re-route the traffic to the main arterials. It would only cost Gladstone and Oak Grove motorists a few more seconds to route themselves to Hwy 224 without using 34<sup>th</sup> Avenue. She requested the City Council to work with the traffic engineers to make those changes. The report contained factual data and did not contain any hearsay or rumors. She would like to see more development happen in downtown Milwaukie. She spoke with a Gramor employee and he indicated the company had looked at downtown for development but because of the parking requirements Gramor determined the Oak Street site was more economical. She was not sure if that was true or not but that was what she was told as an inquiring citizens. She urged the City Council to help. She lived in a medium density, built-out neighborhood that carried a load of traffic. The neighborhood was willing to do its part as a local collector, and it needed its leaders to help them in order to keep it livable and safe for the children. It became a less pleasant place to live over the past ten years.

**Councilor Barnes** asked if this issue was brought to the Lake Road NDA.

**Ms. P. Wisner** was the NDA chair at one time and had been talking about this for years. They thought the problem was solved. She was alarmed now that there was going to be another development with additional volumes that would impact the street. Gramor said at least 50% of the trips would come from the south, and that meant 34<sup>th</sup> Avenue. Nothing was taken to the NDA because she and her sister were the most knowledgeable people on this issue in the NDA.

**Ms. J. Wisner** said frankly they did not know the development was going on. Both were working and busy on the night of the NDA meeting.

**Councilor Barnes** asked if they had anything in writing from the City of Portland because it seemed to conflict with what Mr. McCourt reported.

**Ms. J. Wisner** called Portland because she was told the traffic study was only done for one hour and would put 36 more trips on the street.

**Councilor Barnes** understood that Misses Wisner called the woman who worked for the City of Portland and had a discussion.

**Ms. J. Wisner** said Ms. Mulder was very familiar with the street, and she helped them think through strategies in 1992. She was very familiar with what had been going on from the 34<sup>th</sup> Avenue speed bump project.

**Councilor Barnes** understood Ms. Mulder had no knowledge of this developer and the plans.

**Ms. J. Wisner** told Ms. Mulder what was going in at the other end of the street and the size. She did not need much more than that to generate an average daily traffic count.

**Councilor Barnes** asked if Ms. Mulder would provide something in writing representing the City of Portland and provide copies to Mr. Gessner.

**Ms. J. Wisner** said she would ask.

**Councilor Barnes** referred to the Planning Commission minutes in which Ms. J. Wisner was quoted as saying she attended a meeting where business owners pleaded with the City not to let this development go in because it would defeat downtown development. She asked which meeting that was.

**Ms. J. Wisner** replied that was in 1986 with the Milwaukie Downtown Development Association when Hillman Properties proposed the Milwaukie Marketplace. They pleaded with Hillman not to go in because the development duplicated everything that was downtown and would kill it. The cleaners, candy store, restaurants, hair salons, grocery store, pharmacies. Subsequently most of those went out of business. That comment was from 1986 and had nothing to do with Gramor. The Lake Oswego development was lovely. She would be totally in favor of this if it went in the downtown area as long as they met the traffic calming criteria and did not put higher volumes on the street. In 1993, they diagramed closing the Oak Street exit. It was all in the report. It only took drivers 20 seconds to get to Freeman Way, and there were no homes there. There was also an exit from Hwy 224 that brought people back to Lake Road, so they did not have to cut through the neighborhood. It only cost a few more seconds of driving time and gave the residents a lot more livability. Residents did not have a choice but drivers could choose or be routed to a different area. That would be preferable for a neighborhood that was hammered by shopping center traffic. Milwaukie needed to protect its neighborhoods. She had a good friend who wanted to locate here but said she would not buy in Milwaukie because the City did not protect its neighborhoods. She bought a house in Lake Oswego because that City did.

**Ty Wyman**, representing Pan Pacific Retail Properties, 851 SW 6<sup>th</sup> Suite 1500, Portland, Oregon 97204. He submitted a letter to the City Council. Pan Pacific was focused on the portion of Oak Street from Campbell Street to Hwy 224. The traffic engineer would focus on the issue this rezone would have on that street.

**Todd Mobeley**, Lancaster Engineering, 800 NW 6<sup>th</sup> Avenue, Suite 206, Portland, Oregon 97209. The original traffic impact study done by the applicant showed without

the proposed zone change that the intersections on Oak between Hwy 224 and Campbell would operate at capacity. With the zone change in place those intersections both operated over capacity. Pan Pacific requested that that condition be mitigated. The 36 new trips were primary trips only and did not include pass by or traffic coming off Hwy 224. That traffic would impact the intersections along Oak Street.

**Mr. Wyman's** client was not opposed to the proposal per se. Pan Pacific suggested two additional mitigating traffic conditions.

**Mayor Bernard** observed that it was already almost impossible to get out of the Marketplace at almost all of the driveways. He thought Pan Pacific had a responsibility to get involved with Gramor and City staff to partner and improve that section of the street. He thought the Planning Commission's ideas of rezoning the entire area would resolve a lot of the issues and recommended moving in that direction. There were a lot of opportunities with Monroe Street.

**Mr. Wyman** noted the 120-day clock was not running so the parties could be sent off to the windowless room. Pan Pacific was not part of the applicant's outreach.

**Mayor Bernard** commented on a rezone in Omark in which the details were worked out quickly.

**Mr. Wyman** would include the neighbors because they were passionate and had done a lot of work.

**Councilor Barnes** asked Mr. Wyman to address some of the neighbor's concerns. It was not just coming in and out; it had to do with the railroad tracks. Half the town shut down when the train comes through. It was not just a matter of the number of lanes on the street. How did one figure that out because it affected any customer that went to either of the properties? The bottom line was constituents wanted to drive through their own town. She asked if the two of those could help make it work.

**Mr. Wyman** said the planning process in this state worked. Gramor knew the process fundamentally and worked in getting all of the stakeholders sitting down. It could be lengthy with a lot of chairs around the table. He was sure that it could work here and this was not the most difficult traffic management situation in the region. ODOT needed to be at the table because it was the dominant land use planning force. Milwaukie had two state highways going through it. The applicant's counsel spent time on the Portland Planning Commission, and he was very strong in bringing together people with diverse interests to come up with solutions in difficult situations. Pan Pacific would be happy to sit down with Gramor.

#### Neutral Testimony

**Ed Zumwalt**, Historic Milwaukie NDA Chair, 10888 SE 29<sup>th</sup> Avenue, Milwaukie. Since the Milwaukie Marketplace went in, it was inevitable that the other block would be developed. The questions before the Council and staff was who would do it, how would it be done, and how good would it be? Would the town be torn apart by the traffic problems? 34<sup>th</sup> Avenue and his neighborhood was incrementally being chewed up and spit out. Every development near the City caused drive-through traffic. Mr. Shirey attend the NDA and fielded question on the Downtown Parking and Traffic Management

Plan. This would take care of a lot of the problems in the Historic Milwaukie Neighborhood. Every neighborhood was affected in the perimeter. The new McLoughlin Boulevard project, Murphy property, and MacFarlane property would chew up the neighborhood. He was glad to hear Pan Pacific and Gramor would work together and solve the problems. He always felt the Hwy 224 and Oak Street trip was white knuckle and was one of ODOT's lesser efforts. Just to the north was the railroad. West was the one-car light at Hwy 224 and Monroe Street. Mr. Shirey thought something could be done about that light. Gramor reached out to the community through the neighborhood. The City would want something that was conducive to economic development. This came down to one thing, and it was the Council's and staff's job. The residents did not have a way to control things but could give their input. Neighborhood livability needed to be protected. He was basically in favor of the proposal, but no matter how much the City needed economic development, it needed livability to create a nice town. Gramor would have to be trusted to put in the kinds of businesses residents wanted. Mr. Zumwalt had about 20 people at his NDA meeting.

#### Additional Staff Comments

**Mr. Gessner** addressed a number of items raised in testimony and in questions from the Council. He did not want anyone to believe there would only be 36 trips associated with the Gramor development at peak hours. That number was highly discounted because of the pass-by trips and diverted trips subtracted from the total number. He recommended the applicant address that number.

He addressed Councilor Collette's question about bike lanes. Staff was very concerned about that. The Transportation System Plan (TSP) showed bike lanes on that segment of street. That Plan was created in 1994 - 1997 when conditions were different particularly in regards to signal timing at Hwy 224 and the level of growth. The Planning Commission heard testimony about bike safety concerns. Staff recommended that bike lanes not be included at this time because of the safety issues. There were a number of turning movements happening at those two driveways and a lot of visual activity. Staff felt this might be a place where bikes should be walked on the sidewalk. The other problem was dimensional constraints. He did not feel there was sufficient right-of-way to allow the developer to make good use of his property. There was also a concern that bike lanes on both sides of the street would affect the Pan Pacific property, and Pan Pacific said it would oppose any such plan that would result in a taking of its property. At some point in the future, the next fix of the street should include bike lanes and taking safety concerns into consideration.

Mr. Aschenbrenner raised concerns about pedestrian improvements at Oak Street and Railroad. The application would go back to the Planning Commission for review of site-specific development proposal. At that review, pedestrian access improvements would be considered at the nearby intersections. It was quite unlikely that a crosswalk anywhere other than Oak and Railroad or at Hwy 224 and Oak would be proposed. The amount of activity would create an unsafe crossing if it were at mid-block.

**Mr. Gessner** referred to Mr. Wyman's letter of February 14, 2005. The City Council heard testimony that the development of the site would exceed capacity of Oak Street. With the proposed mitigation, the capacity would be met. He referred to a letter from

ODOT that approved the proposed mitigation to meet performance standards. Based on ODOT's letter and Mr. McCourt's report, it was determined the street would meet performance standards and capacity needs following mitigation. Mr. Wyman's letter discussed the Transportation Planning Rule. It required that during Comprehensive Plan amendments or Zoning Map amendments that the City make a finding as to whether or not there as a significant impact to a transportation facility. Typically it applied to roadways and related facilities. Mr. Firestone believed the provision to protect the capacity of the roadway did not apply to private driveways. There was testimony to the Planning Commission on this matter. It would be exceedingly difficult for cities to develop if they had to apply performance standards to individual driveways. He referred to an attachment from Mr. Mobeley with a number of suggestions. At the Planning Commission hearing on this, the applicant indicated these were done or would be done. The requested changes were already incorporated into the conditions contained in the adoption ordinance. Number two called for a scalable plan showing the actual improvements that would happen at the time of site plan review when Gramor returned to the Planning Commission.

**Mr. Gessner** discussed the Hillman project in terms of traffic studies. It had only been about four years since Milwaukie adopted the requirement to conduct traffic studies for development. At the time Hillman did its study, they did not project the traffic 15 years into the future. They only counted traffic on the day it was built. There was a huge difference in how the analysis was conducted now versus then. Given today's standards, that was not the best way of doing business. Additionally, the study did not look at neighborhood through trip impacts. Now, there was a specific requirement for a neighborhood impact review, and that was conducted for this study. The applicant acknowledged there would be an impact and offered to contribute up to \$10,000 to help mitigate the impacts. He noted that it was infrequent for a developer to willingly accept that responsibility. The applicant submitted a letter dated February 15, 2005 with revised conditions. Staff worked with the applicant on these revisions, and they did reflect the changes he requested. Staff supported the amendments and felt they were consistent with the recommendation of the Planning Commission and largely had to do with clarification of the timing, role, or nature of the requirement.

**Councilor Collette** was concerned about the cumulative traffic impacts in that whole area. She asked if a recommendation could be added having to do with a comprehensive multimodal traffic management study and mitigation. People brought up concerns about 32<sup>nd</sup> and Harrison, 34<sup>th</sup> Avenue, Oak Street, and the railroad. She was not saying Gramor should fix them, but if the City was changing the zoning on that block and the next, then it was an opportunity to look comprehensively at the traffic problems. There were at least half a dozen problem intersections in that area.

**Mr. Gessner** said the problems that the neighborhoods were experiencing were all inherited and came largely with the increased growth on Hwy 224. Travel behaviors were different. People owned more cars and drove more. The transportation funding and improvement process lagged far behind the needs. Cities were playing catch-up and had to deal with some very difficult problems. The project itself could not afford to deal with all of the problems. Milwaukie was doing a couple of things to look at concerns more comprehensively. The main idea was to submit a pre-application

request to ODOT and TGM program to re-do TSP. There would not be results from that for two years. He thought it was necessary because of the differences in circumstances between 1994-1997 and now. Staff has been discussing looking at Hwy 224 at Harrison and Monroe Streets. This experience pointed out in very stark terms that the City was grossly unprepared to deal with these types of problems. They were talking about the need, desire, and interest in economic development, and there were two sites that might come online soon – the Murphy and MacFarlane properties. The purpose of this study would be to use some existing funds to identify the potential problems related to those projects. The City Council could direct staff to take a more comprehensive approach.

**Mayor Bernard** commented on the Sunrise Corridor, which would feed onto Hwy 224. ODOT would have to resolve these problems, and it was a good opportunity to partner with Clackamas County and Metro to get some of those intersections fixed. Phase 1 of Sunrise was not that far away.

**Councilor Loomis** thought there were several small things that could be done to improve the flow of traffic. He was concerned about drivers cutting through on Monroe Street. He asked what the love affair was with right turn only arrows? He commented on the intersections of Harrison Street and 32<sup>nd</sup> Avenue and Hwy 224 and 37<sup>th</sup> Avenue.

**Mr. Gessner** would be happy to have a follow-up discussion with ODOT on this issue. ODOT's priority was to keep Hwy 224 traffic moving. Some of the upcoming projects would identify needed fixes particularly at Harrison Street and 32<sup>nd</sup> Avenue. He believed the City was responsible for striping at that intersection.

**Councilor Loomis** noticed that no homeowners or renters appeared and asked if they were all notified.

**Mr. Gessner** said they were notified.

**Mayor Bernard** talked to many of the residents when he was campaigning, and most of them were excited about moving.

**Mr. Gessner** noted there was good attendance at neighborhood meetings and at the Planning Commission hearing. He had not heard of any objections from the property owners and understood they were anxiously awaiting a decision because their lives were on hold pending this decision. All of them had contracts to sell and needed to know what to do next. He understood they were all in favor and had signed consent agreements. He reviewed the tax statements for the area to get a better understanding of the real market values. About half were billed to the site addressed and apparently owner-occupied and the rest went to another address.

**Councilor Loomis** discussed the other block on Myrtle Street that was not being rezoned and asked if the City Council would be able to put any stipulations on traffic.

**Mr. Gessner** replied that would be subject to the Planning Commission's review of the traffic study for the specific site development.

#### Applicant's Rebuttal

**Chris Clemow**, Group Mackenzie, 0690 SW Bancroft Street, Portland, Oregon 97239. This was a Plan amendment/zone change and not a specific development application.

He compared the trip generation of a reasonable worst-case development scenario under the current zone designation and the proposed zone designation. The bottom line was a comparison between the two. For the proposed zone change, he analyzed a 38,000 square foot shopping center as the worst-case development scenario. That development alone would generate 331 trips in the PM peak hour. With that type of development, there would be pass-by trips and shared and diverted trips based on the development's attractiveness for trips on the adjacent roadway system versus new trips. There were 93 new trips that would not have otherwise been out there in the PM peak hour. Those 93 trips were compared against the trip generation of the existing R-2 zoning. It was assumed in the R-2 zoning that there would be 51 apartments and the existing non-conforming medical/dental use. Those combined would generate 57 primary trips. Subtracting the 57 from the 93, one had 36 trips, which were the primary trips. Totally, one would see 331 trips in and out of the driveway but relative to the potential.

**Steve Abel**, Stoel Rives, with 22 years experience and 30 in real estate. Usually in a setting of rebuttal he did not have the opportunity to follow Mr. Gessner who did a very good job of clarifying issues. He did point out the letter written in response to Mr. Wyman's letter that was presented to the Planning Commission before its hearing. Mr. Mobeley's memorandum had four requests for conditions. Each of those conditions was examined by the Planning Commission and satisfied or carried forward in a modified form in the conditions of approval that were ultimately adopted by the Planning Commission. The first two conditions had to do with design showing the five- and six-lane segments. The second had to do with the access point to this particular development that would be considered as part of the site design review. The final one was the six-lane segment. Mr. Shirey's testimony about the need for the lane in about 15 years was consistent with the testimony before the Planning Commission. Those conditions continued to make sense as carried forward from the Planning Commission to the City Council. With the clarification of the conditions that were entered into by Mr. Gessner, the applicant believed those conditions of approval matched with what was testified to and what was required by the Planning Commission and appropriate for this particular development.

**Mr. Cain** said Gramor was committed to leaving an area better than when it came in, and the company felt good about that. In this case the big improvement would be on Oak Street. It would be widened and hopefully something could be worked out with ODOT for a protected left-turn. Gramor spent a lot of time getting all of these properties together with options and buying some, and that was meaningful. The reason the owners were not here was because they supported the proposal. Many of the property owners on Myrtle Street had also expressed interest; however, it was too big a job with all the property owners involved. Gramor would have an eye across the street. He knew the Planning Commission was concerned about the layout and its being conducive to further redevelopment. Gramor was committed to working through the design review process with its neighbor, staff, and ODOT.

**Mayor Bernard** closed the public testimony portion of the hearing at 10:07 p.m.

## Discussion

**Mayor Bernard** agreed there were inherited difficulties. He hoped the groups would work together to solve some of the problems. He owned a house on Myrtle Street in 1973 because he heard it was going to be developed. This area was ripe for redevelopment for as long as he could remember. He discussed downtown redevelopment. The problem was not that someone developed something outside of downtown. The problem was that the City fathers at the time gave up because they felt they could not compete. A lot of those businesses went away not because of the Marketplace but because of change. He spent his whole life downtown and knew all of those people. Probably Hallmark had an effect on Graham's. The restaurants needed to step up and invest in their properties. He was born and raised in a house on the corner of Wister Street and 35<sup>th</sup> Avenue. 34<sup>th</sup> Avenue was always a busy street, and there needed to be some signage. He would like to do some counts on that street, and he could not imagine the traffic volume was that high. His wife's daughter lived on 34<sup>th</sup> Avenue. She purchased her house for very little four years ago, redeveloped it, and the value tripled since she bought it. There were a lot of rentals at the bottom of the hill, and that was why that area was decaying. Citywide, there were 40 – 65% rentals. The Planning Commission did the hardest work and listened to all of the public comments in two hearings. He was a strong believer in the advisory boards and commissions, and he felt the City Council should support them all the way.

**Councilor Collette** agreed that Gramor was looking at an area that already had a lot of problems. This proposed development did not create those problems, and she did not anticipate that the proposed development would fix them. She wanted to see Milwaukie and ODOT working in a comprehensive way to try to repair traffic patterns all around that area. She echoed Mayor Bernard's compliments of the Planning Commission and believed the important questions were asked and answered. She supported their work. She would love to see Gramor develop in downtown Milwaukie. She loved the Lake View development in Lake Oswego, and she believed this was something Milwaukie could do also. She stressed she did not want Gramor just to take its foothold there because the City needed its help downtown too. This area was already in the Comprehensive Plan for commercial development, and it was probably time to make the zone change. She recommended the City Council go along with the rezoning and extend it to the Myrtle Street block and mitigate traffic problems around the entire area. She discussed the feasibility of curb pop-outs on 34<sup>th</sup> Avenue. Living on a busy urban street herself, she identified with the concerns.

**Councilor Loomis** was impressed with not having a lot of neighbors at the hearing screaming about development, and that said a lot about Mr. Cain and Gramor. He thought the development would improve Oak Street and help with the flow. He supported the application. It was impressive when neighborhood organizations supported the proposal. He thought Mr. Cain went about it the right way and would continue to do so.

**Councilor Barnes** commented her peers indicated she might have been a little hard on Mr. Cain. She appreciated the fact that he stood up to her questions. He was obviously an organized developer with an incredible staff. To have this many people with him spoke to who he was as a businessman. There were other people who came into the

community that did not show this level of support and respect, and that said a great deal to her. She invited Mr. Cain to be a part of the economic development team. The Planning Commission worked hard as team members to sort through the tough questions and get the answers. She was impressed with the Commission's work. Finally, she supported the additional jobs being brought into the City. Anything that brought in \$9 million to the tax base gave the City another chance to keep its library open and maybe another officer on the street. She thought if the City continued to have problems with ODOT, then it was time to call the State Representative and Senator and the Governor's Economic Development office to say Milwaukie needed help. She appreciated the hard work by Planning Commission and the applicant.

Decision:

**It was moved by Councilor Barnes and seconded by Mayor Bernard for the first and second readings by title only and the adoption of an ordinance amending the Comprehensive Plan Map from residential high density to commercial and amending the Zoning Map from R-2 to general commercial and adopting the findings and conditions as recommended by the Planning Commission including those revisions as proposed by the applicant and agreed to by staff. Motion passed unanimously among the members present. [4:0]**

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

**Part 3. Conditions.**

- a. Land uses including "Grocery stores" greater than 27,000 square feet, "fast food drive thru's", and "Convenience Markets, with and without pumps" as defined by the Institute of Transportation Engineers are prohibited to ensure that site generated traffic does not exceed traffic generation estimated for the purpose of demonstrating compliance with intersection performance standards in effect at the time of this approval. This condition is intended to maintain acceptable level of service for Oak/224 intersection. If the applicant demonstrates transportation facilities are, or can be made adequate in accordance with city transportation adequacy requirements, for the restricted uses above, this condition may be voided by action of the City Council at a public hearing. Modification of this condition is subject to recommendation of the Planning Commission and approval by the City Council.
- b. Sufficient right-of-way from the applicant's site shall be dedicated to accommodate a six lane cross section, thereby allowing construction of a future right turn lane, at westbound Oak onto northbound 224, by the City at the time in the future when it is needed. The City recognizes the need to minimize the right-of-way required to accommodate these improvements. The dedication is estimated to be 20 feet along the south site frontage, and tapering back to the existing right-of-way in the northern portion of the site; this estimate is not prescriptive for determining the actual dedication need. A modification to roadway design criteria may be required and should be allowed to minimize right of way needed along the entire frontage of Oak Street including the existing dental office located on the northwest corner of

Oak and Campbell. The dedication must be made prior to issuance of any building permits for redevelopment of the site.

- c. At the time of development, construction of road improvements shall be provided to accommodate an additional left turn lane from northbound and southbound Oak Street onto 224, resulting in a five lane cross section. Required improvements include signal reconfiguration, pedestrian and other improvements limited to those required to construct the 5 lane cross section to Oak/Washington Street north and south of 224. The concept plans the applicant has submitted (attachment 6 to the staff report) illustrate the 5 lane cross section improvements required to satisfy this condition. The attachment also shows the 6 lane section contemplated by the City. This condition shall be satisfied prior to any occupancy of buildings as part of redevelopment of the site.
- e. A dedicated right turn lane shall be striped on Oak Street for the movement onto Railroad Ave. A dedicated left turn lane on Railroad Avenue westbound onto Oak shall be striped. This condition shall be satisfied prior to any occupancy of buildings as part of redevelopment of the site.
- f. Specific neighborhood traffic calming improvements shall be determined at the time of development review by the Planning Commission at its sole discretion to provide the greatest public benefit. As a condition of approval on a specific development proposal, the Planning Commission may accept cash contributions up to \$10,000 in-lieu of developer provided traffic calming measure identified by the Planning Commission. Under either scenario, the applicant's responsibility to satisfy this condition shall be limited to a maximum contribution of \$10,000. This condition shall be satisfied prior to any occupancy of buildings as part of redevelopment of the site.

**The City Recorder polled the Council: Councilors Loomis, Barnes, and Collette and Mayor Bernard "aye." [4:0]**

**ORDINANCE NO. 1947:**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE COMPREHENSIVE PLAN LAND USE MAP 7 FROM LAND USE DESIGNATION "RESIDENTIAL HIGH DENSITY" TO "COMMERCIAL" AND AMENDING THE MILWAUKIE ZONING MAP FROM "RESIDENTIAL ZONE R-2" TO "GENERAL COMMERCIAL CG" FOR THAT AREA BOUND BY OAK STREET, EXPRESSWAY 224, MYRTLE STREET, AND CAMPBELL STREET.**

**Adjournment**

**It was moved by Councilor Barnes and seconded by Councilor Collette to adjourn the meeting. Motion passed unanimously among the members present. [4:0]**

**Mayor Bernard adjourned the meeting at 10:25 p.m.**

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Pat DuVal, Recorder

# MINUTES

## MILWAUKIE CITY COUNCIL WORK SESSION MARCH 1, 2005

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

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

Staff Present: City Manager Mike Swanson and Planning Director John Gessner.

### **Advisory Board Interviews**

The City Council interviewed Ms. Catherine Brinkman for an upcoming vacancy on the Planning Commission and Ms. Joan Rowe and Ms. Julie Wisner for current vacancies on the Center/Community Advisory Board and Public Safety Advisory Committee respectively.

Mayor Bernard announced that the City Council would go into executive session pursuant to ORS 192.660(2)(f) – exempt public records.

Mayor Bernard adjourned the work session at 5:50 p.m.

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Pat DuVal, Recorder

**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.

**Ms. 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.

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Pat DuVal, Recorder



**To: Mayor and City Council**

**Through: Mike Swanson, City Manager**

**From: Paul Shirey, Engineering Director**

**Subject: Resolution – Transfer of Appropriation**

**Date: February 28, 2005 for March 15, 2005 City Council Meeting**

**Action Requested**

Approve the resolution transferring appropriation authority for upgrade of the Computer Aided Drafting software (CAD) for the Engineering Department.

**Background**

The Engineering Department relies on CAD software that is over five years old, for the design and engineering of capital projects. Only two engineers have CAD on their computer placing a limit on the number who can use the program at one time. The software company announced last summer that after December 31, 2004, they would no longer technically support the version of CAD owned by the City of Milwaukie. In January the city was informed that the Engineering Department could save substantially by upgrading its CAD software and purchasing one additional CAD “seat”. The vendor quoted a price of \$6,917.45 if purchased by January 31, 2005 versus a price of \$13,000 after that date. The cost savings to the city warranted the purchase of the CAD software at that time.

The Engineering Fund in the adopted budget does not have sufficient appropriation in capital outlay to complete the upgrade of the CAD computer software. There is, however, sufficient appropriation in materials and services.

Oregon Local Budget Law allows a City Council, by resolution or ordinance, to transfer appropriation authority to meet needs that arise during the budget year. A transfer of appropriation is a decrease of one existing appropriation and a corresponding increase of another existing appropriation (ORS 294.450(1)&(3)). The proposed resolution

transfers appropriation authority in the Engineering Fund from Materials and Services to Capital Outlay for the upgrade of the design software.

**Concurrence**

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

**Fiscal Impact**

The resolution transfers \$3,917.45 from Materials and Services to Capital Outlay in the Engineering Fund. It does not change the total appropriation in the adopted budget.

**Work Load Impacts**

The resolution facilitates operations by ensuring that the software used by Engineering for design projects is reliable and supported technically by the vendor.

**Alternatives**

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

**Attachments**

Resolution

ATTACHMENT 1

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON  
TRANSFERRING APPROPRIATION AUTHORITY**

**WHEREAS**, the Engineering Department needed to purchase one additional copy and upgrade its current version of Computer Aided Drafting software used for design purposes; and

**WHEREAS**, the Engineering Fund in the adopted budget does not have sufficient appropriation in Capital Outlay to complete the upgrade to the design software; and

**WHEREAS**, there is sufficient appropriation available in Materials and Services; and

**WHEREAS**, Oregon Local Budget Law allows a City Council, by resolution or ordinance, to transfer appropriation authority to meet needs that arise during the budget year.

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

The transfer of appropriation authority is approved as follows:

Transfer From:       Materials and Services \$3,917.45

Transfer to:           Capital Outlay \$3,917.45

**BE IT FURTHER RESOLVED** that this resolution shall be effective immediately upon its passage.

Introduced and adopted by the City Council on March 15, 2005.

\_\_\_\_\_  
James M. Bernard, Mayor

ATTEST:

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

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

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



**To: Mayor and City Council**

**Through: Mike Swanson, City Manager**

**From: Jeffrey King, Community Development Project Manager**

**Subject: Budget Appropriation Resolution for Offsite Infrastructure Loan**

**Date: February 24, 2005 for March 15, 2005 Council Meeting**

### **Action Requested**

To approve a resolution authorizing a \$150,000 budget appropriation from a Special Public Works Fund Loan for design, engineering and partial construction of public offsite infrastructure improvements around and adjacent to the North Main Village Project.

### **Background**

The City was recently awarded a \$738,000 Special Public Works Fund (SPWF) Loan from the Oregon Economic and Community Development Department. The funds will be used to design and construct an off-site street extension, utility undergrounding, new sidewalks and streetscape improvements. These improvements are estimated at slightly over \$1,000,000. Other funding sources include a \$25,000 grant from Mount Hood Economic Alliance and \$250,000+ from City transportation SDCs. During FY 05 ending June 30, it is estimated that no more than \$150,000 in SPWF funds will be expended for design and engineering, the bid process, and possibly some construction.

In October 2004, the City Council approved the Development and Disposition Agreement (DDA) with Main Street Partners, LLC, the developers of the North Main Redevelopment project. The DDA is a legally binding agreement that defines the terms of the real estate and development deal between the City and

the developer, including property conveyance to the developer. The DDA also outlines the formal obligations of each party.

As part of the DDA, the City agreed to design and construct several off-site infrastructure improvements in the adjacent and nearby public right-of-way. The design and engineering for these improvements are approximately \$90,000. A contract with HPR, Inc. for the design and engineering work was approved by the City Council on January 4, 2005. Construction of the off-site public improvements is expected to begin in the Summer 2005 and be completed by June 30, 2006.

### **Concurrence**

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

### **Fiscal Impact**

The total SPWF loan award is \$738,000; however, staff anticipates spending \$150,000 or less in FY 05 for the off-site public infrastructure design, engineering and construction of improvements. Since the City received the award letter in January 2005, costs can be incurred that will be reimbursed by the loan. The Oregon Economic and Community Development Department is now preparing the loan contract. The binding contract will be presented later this spring. A public hearing will be required and the contract executed before the City is obligated for the full amount of the loan.

The cost for completion of all off-site improvements including sidewalk and streetscape work, extension of 21<sup>st</sup> Street and undergrounding of utilities is estimated at slightly over \$1 million. Revenue for the project consists of the \$738,000 SPWF loan, a \$25,000 grant from the Mount Hood Economic Alliance and \$250,000+ from the transportation SDC fund. All work will be completed by the end of FY 06. Repayment of the SPWF loan will be amortized over 25 years, with an annual payment estimated at \$57,000.

### **Work Load Impacts**

Existing community development and engineering staff are managing the project under their current workplans. Staff is being assisted by a design and engineering consultant and will be assisted by a construction firm.

### **Alternatives**

1. Approve budget appropriation resolution as presented.
2. Approve budget appropriation resolution with modifications.

3. Delay approval of budget appropriation resolution for further review.
4. Decline to approve budget appropriation resolution.

**Attachment**

Budget resolution

ATTACHMENT

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, FOR THE PURPOSES OF BUDGETING FOR DESIGN, ENGINEERING AND CONSTRUCTION OF SIDEWALK AND STREETScape IMPROVEMENTS.**

**WHEREAS,** The City plans to design and construct sidewalk and streetscape improvements on certain sections of Harrison Street and Main Street surrounding and adjacent to the North Main Village Project; and

**WHEREAS,** Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests or devices transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure (ORS 294.326; and

**WHEREAS,** The City received a \$738,000 Special Public Works Fund (SPWF) Loan from the Oregon Economic and Community Development Department to implement the street and streetscape improvements;

**NOW, THEREFORE, BE IT RESOLVED** that the appropriation of the Oregon Economic and Community Development Department SPWF Loan is approved as follows:

<u>Fund</u>	<u>Resources</u>		<u>Requirements</u>	
320 Streets	SPWF Loan Proceeds	-\$150,000	Capital	Outlays-
\$150,000				

Introduced and adopted by the City Council on March 15, 2005.

This resolution is effective on March 15, 2005.

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

ATTEST:

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

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

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



**To: Mayor and City Council**

**Through: Mike Swanson, City Manager**

**From: Jeffrey King, Community Development Project Manager**

**Subject: Budget Resolution for Grant Awards**

**Date: February 25, 2005 for March 15, 2005 Council Meeting**

### **Action Requested**

To approve a resolution authorizing the City to receive and spend various grant award proceeds.

### **Background**

The City has been awarded grant funds for three different projects. As required under Oregon local budget law, cities may make expenditures of grants after enactment of a resolution or ordinance authorization expenditure. The grants were awarded after the start of the fiscal year and therefore were not included in the approved FY 05 budget last year. The three grants requesting authorization are:

- **\$25,000 Mount Hood Economic Alliance (MHEA) –Economic Development Services.**

This grant provides funds for several economic development initiatives and projects including:

- an economic development/enterprise zone flier.
- inventory and profile of available industrial and commercial sites and placement on City website.
- business outreach and visitation.
- distribution and report of business outreach survey.
- economic development section on City website.
- industrial land infill feasibility – (now the Panattoni site)
- industrial building re-use assessment.

This grant project will be completed this fiscal year.

- **\$25,000 Mount Hood Economic Alliance (MHEA) –North Main Village Offsite Public Infrastructure Improvements**  
In October 2004, the City Council approved the Development and Disposition Agreement (DDA) with Main Street Partners, LLC, and the developers of the North Main Redevelopment project. The DDA is a legally binding agreement that defines the terms of the real estate and development deal between the City and the developer, including property conveyance to the developer. The DDA also outlines the formal obligations of each party. As part of the DDA, the City agreed to design and construct several off-site infrastructure improvements in the adjacent and nearby public right-of-way. These sidewalk, utility, street extension and streetscape improvements are estimated at \$1,000,000. This MHEA grant contributes \$25,000 toward the design and construction of the offsite improvements. The grant funded portion of this project will be completed this calendar year.
- **\$9,000 Oregon Department of Forestry/Oregon Emergency Management - Hazard Tree Assessment Assistance Grant.**  
In early 2004, as a result of a severe winter storm, the U.S. Federal Emergency Agency (FEMA) declared much of Oregon a disaster area. The City received nearly \$20,000 in reimbursements from FEMA for cost associated with the storm. In addition, the City was eligible to compete for additional grant funds that would help mitigate future costs due to future disaster events. The State prioritized funding for those projects that included tree risk management and the reduction of future tree hazards. Milwaukie was one of few Oregon communities with an approved Hazard Mitigation Plan in place. As a result the City applied for and was awarded funds that were packaged through the Oregon Department of Forestry.

The grant funds are to be used for the development of a hazardous tree risk assessment and elements of a tree risk management plan in potential high and very high hazard areas. These areas include public facilities and emergency routes. This grant project will be completed on or before November 1, 2005.

### **Concurrence**

The City Manager, Engineering Director, Operations Supervisor and Community Development staffs have reviewed these projects and recommend Council approval of the budget resolution.

### **Fiscal Impact**

The MHEA economic development grant requires a City cash match of \$14,000, which is appropriated in the current budget. The ODF tree hazard grant requires a City match of \$5,000, which is appropriated in the current FY05 budget. The MHEA North Main Village offsite public improvements grant requires a match of \$800,000. Private development costs of the North Main Village buildings as well as funds from the \$750,000 Special Public Works Fund loan for offsite public infrastructure improvements can be used as match.

### **Work Load Impacts**

Existing staff is managing these projects. They are part of the existing staff work plan and budget.

### **Alternatives**

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

### **Attachment**

Budget resolution

ATTACHMENT

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, FOR THE PURPOSES OF BUDGETING FOR PROJECT GRANTS.**

**WHEREAS**, Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests or devises transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure (ORS 294.326(3).; and

**WHEREAS**, A grant of \$25,000 from the Mount Hood Economic Alliance (MHEA) for the development of economic development services and programs; and

**WHEREAS**, A grant of \$25,000 from the Mount Hood Economic Alliance for offsite public Infrastrucutre Improvements for the North Main Village Project; and

**WHEREAS**, A grant of \$9,000 from Oregon Department of Forest (ODF) and Oregon Emergency Management Agency for hazardous tree assessment and plan for public facilities and emergency routes.

**NOW, THEREFORE, BE IT RESOLVED** that the appropriation of the MHEA grant for economic development services, the MHEA grant for the North Main Village public infrastructure and the Oregon Department of Forestry grant is approved as follows:

<u>Fund</u>	<u>Resources</u>	<u>Requirements</u>
110 General Fund	MHEA Grant \$25,000	Capital Outlays-\$25,000
320 Street Fund	MHEA Grant \$25,000	Capital Outlays-\$25,000
720 Facilities	ODF Grant \$9,000	Capital Outlays-\$9,000

Introduced and adopted by the City Council on March 15, 2005.

This resolution is effective on March 15, 2005.

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

ATTEST:

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

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

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



**To: Mayor and City Council**

**Through: Mike Swanson, City Manager**

**From: Paul Shirey, Engineering Director**

**Subject: Stormwater Master Plan Adoption**

**Date: February 28, 2005, for March 15, 2005 City Council Meeting**

### **Action Requested**

The City Council is requested to adopt the Stormwater Master Plan.

### **Background**

In June 2003, City Council authorized a contract with URS Corporation for services to update the current Surface Water Master Plan that was completed, but not adopted, in 1997. The 1997 plan evaluated and documented the condition of the storm system and recommended projects for the Capital Improvement Plan (CIP). The highest priority projects proposed in the 1997 plan have been completed.

The city retained URS Corporation and a sub-consultant Financial Consulting Solutions Group in June 2003 to provide the technical assistance needed to prepare a new master plan. The proposed master plan addresses the following items:

1. Model Milwaukie's storm system.  
A computer model was created and rainfall events were simulated to determine where local flooding is likely to occur in the future. The results were compared with observations made during flood events in the past.  
**RESULTS:** Initially, the model appeared to be overestimating water surface elevations, so an 80% adjustment was applied to obtain results consistent with staff observations. 17 locations were identified with undersized pipes that require replacement in order to handle storm flow during some rainfall events.
2. Evaluate the storm water system to identify undersized pipes.  
When the capacity of existing pipes is exceeded, resulting in discharges to public roadways and private property, CIP projects are proposed to improve public safety and help prevent property damage.

RESULTS: The undersized pipes are listed starting on page 3-7 of the Milwaukie Stormwater Master Plan. The longest section of undersized pipe is on Harrison Street west of 32<sup>nd</sup> Avenue.

3. Recommend CIP improvements for the next 10 years.

RESULTS: The 15 proposed CIP projects are mapped and listed on the 3<sup>rd</sup> and 4<sup>th</sup> pages of the Milwaukie Stormwater Master Plan Executive Summary (which immediately follows the Table of Contents).

4. Estimate individual project costs.

RESULTS: The Stormwater Master Plan Executive Summary lists 15 CIP projects with a total cost of \$10,684,500.

5. Determine compliance with current State and Federal water quality regulations.

RESULTS: During the next 10 years, it will be necessary to decommission 15 drywells for stormwater that are near city wells in order to protect our groundwater near those wells and meet DEQ requirements.

6. Review Federal Endangered Species Act requirements.

RESULTS: Spring Creek is highly visible to residents, school children and visitors to Scott Park creating a potential for public involvement and watershed stewardship education in addition to benefits to fish.

7. Assess the fiscal health of the storm water utility.

RESULTS: During the current fiscal year total operating expenses are expected to exceed total Storm Fund revenues by about \$43,000. The ending fund balance from the previous year will be used to cover this deficit and the cost of CIPs built this year.

### **Recommendation**

The goal of the Master Plan update is to implement the storm water program as outlined in the Master Plan and determine how to fund the cost of the program with least impact on ratepayers. Staff and the Citizen's Utility Advisory Board recommend adoption of the Stormwater Master Plan. A proposal for new stormwater rates is scheduled as the next agenda item for the March 15, 2005 City Council meeting.

### **Concurrence**

In May 2004, the consultant provided a briefing for the Citizens Utility Advisory Board on the findings of the Stormwater Master Plan. In June 2004, the consultant presented options for future stormwater rates to the Citizen Utility Advisory Board. Engineering staff coordinated with the Community Development and Public Works Director and with Public Works Operations staff on this project. At a Work Session in September 2004, Council agreed with a staff recommendation to increase stormwater rates to fund the addition of two FTE in the stormwater division.

**Fiscal Impact**

City Council must consider a rate increase in order to finance this program.

**Work Load Impacts**

This project is part of the Engineering and Storm Division's annual work program.

**Alternatives**

1. Adopt the Stormwater Master Plan.
2. Recommend changes to the Stormwater Master Plan.
3. Elect to adopt the Stormwater Master Plan at a later date.

**Attachments**

1. Resolution
2. Stormwater Master Plan

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING A STORM WATER MASTER PLAN.**

**WHEREAS**, the City of Milwaukie's 1997 Storm Water Master Plan was never formally adopted by the City Council; and

**WHEREAS**, in June 2003 the City hired consultants to update the City of Milwaukie's Storm Water Master Plan; and

**WHEREAS**, the goal of the Master Plan update is to implement the storm water program as outlined in the 1997 Master Plan and to determine how to fund the cost of the program with least impact on ratepayers; and

**WHEREAS**, the Milwaukie Citizens Utility Advisory Board recommends that the council adopt the proposed Storm Water Master Plan update; and

**WHEREAS**, the storm water rates necessary to fund the projects recommended in the Master Plan will be adopted under a separate resolution;

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

Section 1: The City of Milwaukie Storm Water Master Plan, attached hereto as Exhibit A and incorporated by this reference, is hereby adopted as the official City of Milwaukie Storm Water Master plan.

Section 2: This resolution is effective immediately upon passage.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon on \_\_\_\_\_, 2005.

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

ATTEST:

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

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

By: \_\_\_\_\_  
City Attorney

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**To: Mayor and City Council**

**Through: Mike Swanson, City Manager**

**From: Paul Shirey, Engineering Director**

**Subject: Stormwater Rate Adoption**

**Date: February 28, 2005, for March 15, 2005 City Council Meeting**

### **Action Requested**

The Council is requested to adopt new rates for the storm water utility in support of the updated Stormwater Master Plan and increased regulatory requirements for maintaining the storm system.

### **Background**

In June 2003, City Council authorized a contract with URS Corporation for services to update the current Surface Water Master Plan that was completed, but not adopted in 1997. The 1997 plan evaluated and documented the condition of the storm system and recommended projects for the Capital Improvement Plan (CIP). The highest priority projects proposed in the 1997 plan have been completed.

The city retained URS Corporation and a sub-consultant, Financial Consulting Solutions Group in June 2003 to provide the technical assistance needed to prepare a new master plan and analyze the financial condition of the Storm Utility.

The goal of the Master Plan update is to implement the storm water program as outlined in the Master Plan and determine how to fund the cost of the program with least impact on ratepayers. Estimated costs of the proposed capital projects (approximately \$10.7 million) and Operations and Maintenance requirements were evaluated in light of the current fiscal condition of the utility. Operations and Maintenance costs are projected to increase by \$150,000 over the next two years to cover the cost of two utility workers (2.0 FTE) needed to meet inspection and cleaning costs under the terms of the city's storm water permits.

The need to add two additional positions to the Stormwater operations team is a direct result of regulatory mandates. The Clean Drinking Water Act stipulates that dry wells located on streets with more than 1,000 trips per day must be inspected and cleaned every six months. Of the 189 existing dry wells, 56 of these meet the new inspection and cleaning criteria. In addition, the city does not fully comply with the cleaning and inspection requirements of the National Pollution

Discharge Elimination System (NPDES) due to a lack of personnel (two utility workers in the Storm Division). Therefore, the Storm Division requires two additional utility workers (a total of four) in the coming fiscal year in order to comply with its permit requirements. Failure to meet the terms of the permits regulating storm water discharges to surface water (NPDES) and ground water (SDWA) may result in enforcement action by the state and federal agencies including fines and the city would be vulnerable to law suites by third parties.

The rate impact of capital requirements and O&M costs (two new utility workers in 05/06) was evaluated using four different term and debt assumptions. First, a twelve-year term with no debt (pay-as-you-go) was evaluated and the impact to rates was significant. Two additional scenarios were evaluated including: implementation of the plan in 21 years without debt and implementation of the plan in 21 years with debt. The results were as follows:

Estimated Stormwater Monthly Utility Rates- Two FTE in 05/06

Scenario	03/04	04/05	05/06	06/07	07/08	08/09	09/10
12-year no debt	\$6.00	\$6.00	\$15.78	\$17.56	\$17.56	\$17.56	\$17.56
12-year with debt	\$6.00	\$6.00	\$8.58	\$10.14	\$10.32	\$11.44	\$11.53
21-year no debt	\$6.00	\$6.00	\$9.13	\$11.75	\$11.94	\$12.28	\$15.05
21-year with debt	\$6.00	\$6.00	\$8.08	\$8.54	\$9.01	\$9.13	9.87

**Recommendation**

Based on the rather significant impact to rates associated with the twelve-year options, the staff and Citizen’s Utility Advisory Board (CUAB) recommendation is to proceed with one of the 21-year scenarios. Council directed staff to use a “no-debt” approach at the September 21, 2004 work session. Capital projects associated with drywell decommissioning must be implemented within a 10-year period. Nine of the ten most highly ranked projects can still be completed within 12 years. Staff recommends adding two FTE in '06 and using a no debt, pay-as-you-go program. The cost difference in the timing of adding additional FTE is nominal. The resulting monthly rates are as follows:

Scenario	03/04	04/05	05/06	06/07	07/08	08/09	09/10
('06-2 FTEs; no debt)	\$6.00	\$6.00	\$9.13	\$11.75	\$11.94	\$12.28	\$15.05

**Concurrence**

In May 2004, the consultant provided a briefing for the Citizens Utility Advisory Board on the findings of the Stormwater Master Plan. In June 2004, the consultant presented

options for future stormwater rates to the Citizen Utility Advisory Board. Engineering staff coordinated with the Community Development and Public Works Director and with Public Works Operations staff on this project. Staff presented rate recommendations to City Council at its work session on September 21, 2004.

**Fiscal Impact**

City Council must consider a rate increase in order to finance this program.

**Work Load Impacts**

This project is part of the Engineering and Storm Division's annual work program.

**Attachment**

1. Resolution

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING NEW STORMWATER SERVICE FEES AND CHARGES AS PROVIDED BY MILWAUKIE MUNICIPAL CODE CHAPTERS 13.14 AND 13.20; CLASSIFYING THE FEES IMPOSED BY THIS RESOLUTION AS NOT SUBJECT TO ARTICLE XI, SECTION 11(B) OF THE OREGON CONSTITUTION, AND REPEALING RESOLUTION NO. 9-2000.**

**WHEREAS**, Milwaukie Municipal Code Chapter 13.14.040.B authorizes the City Council to establish stormwater fees and charges by resolution; and

**WHEREAS**, the City Council by Resolution No. 9-2000 established the current stormwater fees and charges; and

**WHEREAS**, under a separate resolution, the City is adopting a new Stormwater Master Plan (the Plan) which identifies the capital improvements needed to provide the minimum level of stormwater service throughout the City over the next ten years, including the decommissioning of 15 dry wells for stormwater in order to meet State DEQ requirements; and

**WHEREAS**, the City is required to review stormwater service fees and charges on an annual basis; and

**WHEREAS**, the Milwaukie Citizens Utility Advisory Board recommends an increase in fees in order to maintain the existing storm water system, maintain minimal fund contingency, and implement capital improvement in accordance with the Plan, as set forth in Exhibit A;

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

Section 1: The City Council adopts the stormwater fees and charges set forth in Exhibit A as the rates to be charged for service after the effective date of this resolution.

Section 2: Resolution No. 9-2000 is repealed. Previously adopted stormwater rates shall remain in effect until the new rates take effect.

Section 3: The City Council determines that the fees imposed by the Resolution are not taxes subject to the property tax limitations of Article XI, Section 11(B) of the Oregon Constitution.

Section 4: This resolution is effective July 1, 2005.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon on \_\_\_\_\_, 2005.

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

ATTEST:

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

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

By: \_\_\_\_\_  
City Attorney

**EXHIBIT A**  
**Stormwater Services Fees and Charges**

a) One or Two Family Residential: The one or two family residential charge shall be as described in the following Table 1:

Calculated Rates for FY05 Effective January 1, 2005	Calculated Rates for FY06 Effective July 1, 2005	Calculated Rates for FY07 Effective July 1, 2006
\$6.43	\$9.12	\$11.74

Calculated Rates for FY08 Effective July 1, 2007	Calculated Rates for FY09 Effective July 1, 2008
\$11.93	\$12.27

b) Low Income: The one or two family residential low income charge shall be 50% of the amount of the charge in Table 1, per month for each residential dwelling for applicants qualifying under Milwaukie Municipal Code Chapter 13.20.

c) Undeveloped: Undeveloped areas shall not be charged.

d) Other Customers: The charge for all other customers shall be based on the total amount of measured impervious surface divided by one equivalent service unit (ESU) rounded to the nearest whole number. One ESU is equal to 2,706 square feet of impervious surface, which is approximately equal to the impervious surface created by the average developed single family residence in the City. The monthly service charge shall be the number of resulting ESUs multiplied by the charge listed in Table 1.

e) On-Site Mitigation Reduction Factor: The Public Works Director shall determine the appropriate on-site mitigation credit for those eligible customers who apply for such credit, provided that mitigation has been done consistent with design criteria approved by the City.

f) Exempted Areas: All publicly owned impervious surfaces, excepting public roads, shall be liable for the charge.

g) Special Programs: Rate adjustments for special programs may be granted on a case by case basis as approved by the City Manager or his/her designee. The said adjustments shall be for programs that are approved by the City, and all adjustments shall be evidenced by written contracts.

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

**Members Present**

Bob Hatz, Chair  
Charles Bird, Vice Chair  
Ed Miller

**Members Absent**

Betty Chandler

**Staff Present**

Paul Shirey, Engineering Director

I. CALL TO ORDER

Chair Hatz called the meeting to order at 6:05 p.m.

II. INTRODUCTIONS

None.

III. CONSENT AGENDA

October 4, 2004, Minutes approved as presented.

IV. REPORTS

A. Midyear progress report on capital projects.

1. Shirey presented a written status report to the Board and discussed each of the nine items. Regarding the street maintenance fee and utility privilege tax, the Board continues to be most interested in the prospect of generating additional revenue for street repair and long-term maintenance. Shirey mentioned the way Tigard assesses the fee using parking spaces for commercial uses. It was commented that such an approach would be more costly for high turnover retail businesses and less costly for commercial business. Board members expressed concern that the fee not force business out of Milwaukie.

2. The Board is interested in learning more about the Pavement Management System (PMS), a topic on the February meeting agenda. PMS is the only quantitative means to measure wear and tear and prioritize the repair work that the streets network needs.
3. The Board feels that the utility privilege tax, or street light fee, seems like more a more equitable means of generating street revenue since everyone benefits from street lights.
4. The Board is split in its views on the viability of decommissioning the Kellogg plant. One member felt that the public presentations regarding this issue really lacked any “sizzle” or compelling rationale for the consolidation strategy. It was argued that if the District were required to buy land in Island Station to expand the Kellogg plant, then consolidation might be more appealing to the community.

V. DISCUSSION

None.

VI. MATTERS FROM THE BOARD

None.

VII. INFORMATION SHARING

None.


VII. FUTURE MEETING DATE/AGENDA ITEMS

Wednesday, February 16, 2005 **(NOTE CHANGE FROM REGULAR DATE)**

IX. ADJOURN

The meeting adjourned at 7:24 p.m.

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

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



# Park & Recreation Board

## PARB

Tuesday, December 28, 2004

7:00 PM to 9:00 PM

Conference Room – City Hall

## Minutes

**Attendees:** Sherri Dow, Rob Gabrish, Sonny Newson, Ray Harris, Kathy Buss

**Absent:** Mart Hughes, Kate MacCready

**Staff:** JoAnn Herrigel, Joan Young

**Open Period:** None

**Minutes:** Minutes from the November meetings were approved, 5-0.

### Park Booklet

Herrigel and Newson reported that they had met again in December and further improved the Park book organization. They said they would be meeting again in January to further refine the information in the book.

### North Clackamas Park Update

Herrigel gave the group an update on North Clackamas Park. See description in update section.

Young added that at the recent DAB meeting:

- A lighting specialist had been in attendance to answer DAB questions regarding lighting
- The DAB members had expressed interest in a higher level of study of the traffic and road conditions near the park. DAB feels road improvements need to be made in order to ensure safety of those biking and walking to the park.
- DAB feels there is a need for a soccer field (despite restricted space available at the site)
- DAB feels that an ADA accessible walk is necessary (woodchip path had been proposed)
- DAR did vote 5-2 to move the project forward and asked staff to address the concerns they raised and to figure out how to do it with the funds available.

Newson asked if the District was planning to include the items they can't afford now as "add-ons" in the plan so that they might be added later. Young said they would do that.

Newson said he thought that although this project was controversial now, we would all be happy with it when it's done. The group generally concurred that it was a good project and that it was too bad that some folks didn't feel it was beneficial.

### Staff Update

- **Homewood Park:** The path at Homewood Park is completed and staff has submitted a final invoice to metro for the Local Share funds used for the park. All Local Share projects under Metro's 1995 ballot measure have been closed for the City as of this week.
- **Lewelling Community Park:** The sidewalk project is completed and the fence at the park was in the process of being replaced by the contractor

- **Spring Park:** On January 13 at 7 pm, the City will host a meeting regarding parking at Spring Park. Several locations near the park have been evaluated and the public will be asked to provide input on these options.
- **North Clackamas Park ball fields:** The DAB voted 5-2 to pursue ball field construction. The current scenario maintains the horse arena and the large oak tree located near the fields. District staff is trying to revise the proposed project to make it fit the current \$1.9 million budget. Apparently \$600,000 has been spent on this project to date. Among the expenses are design and traffic studies completed by the District for the ball field project. It is expected that an application will be submitted to the Milwaukie Planning Commission early next year for a Community Service Overlay for the project.
- **North Clackamas Park play structure:** The District recently installed a play structure at North Clackamas Park north of the access road amidst a, oak grove. After construction began, staff from the City placed a stop work order on the project due to some outstanding land use issues. Work resumed shortly afterward when appropriate plans were submitted and the project was modified slightly. The Mayor and Councilor Barnes met with Charlie Ciecko and Mike Swanson last week to review issues that have been raised regarding North Clackamas Park
- **Solstice Event:** The event was very successful and well attended. Lewelling NDA made over \$200 on their food sale. Newson commented that the cars leaving the parking lot after the boats went by put pedestrians at risk. He asked if the parking lot could be closed next year.
- **Riverfront and Oregon Solutions:** The Riverfront Board will be developing concept plans for the Riverfront Park (between the creeks) that will then be reviewed by the public. As a parallel process, Oregon Solutions will work with a stakeholder group in Milwaukie to identify groups, businesses and individuals that want to contribute in some way (funding, technical support or work parties). The first stakeholder meeting will be the first week of February.
- **Three Bridges:** Four bids were received in response to the recent RFP. The lowest bid was below the engineer's estimate. Unfortunately, the total project costs have now been found to exceed available funding. The project team is working on a solution to this problem. Milwaukie has offered to assist with distributing fliers and door hanger during construction to cut down on Portland's staff time needs.
- **Letter to Council re: funds from sale of property:** Council responded to the PARB letter stating that they would prefer that any such sale proceeds be treated as general revenue to the General Fund and that the Budget Committee would weigh all the various service demands in making funding decisions. They drew PARB's attention to the recent Library Levy failure and stated that the anticipated shortfall for the Library was \$120,000 to \$130,000. They suggested that Herrigel include a reasonable maintenance amount in her budget this fiscal year.

### **District Update**

Young said that the aquatics Park Task force had voted at their recent meeting to request staff to pursue three specific areas:

- Sponsorships
- Partnerships
- Additional Park amenities for the Aquatics Park (WOW factor)

She said the task force would meet again in the end of January.

The volunteer coordinator position is still in the interview process.

### **Other**

Buss asked that Herrigel keep them posted on this year's budget. Herrigel said she would either e-mail her draft request for park maintenance to the group or bring it to the next PARB meeting.

The group thanked JoAnn and Joan for all their work as staff for the PARB and the District.

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



# Ledding Library Board

## January minutes

6:30 PM; January 24, 2005  
Ledding Library

**Meeting called by:** Sue Trotter

**Attendees:** Attendees: Greg Chaimov, Tom Hogan, Sue Trotter, and Ed Zumwalt.  
Absent: Mark Docken, Pat Healy, Pat Lent  
Staff: Cynthia Sturgis

### Agenda topics

Approval of minutes

Approved as written.

### Librarian's report

New Board member Greg Chaimov was introduced, and Board members discussed current library issues with him.

The Friend met on January 20<sup>th</sup>, and Sue and Cynthia attended the meeting. Sue reported on projects that the Friends have been involved in over the past year. The Giving Tree will be publicized more and seasonal efforts will be made to keep the display and information current.

Ed Zumwalt sent a request to the Board to write a letter to the City Manager and Jeff King concerning the issues that have been discussed and agreed upon in previous meetings with Alice Rouyer. Sue Trotter volunteered to write the letter and seek input from other Board members before Cynthia sends it to Mike and Jeff.

The budget calendar has been issued to department heads. The first budget meeting will be held on March 29.

#### LNIB meeting

The feasibility of continuing MIX was discussed. No recommendations were made. The next meeting will be held March 3 at 1:30 pm at the LINCC office.

#### Foundation

Pat Healy's notes from the January meeting were discussed. Tom is concerned about making the building expansion the primary goal of the foundation and wishes to broaden the scope. The Foundation Committee will meet again on February 9<sup>th</sup> at 10:00 am in the library.

## **PUBLIC SAFETY ADVISORY COMMITTEE MEETING NOTES**

February 24, 2005

Present:

Larry Kanzler, Chief of Police

Karen Martin – Campbell Neighborhood Association

Ray Bryan – Historic Milwaukie Neighborhood Association

Dolly Macken-Hambright – Linwood Neighborhood Association

Cheryl Ausmann-Moreno – Ardenwald Neighborhood Association

Gene Covey – Lewelling Neighborhood Association

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The meeting was called to order at 6:05 p.m.

Karen asked if everyone had a chance to review the minutes from the previous meeting. Dolly made a motion to accept the minutes as written. Ray seconded the motion. Approved unanimously.

Larry thanked Ray for writing a letter from his neighborhood association to Senator Kate Brown regarding their concerns with Senate Bill 295, which would force cities to give 50% of the traffic fines they collect to the State.

Larry discussed the issues with food stamp cards and DMV/identity theft that are before the legislature now. There is a new driver's license available that cannot be duplicated – it embeds your photo and thumb/fingerprint.

Larry shared copies of the results of a survey of chiefs of police.

There was a request from the City Council that all the committees present them with a work plan. The budget was submitted - it includes the funds for the Citizen's Academy. Traffic Management Plan – it's been a huge project, complicated, not easy to get answers from the City engineers. We would like to have it available on the City's website when it's completed. There was a discussion regarding speed bumps. Sgt. Dye sends out a traffic report that is included in the City Manager's weekly memo.

There is a police officer and reserve officer recognition presentation at the next Council meeting on Tuesday, March 1<sup>st</sup>. Dolly suggested we have a community officer of the year. Ray suggested we have a support person recognition award also. The group would like to have some sort of newsletter from the P.D. that would include "atta-boys", crimes that were solved, alerts, etc. It should be posted on the City's website and/or the Pilot.

Karen shared her feelings about chairing the committee – she is concerned because she isn't able to attend all the meetings/functions she feels the chair should. Dolly asked about delegating some of those duties/responsibilities. The members agreed that they could help out by standing in some of the time.

Larry gave an update of the annexation of the Clackamas Town Center area. He showed a map of the urban growth boundary. The annexation would include the area between 82<sup>nd</sup> Avenue south to Hwy 224 & I-205 north to Harney. It would require an additional 15 – 16 patrol officers. Phase two would include the area between the City and 82<sup>nd</sup>. Phase three would be southeast of the City to I-205.

The group discussed the proposed resolution requesting annexation to Clackamas County Fire District #1. The Fire District has been and will be attending neighborhood meetings to give their presentation.

Cheryl brought up a problem with citizens not being aware that it's illegal to pass in the bike lane. Larry said they would be doing some awareness training in the future. There is going to be a bicycle rodeo in the Ardenwald neighborhood soon.

Meeting was adjourned at 8:10 p.m.

Next meeting is scheduled for March 24<sup>th</sup>, 2005.

## Riverfront Board Minutes

December 6, 2004

Present: Green, Wall, St.Clair, Martin, Stacey, Darling, Klein

Absent:

Staff: Herrigel, Wachs

Minutes: Minutes approved (6-0) with changes proposed by Darling and Wall.

### **Facilitated Discussion of Board Goals**

Herrigel reminded the group that at the last meeting the new Board members had asked for a visioning and brainstorming session at which the Board could discuss its mission and its ideas for the Riverfront Park. She said she'd met with Darling and St. Clair individually to bring them up to speed on the Board's history and the background on the Downtown Riverfront Plan development. In these individual meetings Darling had said she wanted to discuss what folks saw as the Board's mission and action plan and St.Clair Wanted to know what folks wanted to see in the Park itself.

Herrigel proposed the following as an agenda:

- **Where have we been (Board history)**
- **What is the Riverfront Board's *current* mission and should that change?**
- **What vision do we all have for the Park?**

She noted that Jason Wachs of Community Services was in attendance to be a scribe and to help facilitate the meeting.

### **Where have we been ?**

Herrigel went through a time line showing the history of the Riverfront Board since the original members were appointed. (see attached) She noted two important motions that the group had passed regarding the boat ramp. (also on the attached)

### **What is the Board Current Mission ?**

Herrigel led the group through their most recent work plan from 2002. (attached) Wall requested that the Board get copies of both the Chronology of Board activities and the 2002 work plan.

The group began discussing their current mission:

**St.Clair:** are we or aren't we going to have a ramp?

**Darling:** Seems that Council directed us to have one.

**Wall/Green:** No, Council never directed us to have a ramp.

**St.Clair:** The ramp seems to be the best way to tie the River to the downtown.

**Darling:** I think if we can resolve the ramp issue we'll move forward. The ramp and the boaters that use them are here to stay and we need to include them is what we do – we can't push them away – we need to deal with this issue. But we don't want to blacktop the whole Riverfront. We want it to be a place for all citizens to enjoy. She noted that Mike Stacey has indicated that the issue is really parking. Maybe we should decide how much area we have and then distribute the use amongst various users. We should use a democratic process and then move on.

**Wall:** During the public input process for the Plan we really didn't get any input from the boaters.

**Stacey:** The former Mayor did.(ie: got input from the boaters.)

Wachs and Herrigel noted that the group was to deal with the work plan or mission first and they (the Board) seemed to be moving into the second agenda item

**St Clair:** The current mission statement starting with “advise” does not inspire me. I want to make things happen. I'm thinking fundraising, advocacy etc. I want to make it a better place. I want the Board to take the lead and take responsibility for changing the Riverfront.

**Martin:** We (the Board) got really involved in the planning but then the money ran out. We are assuming that there will be money again someday.

**Green:** I remember that the Board members had made a point to exclude fundraising from our work.

**Wall/Stacey:** Concurred and noted that there was a perceived lack of time, not interest.

**Green:** Personally I welcome new ideas and energy. We have historically acknowledged the City's lack of funding but tried to maintain the vision of what we want and try to hold the line against intrusions into the park. We've also made a point of not taking money for projects that we don't support.

**Wall:** Our mission is to remind folks of what our vision was originally and to keep that alive.

**Darling:** We all have passion for what we're here for but will Council listen to us if we recommend something?

**Wall:** Council has historically followed our recommendations. I'm confident in our ability to advise them. Regarding fundraising – I think we have to be realistic about how many hours a day we have to put into this – that's why we stayed out of fundraising before.

**St Clair:** We can't just wait until funds come to us – we need to pursue them.

**Darling:** How can we fund something if we don't have a plan?

**Herrigel :** When we find \$20-30,000 we can finish the final plan and design for the Park (north of Kellogg Creek). When that's done we can begin pursuing grants or other funds to build the park. But without that initial \$20-30,000 it's difficult to get the plan done.

**Green:** I recommend that we jump off and begin to get some plans developed and get public input on some options. Then maybe Oregon Solutions or Metro or the State Parks

Department will come to us to help us develop the park. If we need a project or a work plan for this year – maybe we should take on design of the park.

**St Clair:** Let's brainstorm some ideas and get them out.

**Darling:** What parts of the Riverfront do we want? Maybe we should go around the table and say what we (board members) want.

**Green:** Once we start to develop the design concepts, it would be good if we had a landscape person to develop concepts that we could then take to the public.

**Herrigel:** As part of the Oregon Solutions process, Steve Greenwood has met with a landscape designer who has offered to donate his services to help us draw up some concepts.

**Green:** Atlas Landscape Architects, our current consultant, has offered to do the same.

**Darling:** We should continue to monitor Oregon Solutions but start to pursue concepts and do a public input process as soon as possible.

**Wall:** This discussion seems to be on an action plan, not a mission statement.

**Darling:** We do need to commit to fund raising

**St Clair:** How about this for a mission statement:

*The mission of the Riverfront Board is to deliver a \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ Riverfront Park for citizens of Milwaukie.*

**Green:** Are we here to deliver or advise?

**Wall:** First and foremost we are here to advise.

**Stacey :** Concurred with Wall

**St Clair:** If so, let's advise and get out of here!

**Green:** We've been advising Council on important issues and there's never been a shortage of need for advice.

**Wall:** We're not delivering we're advocating

**St Clair:** Okay then – let's say:

*The mission of the Riverfront Board is to advocate for a vibrant, peaceful, useful Riverfront for the citizens of Milwaukie.*

**Darling:** The mission of the Board eventually is to build the park so citizens can use it. I want to see work parties and picnic tables. While we do the design I want the park to be usable and practical.

**Green:** That's what the Phase I project (north end of the park) was intended to do. That is, show the public how the park could look and be used in the future.

**Martin:** I think working on the design is a good idea and I like "advocacy".

**Green:** I'm not so willing to get rid of the old mission statement. Parts of it should be maintained. Maybe we use the mission we just wrote and then add: "We will accomplish this by...and then inserting the old mission statement:

*" advising and making recommendations to the City council and providing long-term continuity and short term problem solving in successful completion of the Riverfront. (Add list of projects we monitor.)*

Each member of the Board then stated what they wanted to see at the Riverfront (the focus of most of these comments was on the area north of Kellogg Creek.)

Stacey:

- A park north of the ramp
- A boating facility that's the same size as it is now
- Want to put my boat in the water and park my truck and trailer

Wall:

- Open space
- Less asphalt and more green
- Want to picnic without fumes

St Clair:

- Want to walk (on a riverside path?)
- Want to dock my boat and be able to drop off and pickup people with my boat
- Want to think, reflect and play

Darling:

- Want a dock where boats can be parked
- I want boats that families can be use (non-motorized too) like paddle boats and dragon boats
- I want to bring in money with a stage and some community events
- I want to establish a connection with Elk Rock Island
- I want to picnic, enjoy the scenery in privacy and among trees

Martin:

- Multi-use – more than one thing going on
- Boat dock
- Trails
- We need a ramp but not between the creeks
- We should have a turn around but no parking
- Events – maybe a farmers market space
- Restoration of landscape
- Green
- Environmentally friendly boat show maybe

Green:

- Gathering place
- Inviting
- More open green space
- Limited asphalt
- Should be boat access for motor and non-motorized boats but focus on human powered activities
- Point of connectivity to Elk Rock Island, the creeks and trails
- This should be a destination on the Trolley Trail and point of departure for river and trail activities
- This should be a hub for walkers, bikers and boaters

- More festivals with crafts and continued activities like the Solstice event
- Want salmon in Johnson and Kellogg Creeks
- Restoration work at mouths of both creeks

Klein:

- Want sewage treatment plant removal
- Gathering space – more like Portland Riverplace with a hotel, mooring and a park too
- Boat launch fits in to *THAT* scenario
- Maintain creeks – in between creeks should be a natural area
- Want the boat ramp further south

St Clair: Maybe we should each play designer and come to a meeting where we bring our own concepts and share them with others

Green: Maybe that's something we could take up at our next meeting in January

Wall: I would remind folks of the time. I would like to out of here by 8

Darling: Maybe staff could develop the mission statement further and send it to us and we can edit.

Wall: Staff should look at the North Clackamas Chamber's mission statement as a good example

Motion by Wall to adjourn, seconded by Stacey. Motion passed 7-0.

The Board confirmed that the second Tuesday of the month was the best time to continue to meet. Next meeting was set for January 11<sup>th</sup> at 6pm at the Johnson creek Watershed Council.

Motions regarding the boat ramp:

The Riverfront Board recommends that City Council consider the boat launch, in some form, as part of the Riverfront Plan, without acknowledging any obligation that it remain, and that the Riverfront Board be charged with developing criteria for a boat launch in the Riverfront Plan.

The Riverfront Board supports the existence of a boat ramp to be located in the City of Milwaukie on the Willamette River.

### **History**

1998 (Nov 5)	Board appointed
1999	Developed plan, held Town Halls and Board meetings
2000 (May)	Atlas Landscape Architecture begins Phase I design
2000 (Sept 1)	Bartlett Leaves
2000 (Sept 19)	Plan adopted by Council
2000	Dave Obern of OMB visits City Council
2000 (Dec)	Richards leaves
2001 (March)	Herrigel starts
2001 (Oct)	Riverfront Plan delivered to Board
2003 (Jan 27)	Ron Rhodhammel of OMB visits Riverfront Board
2004	Mcloughlin project monitoring

**Riverfront Board Meeting  
Minutes - January 11, 2005**

Members present: Green, Martin, Klein, Darling  
Members absent: Wall, St. Clair, Stacey  
Guests: Councilor Joe Loomis, Steve Greenwood of Oregon Solutions, Gill Williams of Atlas Landscape

Meeting took place at the Johnson Creek Watershed Council offices. Gary Klein gave the group a tour of the facilities.

**Minutes:** Herrigel noted comments that Wall had made. Martin motioned to approve and Darling seconded. The group approved the minutes 4-0 with proposed changes.

Joe Loomis said that he wanted the group to know that one of his goals for the near future was to get something done at the Riverfront. He noted that he had asked staff to invite the Oregon Marine Board (OMB) to a Council meeting. He asked that anyone on the board that had questions for the OMB submit them to Herrigel or him before the Tuesday evening meeting. He said that after Council meets with the OMB he hopes to get together with the Riverfront Board to discuss the OMB grant programs further. Loomis said he appreciates the work the Board does and that several members had stuck with it for so many years.

Gill Williams asked if there was a process for incorporating goals into the budget. Herrigel and Loomis responded that there have been processes established in the past but that the process for doing so this year has not been formalized.

Green responded to Loomis that the Marine Board is one of the stakeholders in the Oregon Solutions process and that we want to engage them and see if they want to work with us. He noted that the Riverfront Board had had two meetings in the past with an OMB representative. One he noted was "awful" and the other (more recent one) had been better but that they'd gotten hung up on long term leases and the Riverfront Board had sensed a lack of respect on the OMB's part for the park planning that had been done in Milwaukie. He said the OMB had been unwilling to bend their rules to accommodate the Riverfront Board's ideas. He hoped that the Oregon Solutions process could bring the OMB into the process as a participant. One of the Riverfront Board's goals is to create a park that meets the needs of many users. The glitch in the past has been how much and what type of parking we incorporate into the park.

Darling said she felt that the Riverfront Board may need to start out new and have a fresh slate in order to move forward on the park design. She asked if Oregon Solutions would be making a presentation to council. She also noted that she didn't want the group to waste time on something that was not going to be fruitful.

Martin said he had always been puzzled by why the OMB was so inflexible. He said the OMB has always needed a 20-year obligation for funds they grant. He said he'd like to ask them if they'd be interested in negotiating - that would be great.

Green said Oregon Solutions will be bringing lots of folks to the table and maybe we could find a way to cooperate. Maybe things will look different during this process. Green said he hoped that the information would continue to come through the Riverfront Board to the Council.

Steve Greenwood addressed the group to describe Oregon Solutions. Following is a summary of his comments:

- Oregon Solutions began under Governor Kitzhaber – as a coordinated effort to do projects with several state agencies
- The Governor liked this model and created a 5-agency team called “Community Solutions”
- From this model, regional teams within each state agency were formed. This was radical idea and it worked.
- From this new team approach arose a philosophy that agencies should “solve problems, not just run programs”.
- The Governor began adding private sector partners to these project teams and ultimately the process became known as “Oregon Solutions”
- When Governor Kulongoski took over, the Oregon Solutions program moved to PSU where it is currently housed and has been working on projects around the state for about three years.
- Steve noted that he has worked on 6 or 7 projects
- He described the Delta Ponds project in Eugene as a good example of a cooperative stakeholder process that moved a project toward completion due to the participation of the private sector, several state agencies and non-profit groups in the Eugene area. He noted that about \$1.5 million had been gleaned from this process for the Delta Ponds project.
- What does Oregon Solutions bring?
  - The endorsement of the Governor
  - State agencies that are cooperative and want to find solutions
  - OR Solutions is not a state agency – so they can go to the private sector and ask folks to be involved
- OR Solutions is a “neat structure to bring people together”
- Simply bringing the right people to the table is the value of the OR Solutions process
- There would be about three meetings of the Riverfront Project team and at the end of the process the participants would be asked to sign a “Declaration of Cooperation” which, Steve said, lends some credibility to a project later when grants are pursued.
- It may take 6 months to pull this all together: The initial meeting would be in mid February and would identify who has what to contribute to the project; The second meeting would bring back information requested from the first meeting;

and the third meeting would be in late June and the group would sign the declaration of cooperation.

- Goals of the process are: to find \$30,000 for the design process and to give support to the Riverfront Board in their effort to integrate the Boat Ramp into the Riverfront project.

Green said the design process might run in parallel to the Oregon Solutions project. If money weren't an issue, the Riverfront Board would develop a few alternatives with Gill's help. Once we had the alternatives we'd take those to council and then to public open houses to get input from the public on a final option.

Darling said that sounded scary to her. She said it sounded like some other projects in the history of Milwaukie.

Green said the City is in a great position right now with the McLoughlin project starting soon and the two remaining buildings on the Riverfront being removed. Many things have happened since the original plan was adopted that have changed the project somewhat.

Greenwood asked if the Riverfront Plan had been adopted into the Comprehensive plan. Herrigel said it had been. Greenwood asked if the Riverfront Board felt they'd changed their idea of what the plan was since that adoption.

Gill Williams noted that the Riverfront plan was a schematic, or lower level plan, compared to the downtown part of the plan. He said the Riverfront can probably now stand on its own.

Darling said she didn't think we were ready for the Oregon Solutions process. Why do the design if the public may change it all anyway? She said she wasn't sure what the big rush was.

Greenwood clarified that the Oregon Solutions process was *not* the design process. It's not a big deal that the details are not worked out yet. Sometimes folks take more ownership if the details are not worked out yet when the process begins. The trick is to keep the design process and the Oregon Solutions process separated but connected.

Darling asked:

- Is OR Solutions a non-profit? – Greenwood said yes, they are a 501C3.
- Would the City pay for OR Solutions services? And if so what would we pay?  
Greenwood: Process will cost \$9,000. ODOT is contributing \$5,000 and the City will pay \$4,000 in matching funds.
- What services does OR Solutions provide? Greenwood: Services of Steve Greenwood as a facilitator, a mediator and a recruiter
- Who will you bring to the table? Greenwood read a list of participants.
- Is there a conflict of interest in the relationship between Greenwood and Herrigel?

Greenwood said the fact that he is Herrigel's brother in law was not a conflict that he knew of.

Gill Williams suggested that TriMet be asked to participate. He also noted that when you make public investments in a project the private sector will engage.

Greenwood noted that the process OR Solutions does is not a public input process. He noted however that it could be used as an advisory process.

Darling said she wanted to do an upfront PR process to let folks know what's going on.

Green said he felt uncomfortable with starting with "a clean slate". He said he didn't want to throw away 7 years of work. He was reluctant to ask for ALL ideas on what folks want at the Riverfront. He suggested doing a Pilot article asking for input, however.

Darling asked why Green was afraid to open up the plan again?

Green said he wanted to give folks ideas to review, rather than starting with a clean slate – given all the work that has already been done.

Martin added that the plan is only a few years old and we don't want to just throw it out and start over – we just want to fill in the gaps.

Darling asked what Brian Newman (the co-convenor, or chair of the group) would bring to the table.

Green and Greenwood said Brian would bring understanding of the project and the community, stature, a knowledge of the state agencies and some leverage with the private and public sector participants.

Green asked Williams what it would cost to do the final plan. Williams said if the plan covered from Creek to Creek it might be lower than \$30,000.

Green said it is important to establish whether we will look at a plan from Creek to Creek or one that will include the treatment plant property. This would impact the boundaries and the time schedule for project completion.

Green said the first step will be to have the initial OR Solutions meeting and to have the boaters represented - as long as they're there to get to solutions. This first meeting may clarify what happens next.

Martin asked who would represent the boaters – he was not aware that there was an association or group representing boaters, locally.

Loomis said he thought Darling was simply trying to make sure everyone is represented so no one ends up running the process.

Williams suggested that the concept plan come at the end of the Or Solutions process and *then* the Public input process could take place.

Green clarified that the OR Solutions process does not intend to include the public but rather is intended to bring public and private partners together to identify resources available for the project.

Darling stated that if it looks underhanded then it's not going to fly.

Williams clarified that a final design would not result from the Oregon Solutions process.

Klein asked if Island Station NDA would be represented. Herrigel said that Historic Milwaukie was included in the list but not Island Station.

Darling said all NDAs should be there.

Williams noted that the railroad might be invited if the railroad property is involved.

It was also suggested that the Willamette River Keepers be invited.

Williams offered to write a proposal for the design plan process, including public input. He noted that he would be away from February 2 to 7.

### **Watershed Council Work Party March 5**

Green reminded folks that the Watershed Council would hold their annual work party all along Johnson Creek and he suggested the Board get involved. Klein noted that the sites are not nailed down yet but there will be several in Milwaukie. Herrigel said she would keep the Board posted.

### **Next Meeting**

Green noted the next meeting would be February 8.

Martin motioned to adjourn and Darling seconded. Motion passed 4-0.



**TO: MAYOR AND CITY COUNCIL**  
**FROM: MIKE SWANSON, CITY MANAGER**  
**DATE: MARCH 7, 2005 FOR MARCH 15, 2005 AGENDA**  
**RE: MONTHLY TRANSIT CENTER REPORT**

There have been no changes since the February report, which is attached for your reference.



**TO: MAYOR AND CITY COUNCIL**  
**FROM: MIKE SWANSON, CITY MANAGER**  
**DATE: FEBRUARY 4, 2005 FOR FEBRUARY 15, 2005 AGENDA**  
**RE: MONTHLY TRANSIT CENTER REPORT**

Resolution 31-2004, adopted by the City Council on October 5, 2004, requires that staff submit a “monthly written activity report . . . with respect to the . . . recommendations and mitigation and design initiatives” regarding relocation of the transit center. That report is required to be submitted at the Council’s second meeting of the month.

The January report was verbally delivered to Council at the January 18, 2005 Council meeting. Nothing has changed since that report. Points made at that time were as follows:

- A request was made of staff as to when the South Corridor Policy Steering Committee would reconvene to consider amendments to the existing LPA Report. In checking with regional representatives, no date has been set for any meeting of the Committee. There were discussions at the regional level as to the next steps that should be undertaken to move the project. I will notify Council at the earliest opportunity at such time as I learn of any regional public meetings on this issue. There has been no change in the status of this issue. No one is missing an opportunity to submit testimony or any other information regarding the transit center.
- TriMet will be submitting a land use action seeking approval of a park and ride for the Southgate site. I do not have either a timeframe for a submittal or a date for any hearing on the issue.
- Regional staff believes that the proposed Milwaukie Light Rail line impacts the transit center decision, and, therefore, I expect little progress on relocation of the transit center until the environmental work on the light rail line is completed. That work is slated to begin in 2006. However, there is a significant financial issue standing in the way of completion. The cost of the work is estimated at \$4.3 million, of which \$2 million has been recommended from MTIP funds. The source for the \$2.3 million balance is uncertain, but a significant amount will most likely be raised from local, regional, and state government stakeholders in the region.