

## AGENDA

MILWAUKIE CITY COUNCIL  
OCTOBER 18, 2005

MILWAUKIE CITY HALL  
10722 SE Main Street

1968<sup>TH</sup> MEETING

REGULAR SESSION – 7:00 p.m.

1. **CALL TO ORDER**  
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
  - A. Milwaukie High School Student of the Month
  - B. Hands and Words Are Not for Hurting – Proclamation
  - C. Transit Center Update – Phil Selinger, TriMet
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 Regular Session Minutes September 20, 2005
  - B. Neighborhood District Association Bylaw Changes -- Resolution
  - C. Waste Collection Franchise Extension -- Resolution
  - D. O.L.C.C. Application – Kimmy's Market – 3141 S.E. Harrison Street
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.)*  
  
None scheduled
6. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*
  - A. Downtown Business and Visitor Parking (John Gessner)

**OTHER BUSINESS, continued**

- B. Amendment to IGA with Oak Lodge Sanitary District for Mutual Sharing of Various Resources**
- C. Proposed Resolution to Transfer Funds (Mike Swanson)**
- D. Council Reports**

**7. INFORMATION**

**8. ADJOURNMENT**

**Public Information**

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

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

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



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

**CALL TO ORDER**

**Mayor Bernard** called the 1968<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  
Susan Stone

Staff present:

Mike Swanson, City Manager	John Gessner, Planning Director
Kelly Somers, Operations Director	Paul Shirey, Engineering Director
JoAnn Herrigel, Community Services Director	Tim Salyers, Code Enforcement Assistant
Kenny Asher, Community Development/Public Works Director	

**PLEDGE OF ALLEGIANCE****PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS****A. Milwaukie High School Student of the Month**

**Councilor Barnes** introduced Shannon Wright the Milwaukie High School Student of the Month for October 2005. She plans on majoring in foreign languages and international affairs, and her career goal is to work as a United Nations interpreter.

**Kelly Carlisle**, Milwaukie High School Principal, made several announcements including homecoming week events, Living History Day, the opening of the Milwaukie Academy of the Arts Charter School, and fundraising efforts for new band uniforms.

**Mayor Bernard** thought Celebrate Milwaukie, Inc. or the Farmers' Market might make a donation to the uniform fund if the band agreed to play during the Riverfest events.

**B. Hands and Words Are Not for Hurting – Proclamation**

**Councilor Stone** reported this project, established in 1996, was dedicated to educating children and adults about their moral and legal rights to live free of abuse and violence. Anger was a feeling, and abuse and violence was a choice. The project works in partnership with anti-bullying, abuse and violence prevention, conflict resolution, and character building skill programs. The hands were visual reminders that reinforced the personal commitment of non-violence. The pledge was, "I will not use my hands or my words for hurting myself or others." She read a proclamation naming October 16 – 22

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as *Hands and Words Are Not for Hurting Week* in the City of Milwaukie. She hoped this program would eventually be in all Milwaukie schools.

### **C. Transit Center Update**

**Phil Selinger**, TriMet, provided the quarterly update on TriMet/City of Milwaukie projects. He congratulated the City on launching the North Main Village Project. The July 28, 2005 letter from Fred Hansen affirmed support of Milwaukie's work program and expressed appreciation and support of the Council's affirmation of the Working Group's recommendation for the new transit center. Several bus layovers were consolidated to free up about 7 parking spaces to help the parking situation in the near term. TriMet submitted an application for the Milwaukie park-and-ride that he hoped would be before the Milwaukie Planning Commission on November 8. It would convert the former Southgate Theater property back to its much-needed use for the community and corridor as a park-and-ride. The Metro partners would schedule a meeting in early November to discuss the Phase II South Corridor environmental process that would begin early 2006. \$2 million in federal regional flex funds had been set aside for that work program. The total amount was \$4.3 million, and partner jurisdictions were pledging funds to fill that gap.

He discussed the Milwaukie transit center and the priority of establishing off-street parking. The Steering Committee would consider a recommendation that was adopted by the Milwaukie City Council last fall. Federal funds were difficult to find for the early installment of Phase 1, but TriMet was looking. One approach was to use Connect Oregon funds recently established by the legislature. \$15 million of that statewide program was set aside for Oregon Department of Transportation (ODOT) Region 1, which is a five- or six-county area. A project funded using that resource could be constructed through a streamlined process that would occur concurrently with the restart of the South Corridor Phase II environmental process. It would start off looking at the larger light rail project but quickly split off to begin the transit center, ideally within a year's time. One of the criteria for using those funds was that the project be shovel-ready. There would be a competitive process and would be linked heavily to jobs and the economy. A Phase 1 project at the Kellogg Lake site would require local land use review and rezoning. TriMet proposed that the City be co-applicant in seeking those funds to make a much stronger case to the state. It would link that transit center project with other projects happening in the vicinity of the Kellogg Lake property including the Treatment Plant relocation, Creek restoration, and the Trolley Trail. TriMet would make application for funds in that category a top priority.

**Mr. Selinger** discussed the former Goodwill site at SE Tacoma Street. There was a locally preferred alternative (LPA) and land use final order that identified the light rail project passing through that site; however, those documents did not preclude development from happening on that site. The station and park-and-ride had been consistently part of the discussion about getting light rail to Milwaukie. It provided an important connections to the neighborhoods to the east and west of the line and to the Springwater Trail. There were no reasonable alternatives for making those connections, and TriMet believed the site was critical to a Milwaukie light rail project. A 90-day proposition was made to TriMet to purchase that site which would be about mid-December. TriMet and its partners would have four options with regards to that

property. On one hand, TriMet could do nothing and could look to the City of Portland's develop review process to try and preserve the light rail option through the property. Second, TriMet could seek a lease with an option to purchase at a later date when project funds were available. Third, it could purchase the property outright, but so far the region had not identified funds for that purpose. Lastly, TriMet could master plan the site with adjacent property owners and other stakeholders to identify a combined development and light rail station that could share facilities, parking, public space, and access that would offer the community a greater value. At this time, TriMet did not know if the property owners were interested in pursuing that option. Early conversations had begun, and the matter would go before the Steering Committee

In closing, Mr. Selinger said TriMet needed the City's help in its Connect Oregon application. The transit center site would need to be rezoned. The Federal Transit Administration recently raised the cost-effectiveness standards for light rail projects in general, so TriMet would need to continue looking for ways to achieve that greater value in the Phase II process. It was important for the jurisdictions in the corridor to stay coordinated even before the Phase II environmental process restarted early next year. He was working in assembling a technical committee to ensure TriMet, Metro, and the cities of Portland and Milwaukie were all on the same page. TriMet wanted to continue working with Milwaukie to ensure downtown opportunities would occur.

**Mayor Bernard** made a proposal to Metro for the use of the Tacoma site, and Metro Councilor Newman would take it to the Council and legal counsel for review. Ninety days was not realistic, and he got the impression from the property owner that he just wanted to see some action or possibly a commitment to some action. This site was not just Milwaukie's site; it would provide transit to the Westmoreland, Eastmoreland, and Ardenwald Neighborhoods. Because it was a portion of a transit corridor, he understood the full alternative had not been adopted.

**Mr. Selinger** replied both the LPA and Working Group recommendations passed directly through that site although they twisted in slightly different directions. In either case, the coverage of the site, about 42,000 square feet, was about the same with 7.1 acres left for development.

**Mayor Bernard** understood that the Working Group decision had to be adopted in order for Metro, TriMet, or any party to fund purchasing the site and was the reason for his pushing the South Corridor meetings.

**Mr. Selinger** replied TriMet got verbal notice from the Federal Transportation Authority (FTA) Regional Administrator that there could be a pre-emptive purchase of the site at this point in the process.

**Councilor Stone** asked how likely that was to happen and how much TriMet would ask for.

**Mr. Selinger** responded that TriMet had not discussed that with the property owner and would not know the value of the property until it was appraised. The Southgate property, for example, was about \$3 million.

**Councilor Stone** said should the Goodwill site not be purchased and private development happen, was it safe to say light rail would terminate north of that site.

**Mr. Selinger** replied it was safe to say light rail in the corridor would not happen. Without Milwaukie, light rail was not viable. It was unlikely that light rail could be accommodated within the Union Pacific right-of-way. Judging from the property owner's preliminary plans, TriMet did not see a sleeve or a path for light rail. He discussed the notion of combining the Goodwill site with the Pendleton Woolen site for a project that had more value and could accommodate all the needs.

**Councilor Stone** asked when the Southgate park-and-ride was going to be ready for use.

**Mr. Selinger** said if things went well, the theater building could be removed this winter and the lot opened early next spring. There were some improvements that needed to be made to the site, but it was already a parking lot.

**Councilor Stone** asked, since there was already a parking lot there, when the buses could be moved instead of having them in the downtown. The Council wanted that to happen a couple of years ago.

**Mr. Selinger** responded that TriMet had not embraced that idea because it would be awkward to get the buses on that site. It was not designed for buses, and the pavement would not hold up. The intent of the grant from the federal government was for a park-and-ride facility at Southgate. TriMet was trying to focus its energy on getting the longer-term bus facility Council recommended last fall at the Kellogg Lake site.

**Councilor Stone** replied that was a long time coming so she wondered why the Southgate site could not be temporarily utilized as a transit center to get the buses completely off the downtown streets.

**Mr. Selinger** said the federal funds were designated for a park-and-ride facility.

**Councilor Stone** understood Mr. Selinger to say that they would not allow a transit center.

**Mr. Selinger** did not think so.

**Councilor Stone** asked him to find out for sure.

**Councilor Barnes** discussed the Metropolitan Transportation Improvement Project (MTIP) money. She asked why there was a \$400,000 gap and what needed to be done to make things move forward.

**Mr. Selinger** said Metro staff prepared an estimate of what it would take to go through the next environmental phase, and it came out to be \$4.3 million. In the earlier process, the partner jurisdictions were asked to match the MTIP dollars. The \$2 million secured in the MTIP process was significant. TriMet was in for \$500,000, Milwaukie was in for a couple hundred thousand, and Portland and ODOT were in for some dollars. At this point those were pledges but no intergovernmental agreements. There was about \$3.9 million total including the pledges. The Steering Committee would have to take up the issue and figure out what to do with the gap.

**Councilor Barnes** asked how soon the transit center would be built in Milwaukie if everything went according to plan.

**Mr. Selinger** could not give any timelines because there were no dollars at this point. If the Connect Oregon dollars were secured which would require a nexus of jobs and economic development, then TriMet could get through an expedited environmental process in about a year.

**Councilor Barnes** understood it came down to dollars. She asked if there was a possibility that a Vancouver/Oregon connection would bump Milwaukie because it linked two states.

**Mr. Selinger** noted the level of enthusiasm depended on with whom one spoke. He did not think the region had made that determination. The Vancouver project had a major highway component, was complicated by virtue of its being bi-state, and was very expensive. A Milwaukie light rail project had similar considerations but with lower targets. It was a big decision that would have to go before the Joint Policy Advisory Committee on Transportation (JPACT).

**Councilor Stone** understood it would be one to two years before something started happening with the transit center. That brought her back to Southgate. Obviously, the buses were not going anywhere if there was no place to go. How many acres was the Southgate site?

**Mr. Selinger** replied it was about 2 acres.

**Councilor Stone** understood some routes were realigned and eliminated. She did not know how many buses were laying over, but there were not as many as there used to be. Was it possible, since TriMet owned that land, that it could make some provisions to strengthen the infrastructure for buses? Why was that not possible so they could get off the streets?

**Mr. Selinger** said it would be possible if TriMet had the funds. The grant was capped at \$3.1 million total. \$2 million of that already went toward the purchase of the land, so funds to upgrade the pavement were limited, and that was typically the most expensive part of such a project.

**Mayor Bernard** thought that was a City Council discussion rather than Mr. Selinger's. The Council already adopted a transit center location by a 4 – 1 vote.

**Councilor Stone** said the vote was actually 3 – 2. It sounded like funding was a big piece of the puzzle, and the money was not readily available. Getting the buses out of downtown had always been something they wanted to do since she had been on Council irregardless of where the transit center siting was. That was what the City Council wanted to have happen. She understood the concerns about infrastructure, but she would certainly welcome some information on that in terms engineering and structural soundness. Why would that not be possible?

**Mr. Selinger** agreed to provide that information. He commented on the groundwork being laid for Phase II improvements at the Kellogg Lake site. If similar investments were made at Southgate, which did not have long-term permanence as a transit center, the investment would essentially be discarded after a period of time. It was something everyone would have to weigh carefully.

**Councilor Stone** figured the buses could simply be moved and parked down the street.

**CONSENT AGENDA**

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

- A. City Council Regular Session Minutes of September 20, 2005.
- B. Resolution No. 48-2005: A Resolution of the City Council of the City of Milwaukie, Oregon, Amending Resolution 5-1994 and Hereby Modifying Neighborhood District Association Bylaws to Reflect Election Rule Changes for Officers.
- C. Resolution No. 49-2005: A Resolution of the City Council of the City of Milwaukie, Oregon, Extending the Current Franchises of the Seven Franchised Garbage Haulers for a Six-Month Period.
- D. OLCC Application for Kimmy's Market, 3141 SE Harrison Street.

Motion passed unanimously among the members present. [4:0]

**AUDIENCE PARTICIPATION**

- Ed Zumwalt, 10888 SE 29<sup>th</sup> Avenue, Milwaukie.

Mr. Zumwalt was happy to hear Mr. Swanson comment on keeping the homey feel of Milwaukie. Many had thought the City wanted Manhattan, and the residents wanted Mayberry. The small town feel was very important.

In 1996, TriMet wanted to run light rail up Monroe Street from downtown to Hwy 224 with 100 feet on each side of the rail for mixed use and basically ravaging a whole residential area. Put on the ballot – defeated. The 1998 North/South light rail vote was a \$1.7 billion fiasco that was trounced badly in Milwaukie 62% to 38%. In 1999 and 2000 pressure was applied by inner southeast Portland neighborhoods for rail, so being upstanding citizens, they worked with our staff, Metro, TriMet, and the County arriving at an alignment and transit center site that would protect livability – Southgate.

Since then, Council chose to ask TriMet to conduct a hugely expensive study of the Kellogg Lake area with the intent of placing the transit center there. One result of this maneuver was a long delay in moving the transit center away from City Hall to anywhere.

Much of the pressure for this action came from the North Industrial businesses. His question was how much would we lose in tax base if the City had the stomach to call their bluff and businesses moved out? Many of them may leave anyway because transportation costs and congestion dictate that they position themselves closer to freeway ramps very soon.

He requested a written staff report of the approximate loss of tax base from affected businesses if Southgate were to remain the locally preferred alternative.

If the City put its planners and economic development people to work designing and marketing the North Industrial with possibilities of mixed use, a desirable area can be designed that would be an attractive address any organization would be proud to sport on its letterhead. A college campus or museum and the type of retail businesses they attract come to mind. These types of businesses and organizational communities would complement light rail and a transit center perfectly, instilling vitality into our City.

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Let's face facts. There was only an outside chance that light rail would be in Milwaukie within 15 years. If Phase I went in at Kellogg, the City would be stuck with nothing but a glorified parking Lake Oswego, an inefficient transit solution for Milwaukie at best. The Phase II goodies promised are years away, if even attainable. In the early 1980's the City decided to put the transit center around City Hall until something better was found. This was 22 – 23 years later, and the City wants the buses off the streets. If the City waits for Southgate and just buses are put at Kellogg Lake, it was just a glorified parking lot.

Get the transit center away from City Hall and free up the parking as you intended in spring 2003. Instruct TriMet to change Southgate from a park and ride to our transit center as originally intended. He thanked Councilor Stone for trying. He thought the City was going in the wrong direction.

- **Les Poole, 15115 SE Lee, Milwaukie 97267**

**Mr. Poole** provided additional comments on the transit center situation. He had been involved in it for a long time and wanted to share some information for the record. It was the June 21 City Council meeting recommendation with an introduction from the City Manager. When the Council advanced its endorsement of the South Corridor Committee's locally preferred alternative (LPA) at Southgate – there was a recommendation to put together a working group. Here was the result, "Council requested that TriMet convene a group of stakeholders to examine access, traffic, and circulation effects should the transit center be moved to a location in the North Industrial Area. A Working Group comprised of staff, Metro, TriMet, ODOT, and the City was convened. It met from September 2003 to February 2004. As the Working Group offered alternative sites for consideration, its membership expanded. After considering nine potential sites, it recommended the adoption of the Tillamook Branch alignment" and the obvious relocation to 2.5 at Kellogg Lake. Nowhere did he see anything by any stretch of the imagination that said a working group had any kind of statutory authority to move a transit center outside the study area. That was what started the whole fiasco. They were looking at eight sites in the North Industrial Area, and the next thing you know they were down here at the post office. When the schools rightly decided 2.4 at the post office was not a good idea, there was no place to shove the train but across the Lake. The LPA was still at Southgate, but he was not here to say he endorsed Southgate. What he did say was that the people needed to think about where they were really going, and the two-year window they just heard about was a pipe dream. All agreed that the town needed to move forward. Things like North Main and the Riverfront needed to happen. Banging heads over this illogical decision that benefited only a few was driving everyone nuts. His motivation was not driven by being a previous landowner. His motivation was to do the right thing. As someone who had extensively studied the site and the background to comment on it, there was nothing that could be done to make that square peg fit in that round hole. He was concerned about the Creek, and maybe if the City knew what it was going to do with the Creek and the Lake, then maybe he would buy off on the site. He had not heard anything about the alleged study from the Corps of Engineers. He heard the only thing that was going to be done was to drain the Lake and get rid of the dam. Maybe that would happen. They did not know what they were going to do there and because of that did not know

how much available land there was or what the environment would be when it came time to build any kind of transit center. His concern was that there be some input on what was going to happen with the Kellogg Creek dam long before it was decided what color to stripe the parking lot. Because he had concerns about how the Working Group conducted its affairs and people had not heard anything about what the Corps was planning if anything, the people needed more answers. The only way he could get them as a concerned citizen was to request all the e-mails and all the correspondence since the working group began – from the time the LPA was selected and the Working Group was formed, he would like to study all the information and make a request to the City and/or TriMet that it be provided.

## **PUBLIC HEARING**

**None scheduled**

## **OTHER BUSINESS**

### **A. Downtown Business and Visitor Parking**

**Mr. Gessner** reported staff was looking for a nod from the City Council confirming that downtown parking should be reserved for businesses and visitors. Although the specific policies had not been formally adopted by the City Council, both it and the Planning Commission had reviewed them. He believed they provided the basis for the City Council to confirm the policy, and he reviewed the main points:

- The purpose of, and priority for, on street parking in the downtown was to support and enhance the vitality of the retail core.
- Parking would be provided to ensure convenient, economical, and user-friendly access for customers, clients, and visitors to downtown.
- Off-street parking in the downtown will be balanced to provide a mix of short-term and long-term meeting both short-term visitor and employer needs.

At this time, about 76% of all on-street parking was designated as two hours which created a burden because off-street private parking was not meeting the needs of the employers. There were complaints from some of the larger downtown employers such as Key Bank, Electra Credit Union, and Dark Horse Comics about the commuter presence in the downtown. Most of those commuters arrived earlier than the downtown employees, so the desirable, 8-hour off-street spaces were already taken. The loss of parking to downtown projects such as North Main Village created a greater need to address the competition for longer-term parking. In the future, there would hopefully be a demand for business parking in the downtown.

**It was the consensus of Council that staff continue in its current direction and prepare a strategy and implementation plan.**

### **B. Amend Intergovernmental Agreement (IGA) with Oak Lodge Sanitary District for Mutual Sharing of Various Resources**

**Mr. Somers** requested that the City Council approve an amendment to the existing intergovernmental agreement with Oak Lodge Sanitary for equipment sharing. He discussed equipment and maintenance needs that occurred in 2000 as a result of new stormwater regulations. Although the City subsequently purchased equipment, staff

believed it was a good idea to maintain the relationship in the event of an emergency. He reviewed the minor changes to the agreement.

**It was moved by Councilor Barnes and seconded by Councilor Stone to approve the amendments to the IGA with Oak Lodge Sanitary for resource sharing services. Motion passed unanimously among the members present. [4:0]**

**Mr. Swanson** announced that he had excused Mr. Firestone from this meeting based on the authority in Resolution 9-2003.

### **C. Proposed Resolution to Transfer Funds**

**Mr. Swanson** reported this transfer had to do with the North Main project and was an additional amount. After receiving the construction estimate, the developer engaged in value engineering by eliminating expensive pieces or by getting more money. Mr. Kemper applied for an additional \$1 million loan, and Metro came up with an additional \$100,000 to complete the process. He recommended that Milwaukie contribute an additional \$40,000 to offset building permit fees. The developer would pick up the remainder of those fees after the \$40,000 was exhausted. This transfer set up the accounting to accomplish that.

**It was moved by Mayor Bernard and seconded by Councilor Barnes to approve the resolution transferring funds.**

**Councilor Stone** asked how much the City had been spent on this project.

**Mr. Swanson** replied there was a \$750,000 Special Public Works Loan fund, \$300,000 was spent in lease payments that probably could not be attributed to North Main, and a \$40,000 loan payable over a 15-year period. There was a substantial amount of State bond money and the predevelopment loan secured by the City. The final amount of that loan would be paid off at closing.

**Councilor Stone** noted as this project evolved the City had been asked to step up to the plate again and again. Here we are again. Everyone on Council had shared the concern and enthusiasm for partnering in this project. She hoped this was the last time.

**Mr. Swanson** met with the family that completed the project in Vancouver and asked them what they came to the table with. It was two blocks real property, vacation of the street between the two properties, 10-year tax abatement, and on-site and off-site improvements up to the building. This was Milwaukie's first significant project, and those were often difficult because there seemed to be no end to the involvement. The next project, he hoped, would be generated by this project.

**Motion passed unanimously among the members present. [4:0]**

#### **RESOLUTION NO. 50-2005:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, APPROVING A TRANSFER OF FUNDS.**

### **D. Council Reports**

- **Councilor Stone** wanted some feedback on having the Public Safety Advisory Committee involved in the Hands & Words Are Not for Hurting project and incorporating it in the Committee's work plan. She hoped there would be funding

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from Providence Milwaukie Hospital and neighborhood grant funds because each school costs about \$500. She asked for clarification as to whether she should approach the Committee since the Council stipulates the work plan. She had e-mailed Chief Kanzler, so he was aware of the program. The group suggested she contact the Chief to determine if the Committee could schedule that. Mr. Swanson said under Title 2 of the code, the Council was technically to have each advisory group report on an annual basis and present its work plan for Council approval.

- In response to an earlier question, **Mayor Bernard** understood the airplane traffic was different because of the winds and runway work.

#### ADJOURNMENT

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

**Mayor Bernard** adjourned the regular session at 8:17 p.m.

*Pat DuVal*

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Pat DuVal, Recorder

# AGENDA

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MILWAUKIE CITY HALL  
10722 SE Main Street

1968<sup>TH</sup> MEETING

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## PROCLAMATION

**WHEREAS**, a community without abuse and violence is a dream we all share; and

**WHEREAS**, any form of mistreatment of another is abuse and all people have the moral and legal Right to Live Free of Abuse and Violence; and

**WHEREAS**, each of us must come to understand that it is within our personal power to choose not to use abuse and violence to resolve conflict; and

**WHEREAS**, we recognize that respect for ourselves and others is key to developing healthy relationships at every age and in all circumstances; and

**WHEREAS**, the principal of non-violent resolution of conflict must be taught to our children and practiced within each of our families; and

**WHEREAS**, verbal and emotional abuse can be just as damaging as physical violence to a person's self worth, creating scars that are carried for the rest of his or her life; and

**WHEREAS**, verbal abuse such as name calling, insulting, and belittling frequently escalates into simple force like pushing, grabbing or slapping, and the worst scenario is the escalation to rage, serious violence, and even murder; and

**WHEREAS**, we, together with communities around the country and overseas, recognize the Hands & Words Are Not For Hurting Project's Pledge is an effective tool, a key piece of the puzzle in abuse and violence prevention education; and

**NOW, THEREFORE**, be it resolved that we, the City Council of the City of Milwaukie, Oregon, do hereby proclaim the week of October 16 through October 22, 2005, to be the 8<sup>th</sup> Annual National

### ***HANDS & WORDS ARE NOT FOR HURTING WEEK***

In the City of Milwaukie and ask all our citizens to join Hands to unite as a family and a community to Pledge, both privately and publicly, that

***"I Will Not Use My Hands Or My Words For Hurting Myself Or Others"***

Dated this \_\_\_\_ day of October, 2005

ATTEST:

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

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

**CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
SEPTEMBER 20, 2005**

**CALL TO ORDER**

**Mayor Bernard** called the 1966<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:

Carlotta Collette

Susan Stone

Staff present:

Mike Swanson,  
City Manager

JoAnn Herrigel,  
Community Services Director

Gary Firestone,  
City Attorney

**PLEDGE OF ALLEGIANCE**

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

- **Councilor Collette** read a proclamation naming October 2005 as *Disability Employment Awareness Month* in the City of Milwaukie.
- **Mayor Bernard** read a proclamation naming September 2005 as *Start Making a Reader Today (SMART) Month* in the City of Milwaukie.
- **Mayor Bernard** read a press release regarding an attempted abduction on Lake Road earlier that day. The matter was currently under investigation by the police department.
- **Councilor Stone** recognized Jamison McCune as the Milwaukie High School Student for the month of September.
- **Mayor Bernard** encouraged students in the 7<sup>th</sup> through 10<sup>th</sup> grades to participate in a statewide poster and essay contest – *If I were Mayor, I would.*

**CONSENT AGENDA**

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

- **City Council Work Session and Regular Session Minutes of August 16, 2005.**

**Motion passed unanimously among the members present. [3:0]**

**AUDIENCE PARTICIPATION**

None.

## **PUBLIC HEARING**

None scheduled

## **OTHER BUSINESS**

### **A. Oregon Parks and Recreation Department Grant for Lewelling Community Park -- Resolution**

**Ms. Herrigel** recommended that the City Council approve a resolution authorizing the City Manager to sign a grant agreement with the Oregon Parks and Recreation Department (OPRC) and approving up to \$192,500 in appropriations in Capital Outlay for the Community Services Department fiscal year 2005 – 2006 budget. The grant award was made in August 2005 for the Lewelling Community Park Development Project. She thanked Art Ball and the others in the Lewelling Neighborhood District Association (NDA) who put their hearts and souls into the project. The neighbors installed the split rail fence, and the half street improvements were built using Community Development Block Grant (CDBG) funds. She anticipated the project to be completed in 2006. Operations Director Kelly Somers would be the project manager.

**Mr. Ball** said it was like a dream come true for him and the others who had worked so hard on this park for the past six years. Many parties helped out, and it was truly a community effort.

**Ms. Herrigel** noted that former Community Services employee Jason Wachs had written the grant application.

**Mayor Bernard** expressed his appreciation to Lewelling Neighborhood representatives Art Ball, Jeff Klein, and the late Jean Michel and commented on the partnership between the City and its residents.

**It was moved by Councilor Stone and seconded by Councilor Collette to approve the resolution authorizing the City Manager to sign a grant agreement with the Oregon Parks and Recreation Department (OPRC) and approving up to \$192,500 in appropriations in Capital Outlay for the Community Services Department fiscal year 2005 – 2006.**

**Motion passed unanimously among the members present. [3:0]**

#### **RESOLUTION NO. 45- 2005:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN A GRANT AGREEMENT WITH THE OREGON PARKS AND RECREATION DEPARTMENT (OPRC) AND APPROVING UP TO \$192,500 IN APPROPRIATIONS IN CAPITAL OUTLAY FOR THE COMMUNITY SERVICES DEPARTMENT FISCAL YEAR 2005 – 2006.**

## **AUDIENCE PARTICIPATION**

**Rosemary Crites** discussed Ed Parecki's renovation of the McLoughlin Building, which was tentatively scheduled to open on October 5.

### **B. Intergovernmental Agreement/Main Street Village Phase II -- Resolution**

**Mr. Swanson** reported that Metro had been negotiating for purchase of the Texaco station at McLoughlin Boulevard and Harrison Street. The Olson's lease was up, so they had to decide whether to agree to another ten year lease or negotiate sale of the property. The Olson's were interested in negotiating a sale that would result in a development the City would be proud of. Mr. Swanson was contacted because Metro was interested in the Olson property but only if it could enter into a joint agreement with the City to market that entire block as one parcel to make it more attractive to a developer. The City currently owned the parking lot on the east side of that block.

**Mr. Swanson** first introduced this matter at the August 16 meeting, but he had not been pleased with the form of the agreement at the time. He noted to the Council at the time that there were some changes the City representatives would like to make in the proposed agreement with Metro. He was not sure if the timing would be such that the changes could be brought back to the Council before the closing date. Closing had gone more slowly than anticipated, and Mr. Firestone negotiated on Mr. Swanson's behalf.

**Mr. Swanson** believed the agreement before the Council at this meeting was clean. Some of the more substantive changes had to do with indemnifications that were initially somewhat one-sided. Those issues had been ironed out, so the agreement was now much more equal to both parties. He believed the delegation was premised on the belief at the time that he would not have time to bring the agreement back to Council before closing. Last week it became apparent that he could bring a revised agreement to the Council prior to closing, so it was appropriate that the Council consider the agreement. The proposed resolution authorized the Mayor to execute the agreement between Metro and the City and cancelled the delegation of authority to the City Manager to execute the agreement as set forth in Resolution 39-2005.

**Mr. Swanson** believed the agreement provided for the next step in downtown redevelopment. It would likely resemble the concept used in North Main with retail on the ground floor and residential on the upper floors. There would be a request for proposal (RFP) so the development community would have an opportunity to submit designs and competitively bid. The price of the property would be determined jointly by the City Council and Metro. About six months ago in the North Main process it became apparent that there was a great deal of momentum. To sustain the momentum, the next project had to be in the pipeline when North Main Village opened. Staff recommended that the City Council approve the resolution authorizing the Mayor to execute the agreement and repealing Resolution 39-2005.

**Councilor Collette** asked for clarification of the right-of-way.

**Mr. Swanson** replied the rights-of-way were two small parcels on the corners of the Texaco property that fronted McLoughlin Boulevard that were purchased from Olson Bros. for the McLoughlin Boulevard Enhancement Project. Apparently there was right-of-way in excess of what was needed to curve the two corners. New urban design favored buildings that were set right up to the sidewalk. The only way that could be done was to release a portion of the excess right-of-way. Metro staff wanted to ensure the City's intention was to do that, and the City agreed to exert its best efforts depending on Oregon Department of Transportation (ODOT) actions.

**Councilor Collette** referred to the use of the word “property” and asked if it only referred to the Texaco property.

**Mr. Firestone** replied that “property” was defined as the Texaco property.

**It was moved by Councilor Collette and seconded by Mayor Bernard to approve the resolution authorizing the Mayor to sign the intergovernmental agreement – Main Street Village Phase II.**

**Mayor Bernard** requested that the name be changed.

**Mr. Swanson** explained this was the initial naming for Metro’s and the City’s purposes, and whoever purchased the property would likely rename it.

**Mayor Bernard** said the Farmers’ Market would adapt during this process. His goal had always been to move it to the riverfront. Oregon State University (OSU) conducted a survey at last week’s market, and 75% of the respondents said they would cross McLoughlin Boulevard to get to the Farmers’ Market assuming safe pedestrian crossings. The City expressed its continued support for the Market.

**Motion passed unanimously among the members present. [3:0]**

**RESOLUTION NO. 46-2005:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE MAYOR TO SIGN THE INTERGOVERNMENTAL AGREEMENT – MAIN STREET VILLAGE II BETWEEN THE CITY AND THE METROPOLITAN SERVICE DISTRICT FOR THE JOINT MARKETING OF PROPERTY LOCATED AT 10700 SE MCLOUGHLIN BOULEVARD AND 10721 SE MAIN STREET AND CANCELLING THE DELEGATION OF AUTHORITY TO THE CITY MANAGER TO EXECUTE THE AGREEMENT AS SET OUT IN RESOLUTION 39-2005.**

**Local Public Safety Coordinating Council/McBrod Property**

**Mr. Swanson** discussed property located in the 9000 block of McBrod half of which was being used by Clackamas County Community Corrections. There was also an empty facility that had been used by the County at one time for an offender addiction program. It came to the City’s attention that the County Local Public Safety Coordinating Council (LPSCC) was going to hear a report about re-opening that facility. He did not believe it was at that stage yet. County Corrections originally closed the facility because of budget constraints, and the director did not foresee a budget that would sustain the program. LPSCC would hear a brief report from the Recovery Addiction Program (RAP) about its operating the facility. Mr. Swanson would attend the upcoming meeting and thought it would likely be the opening public salvo to reopening the facility. He was not sure the community service overlay (CSO) granted to the County could be transferred, so staff would look at those issues. He wanted to inform the Council but did not believe people needed to attend the upcoming meeting in droves. He would provide an update in the *Friday Memo*.

**Mayor Bernard** discussed his business that was grandfathered-in. He understood that if his business closed for a year or two that he would not be able to reopen the same type of business because of the zoning.

**Mr. Swanson** replied County use was a CSO granted in the 1980's. Staff was checking the conditions of approval. If there was a decision to change the operating entity, then there might be enough difference to require a new application.

**Councilor Stone** said originally the neighborhood association's understanding that this building would be used to house sex offenders. The neighborhood was outraged and did not approve of that use. She asked Mr. Swanson if that was the type of use being planned.

**Mr. Swanson** understood at this time it was just RAP saying it wanted transitional housing, and there were no detailed plans at this time.

**Councilor Stone** asked if he knew the number of people who might be housed in that facility.

**Mr. Swanson** understood the other facility had 80 beds. Mr. Gessner was reviewing the CSO application from the 1980's. He recalled there were conditions related to the types of crimes.

### **Recruitment of Elected Officials**

**Mr. Swanson** provided information on the Regional Solid Waste Advisory Committee on Solid Waste Rate Policies. He asked the Mayor and Council to e-mail him if they were interested in being involved.

### **Library Services**

**Mr. Swanson** said as part of its annual audit function the County looked at individual departments. This year it hired a library consultant who would look at service provision options. There would be four sessions on October 3 and 4 to talk with boards of trustees and elected officials. He asked that the Mayor and Council let him know if they could attend any of the four meetings.

## **C. Council Reports**

**Mayor Bernard** understood a City employee was being deployed to Iraq and asked that the City review its military service policy.

**Mr. Swanson** said an employee was called up in 2002 and certain provisions were made to make up the difference between his military pay and City pay. He noted the City got an award at the time for making this policy decision. The same provisions would be made for this particular person while he was on active duty. Because this employee might be in a war zone, there might not be a salary discrepancy. The City would cover the insurance issue.

**Mayor Bernard** wanted the family to know that Council would help in any way.

**Mayor Bernard** met with Howard Dietrich, owner of the proposed Wal-Mart site, and John Frye from SMILE. They discussed the site and the feasibility of a combined Clackamas Community College/Oregon Institute of Technology/Portland State University Campus with light rail access. Both he and Councilor Collette had been

**CITY COUNCIL REGULAR SESSION – SEPTEMBER 20, 2005**

**DRAFT MINUTES**

**Page 5 of 6**

eager to open this type of discussion. He hoped the South Corridor Group would begin meeting as soon as possible to get some action going on that site. Mr. Dietrich had given Metro and TriMet a timeline for giving him a proposal.

**Mayor Bernard** spoke with a metal sculptor regarding art for the Springwater Bridge and would follow up with Metro.

**Councilor Stone** would like an art-based group that could look at something like this. As the City developed and grew, she thought art would play a predominant role in the decorum of the City. It was important to choose pieces well, and she thought a committee would be a good idea. She suggested a subcommittee of the Design and Landmarks Committee (DLC) because it had been so innovative in its work on the downtown area.

**Councilor Collette** attended the Johnson Creek Watershed Council fundraiser where she discovered she was co-chair with a Gresham councilor. She attended the Regional Water Providers Consortium as Milwaukie's representative. She attended the Mayors' Forum where she heard some interesting statistics about who survey respondents trusted the most for information. The number one choice was neighbors and neighborhood associations. Local governments and environmental groups were fairly highly rated, and politicians were at the very bottom. 60% to 67% said their communities needed planning and that the planning process was respected. She felt both of those were affirmations of what Milwaukie was doing. She discussed the OSU Farmers' Market survey and the critique of Milwaukie's Market. She felt all the participants went home with the feeling their own markets needed a community booth like Milwaukie's. It was deemed both a success locally as well as nationally.

**Councilor Stone** discussed her work on the Hands and Words Are Not for Hurting Project. She presented it at the Ardenwald-Johnson Creek Neighborhood meeting and received unanimous support to apply for a grant. The pledge was not to use one's hand to hurt one's self or others. She hoped to first take the project to Ardenwald School in her neighborhood and then to extend it via the Neighborhood Associations to all the schools. The Council supported launching the project by reading a proclamation in October.

**Mayor Bernard** discussed parking in downtown Milwaukie. There were numerous spots in facilities that were not used. Employees preferred parking on the street and moved their cars throughout the day rather than paying a small fee and walking a block or so. He urged local businesses and commuters to use the lots rather than parking on the streets.

## **ADJOURNMENT**

**It was moved by Councilor Collette and seconded by Councilor Stone to adjourn the meeting. Motion passed unanimously among those present. [3:0]**

**Mayor Bernard** adjourned the regular session at 8:02 p.m.

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Pat DuVal, Recorder



To: Mayor and City Council

Through: Mike Swanson, City Manager  
JoAnn Herrigel, Community Services Director

From: Beth Ragel, Program Coordinator

Subject: Neighborhood District Association Bylaw Changes

Date: October 11, 2005

**Action Requested**

Approve a resolution amending the Neighborhood District Association (NDA) Standard Bylaws regarding the election of officers.

**Background**

In 1994 City Council passed resolution 5-1994 establishing a standard set of bylaws that govern the operation of the City's seven Neighborhood District Associations (NDAs). Over the past year, the NDAs have discussed a few changes to their bylaws related to the election of officers. At the request of the NDAs, Community Services staff drafted language addressing these concerns. Each NDA considered the proposed changes and voted to either approve them as drafted, or, in the case of Linwood NDA, approve a modified version of the draft language.

Following are the areas of concern and the language approved by the NDAs to address them:

Currently the bylaws do not define a required length of residency within a neighborhood district in order to be elected or appointed to a neighborhood district association office. Rather, the bylaws state that those who reside within the neighborhood district, those who work within the NDA, or those who own property or a business within the NDA may hold office within the Neighborhood association.

NDA leaders have raised the concern that NDA members who are new to Milwaukie need time to become acclimated before holding office in an NDA. In other words, the NDA leaders are proposing this change in order to ensure that only people who know the local community fill officer and committee positions. To that end, the proposed change would require that NDA members live, work, own property, and/or operate a business in the City of Milwaukie for **at least 6 months** before being eligible to hold an NDA leadership position.

Five of the Milwaukie NDAs voted to change residency requirements to their bylaws as follows. The Island Station NDA voted not to accept the new 6-month residency requirement but did accept the changes to the elections rules, and Linwood voted to accept both changes with some modifications.

**Current Language:** Article III, Section C: “Only Neighborhood District Association members as defined above (residing, owning property and/or a business within the NDA or working within the NDA) may be elected or appointed to officer or committee positions.”

**Proposed Language:** “Only Neighborhood District Association members as defined above and who live, work, own property, and/or own a business for **at least 6 months** in the City of Milwaukie may be elected or appointed to officer or committee positions.”

**Linwood alternate language:** “Only Neighborhood District Association members as defined above **and have qualified as above, for at least six months**, may be elected or appointed to officer or committee positions.”

Article V. of the NDA Bylaws calls for annual elections of NDA officers to be held in May. This means that when an officer resigns at any other time during a year, a vacancy is left until the May elections. The proposed revision to this article allows each NDA to hold a special election at any time should one of the officers need to step down.

**Current language:** Article V: “Elections of officers and non-appointed committee positions shall be held yearly during the month of May. The City and \_\_\_\_\_ Neighborhood District Association shall coordinate with each other to effectively publicize elections. Publicity activities will be planned for implementation before April 1<sup>st</sup> of each year.”

**Proposed Language:** “Elections of officers and non-appointed committee positions shall be held yearly during the month of May. The City and \_\_\_\_\_ Neighborhood District Association shall coordinate with each other to effectively publicize elections. Publicity activities will be planned for implementation before April 1<sup>st</sup> of each year. **Should an officer need to resign from his or her position at any time a special election may be held to fill that position until the next election.**”

**Linwood Alternate Language:** “Elections of officers and non-appointed committee positions shall be held yearly during the month of May. **Elections shall be conducted by majority vote of the membership present.** The City and \_\_\_\_\_ Neighborhood District Association shall coordinate with each other to effectively publicize elections. Publicity activities will be planned for implementation before April 1<sup>st</sup> of each year. **Should an officer need to resign from his or her position at any time a special election may be held to fill that position until the next regular election.**”

### **Concurrence**

Each of Milwaukie’s 7 Neighborhood District Associations has voted on the modifications proposed here.

### **Fiscal Impact**

No fiscal impacts.

### **Work Load Impacts**

No work load impacts.

### **Alternatives**

Deny approval of the resolution, leaving the NDA Bylaws as they are.

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING RESOLUTION 5-1994 AND HEREBY MODIFYING NEIGHBORHOOD DISTRICT ASSOCIATION BYLAWS TO REFLECT ELECTION RULE CHANGES FOR OFFICERS .**

**WHEREAS**, the City adopted bylaws for Neighborhood District Associations in 1994 with Resolution 5-1994; and

**WHEREAS**, Milwaukie's Neighborhood District Associations requested changes to the Bylaws regarding the election of officers and have voted to approve these bylaw changes; and

**WHEREAS**, Neighborhood District Association Bylaw changes must be approved by Milwaukie City Council;

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

SECTION 1: Bylaws for the Linwood Neighborhood District Association be amended to read:

a. Article III, Section C: “Only Linwood Neighborhood Association district members as defined above and have qualified as above, for at least six months, may be elected or appointed to officer or committee positions.”

b. Article V: "Elections of officers and non-appointed committee positions shall be held yearly during the month of May. Elections shall be conducted by majority vote of the membership present. The City and \_\_\_\_\_ Neighborhood District Association shall coordinate with each other to effectively publicize elections. Publicity activities will be planned for implementation before April 1st of each year. Should an officer need to resign from his or her position at any time a special election may be held to fill that position until the next regular election.”

SECTION 2: Bylaws for the Ardenwald-JC, Hector Campbell, Historic Milwaukie, Lake Road, and Lewelling Neighborhood District Associations be amended to read:

a. Article III, Section C: “Only Neighborhood District Association members as defined above and who live, work, own property, and/or own a business for at least six months in the City of Milwaukie may be elected or appointed to officer or committee positions.”

SECTION 3: Bylaws for the Ardenwald-JC, Hector Campbell, Historic Milwaukie, Island Station, Lake Road, and Lewelling Neighborhood District Associations be amended to read:

b. Article V: “Elections of officers and non-appointed committee positions shall be held yearly during the month of May. The City and \_\_\_\_\_ Neighborhood District Association shall coordinate with each other to effectively publicize elections. Publicity activities will be planned for implementation before April 1st of each year. Should an officer need to resign from his or

her position at any time a special election may be held to fill that position until the next election.”

Introduced and adopted by the City Council on \_\_\_\_\_.

This resolution is effective on \_\_\_\_\_.

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

ATTEST:

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

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

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

Document1 (Last revised )



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: JoAnn Herrigel, Community Services Director

Subject: Waste Collection Franchise Extension

Date: October 5, 2005

Action Requested

Approve a resolution extending the current franchises of the seven franchised garbage haulers for a two-month period, ending December 31, 2005.

Background

Staff has been meeting with the representative for the garbage haulers on a regular basis since the summer of 2003 to discuss a new franchise agreement for waste collection services. We have reached agreement on the major issues of the franchise and staff is confident that a final draft will be completed this spring. Staff has requested two extensions to the garbage franchises since beginning these negotiations: one in October 2004; and, another in March of 2005. The most recent extension will expire on October 31, 2005. Staff requests that Council approve one final extension of these franchises for two months to allow staff to conclude negotiations with the haulers and develop administrative rules to guide waste management in the City. Staff and the haulers have agreed to bring a summary of the agreement and administrative rules to Council for their review at the November 1 work session. Final code language and administrative rules would be submitted for Council approval at the November 15<sup>th</sup> meeting.

Concurrence

The City Attorney, the City Manager and the haulers support the extension of this franchise to allow negotiations to be completed.

Fiscal Impact

No fiscal impact will result from this extension. Existing franchise obligations remain in tact as a result of this action.

Work Load Impacts

No workload impact will result from this action.

Alternatives

- Approve the extension.
- Deny the extension.

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, EXTENDING THE CURRENT FRANCHISES OF THE SEVEN FRANCHISED GARBAGE HAULERS FOR A SIX MONTH PERIOD.**

**WHEREAS**, on May 3, 1994, the City Council adopted resolution No. 11-1994 that authorized the City to grant exclusive franchises to the following seven garbage haulers:

- Clackamas Garbage Co. Inc.
- Deines Brothers Sanitary Service
- Mel Deines Sanitary Service, Inc.
- Oak Grove Disposal Co.
- Pearl Deines Disposal Co.
- Waste Management of Oregon, Inc.
- Wichita Sanitary Service; and,

**WHEREAS**, these are the same companies currently providing service to Milwaukie garbage customers; and

**WHEREAS**, on October 5, 2004 the City Council extended the garbage franchises for all seven companies for a six month period to provide staff additional time to negotiate the franchises; and

**WHEREAS** on April 30, 2005 the City Council extended the garbage franchises for all seven companies for an additional six month period to provide staff additional time to negotiate the franchises; and

**WHEREAS** this six month extension expires on October 31, 2005; and

**WHEREAS**, the City and the garbage haulers will require additional time to conclude franchise negotiations, and therefore provision must be made for an extension of the agreement to govern for a reasonable period following the expiration of the franchise agreement that would allow the completion of the negotiation process and the execution of a new agreement; now, therefore;

**THE CITY OF MILWAUKIE DOES RESOLVE AS FOLLOWS:**

Section 1. The solid waste franchises awarded under Resolution No. 11-1994 are extended for an additional two months through December 31, 2005, under the terms and conditions, other than the expiration date, set forth in Resolution No. 11-1994.

Section 2. The City Manager is authorized to sign agreements for the City as needed to effectuate the extension granted in Section 1.

Section 3. The resolution is effective upon adoption.

Adopted by City Council on \_\_\_\_\_.

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

ATTEST:

Approved As To Form:  
Ramis, Crew & Corrigan LLP

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

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



**To:** Mayor Bernard and Milwaukie City Council  
**Through:** Mike Swanson, City Manager  
**From:** Larry R. Kanzler, Chief of Police  
**Date:** September 27, 2005  
**Subject:** **O.L.C.C. Application – Kimmy’s Market – 3141 S.E. Harrison Street**

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**Action Requested:**

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Kimmy’s Market – 3141 S.E. Harrison Street.

**Background:**

We have conducted a background investigation and find no reason to deny the request for liquor license.



**To: Mayor and City Council**

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

**From: John Gessner, Planning Director**

**Subject: Downtown Business and Visitor Parking**

**Date: October 7, 2005 for the October 18, 2005 Council Meeting**

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### **Action Requested**

Provide policy direction confirming prior parking policy work contained in the Town Center Plan and draft Downtown Parking and Traffic Management Plan and confirm the staff recommendation that downtown parking should be prioritized for businesses and visitors.

### **Background**

The purpose of this memo is to seek Council agreement that downtown business and visitor parking needs should be prioritized over commuter parking. At issue is the adequacy of parking supply to meet long-term parking needs of businesses, their employees and other downtown visitors. Prior planning work on this issue includes recommendations of the adopted Town Center Plan and the Draft Downtown Parking and Traffic Management Plan.<sup>1</sup> The Town Center Plan expresses the importance of providing adequate parking supply to support existing and future business.<sup>2</sup>

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<sup>1</sup> Both the Planning Commission and Council have seen the Downtown Parking and Traffic Management Plan in past work sessions, however, the plan has not yet been adopted.

<sup>2</sup> Town Center Master Plan, Ordinance #1826, p. 12 and 54.

The draft Downtown Parking and Traffic Management Plan includes the following recommendations:<sup>3</sup>

- *The purpose of, and priority for, on street parking in the CBD [downtown] is to support and enhance the vitality of the retail core.*
- *Parking will be provided to ensure convenient, economical, and user-friendly access for customers, clients, and visitors to downtown.*
- *Off-street parking in the CBD will be regulated and managed to provide a balanced mix of short-term and long-term stays, opportunities for visitors, residents, and employees of downtown Milwaukie.*

Staff believes the Town Center Plan and Downtown Parking and Traffic Management Plan support the recommended policy.

### **Problem and Analysis**

There are at least three types of downtown parking users; the City's parking strategy does not presently distinguish between these users, which include:

- Commuters, which may or may not be Milwaukie residents,
- Employees of downtown businesses, institutions, and attractions; and
- Customers and visitors of downtown businesses, institutions, and attractions.

In 1997, the City Manager created the off-street parking permit system, which until this summer provided 254 long-term, off-street parking spaces.<sup>4</sup> With pending development of the 113-space Safeway site, there are now a total of 147 off-site city permit spaces.<sup>5</sup> Other expected parking losses include the following

- 15 spaces in the City Hall lot have been converted to Library parking due to loss of parking at the Safeway site.<sup>6</sup>

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<sup>3</sup> Downtown Parking and Traffic Management Plan, Parking Management Principles, p. 42.

<sup>4</sup> The City Parking Lot Permit Program was created under Traffic Regulation 305.

<sup>5</sup> City Hall Lot, 52 spaces; Railroad Lot, 33 spaces; Oddfellows Lot, 50 spaces; Jackson Street "Chevron" lot, 41 spaces. 4 handicap spaces located in the City Hall lot are not counted in the total number of spaces. 14 spaces in the City Hall lot were changed from 8-hr. to 2-hr. parking to ensure adequate parking for library patrons.

<sup>6</sup> Use of these spaces is being monitored, some spaces may be converted to long-term use if they are found to be unneeded by the Library. Changes will not occur without prior consultation with the Library.

- 5 off-street spaces in the Jackson Street “Chevron” lot have been dedicated to ABC Kitchen due to access and parking impacts on the business from the McLoughlin Boulevard project. In addition, up to 14 on-street spaces on Washington and Monroe will be lost due to the project.

A recent survey conducted by Neighborhood Services indicates that approximately half (83) of city permit holders are commuters who park in city lots and tend to arrive earlier than most downtown employees.<sup>7</sup> This requires downtown employees that arrive later than commuters to use short-term, on-street spaces when parking is not provided by the business.

Many business respondents to the recent Planning Department’s business parking survey complained that employees must move their vehicles every two hours to avoid ticketing because of the shortage of off-street spaces. Many also recommended that commuters be relocated out of the downtown.

### **Conclusion**

The Town Center Plan and Downtown Parking and Traffic Management Plan support priority parking for downtown businesses and visitors. Prior and expected parking losses reduce the number of downtown parking spaces. Most importantly, the reduction of long-term spaces puts increased pressure on business employees to find suitable parking. The predominance of short-term, on street parking adversely affects businesses, whose employees must relocate their cars every two hours or risk ticketing. The proposed policy allows staff to develop implementation measures that support downtown Milwaukie parking needs.

### **Next Steps & Implementation**

With Council support, staff will begin work on a comprehensive downtown parking strategy that will look at regulatory, development, enforcement, and permit practices with short-and long-term measures. Staff expects to present the parking strategy to Council before major parking changes are made. However the City Manager may need to respond to ad hoc parking needs and make appropriate changes accordingly at some time before the strategy is brought to the Council.<sup>8</sup>

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<sup>7</sup> In-city alternatives to downtown commuter parking include the 341-space Southgate Theatre park & ride, which TriMet hopes to open by spring; on-street parking on Main Street in the north industrial area; and the park & ride lot at Milwaukie Presbyterian Church on Lake Road.

<sup>8</sup> The City Manager is authorized to make parking regulations under Milwaukie Municipal Code Section 10.20.030.

### **Concurrence**

The Planning Commission, City Manager, Community Development and Public Works Director, Community Services Manager, Operations Director, and Engineering Director concur with the proposed policy.

In concurring the Planning Commission, supported the policy recommendation on its face without significant discussion. Community Services is responsible for parking enforcement in the downtown and supports the policy, as it is expected to facilitate efficient and effective parking enforcement. The Operations Division leases off-street lots and maintains on-street and off-street parking signage and striping. The policy will have a neutral affect on Operations activities. The Engineering Director has expressed concurrence with the policy as member of a staff team looking at parking downtown issues; the recommended policy has no direct impact on downtown streets or rights-of-way.

### **Fiscal Impact**

There are no direct fiscal impacts associated with the recommended policy.

### **Workload Impacts**

Unknown at this time.

### **Alternatives**

The Council has the following decision-making options.

1. Confirm the recommended policy, which will result in implementation measures to achieve the policy's objective.
2. Modify the policy. The consequences of this choice will depend on the nature of the modification.
3. Reject the policy. If rejected, staff will seek further Council direction.
4. Take no action, which will also result in continuation of the present parking practices.

(~ end~)



**To:** Mayor and City Council

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

**From:** Kelly Somers, Public Works Operations Director

**Subject:** Amendment to IGA with Oak Lodge Sanitary District for Mutual Sharing of Various Resources

**Date:** October 7, 2005 for October 18, 2005 City Council Meeting

### **Action Requested**

Amend an IGA between the Oak Lodge Sanitary District (District) and the City of Milwaukie (City) for implementation of resource sharing services.

### **Background**

On July 18, 2000 Council approved an IGA with the District to implement resource-sharing services. This agreement allows either the District or the City to rent equipment from the other entity. Because there are many ways that both agencies could benefit from shared services, the attached Intergovernmental Agreement is drafted broadly. It spells out the general terms for sharing staff and equipment, but leaves the specific rate and charge-out schedules very general. Fee schedules for staff and equipment would be negotiated between the two agencies and attached to this agreement with the approval of the chief executive of each agency.

Oak Lodge Sanitary District would like to amend this agreement as appropriate to ease administration while continuing to derive full benefits. The District believes that the attached amendment #1 to their IGA agreement with the City will streamline the implementation and administration of our agreement. The proposed changes modify Paragraph 1-Equipment Sharing; Paragraph 2-Scheduled Equipment; Paragraph-3 Unscheduled Equipment; Paragraph-4 Unscheduled Equipment; Paragraph -10

Inventory Information, Paragraph-12 Costs and Invoicing (Including Interest for Delinquencies).

### **Concurrence**

The City Manager, City Attorney, and the Community Development/Public Works Director agree with the substance and language of the change. All agree with the changes in Amendment No. 1 to the original IGA as approved on July 18, 2000.

### **Fiscal Impact**

None.

### **Work Load Impacts**

None.

### **Alternatives**

1. Approve the amendment to the IGA as requested.
  - This will allow the continuation of this agreement.
2. Approve other changes to the IGA.
  - Further changes would require opening negotiations with the District.
3. Do not approve the changes proposed.
  - This would jeopardize continuation of our agreement with the District.

### **Attachments**

1. Original intergovernmental agreement dated July 27, 2000
2. Amendment to this agreement

# ATTACHMENT 1

2000-49  
#162

## INTERGOVERNMENTAL AGREEMENT

This agreement is made and entered into this 27<sup>th</sup> day of July, 2000 by and between Oak Lodge Sanitary District (hereinafter "District"), a municipal corporation of the State of Oregon, and the City of Milwaukie (hereinafter "City"), a municipal corporation of the State of Oregon.

### RECITALS:

1. Oak Lodge Sanitary District is a sanitary district, organized and existing under the laws of the State of Oregon. The City of Milwaukie is an Oregon municipal corporation, organized and existing under its municipal charter, ordinances and the laws of the State of Oregon.
2. Oregon Revised Statutes, Chapter 190, authorizes units of local government to enter into intergovernmental agreements for the performance of their duties or for the exercise of powers conferred upon them.
3. Oak Lodge Sanitary District owns, operates, and maintains a variety of equipment necessary in the performance of its functions. This equipment, while necessary to meet the public service needs of the District's residents, businesses, and industries, is not always utilized in a manner which capitalizes on the equipment investment to the extent practicably attainable.
4. City of Milwaukie owns, operates, and maintains a variety of equipment necessary in the performance of its functions. This equipment, while necessary to meet the public service needs of the City's residents, businesses, and industries, is not always utilized in a manner which capitalizes on the equipment investment to the extent practicably attainable.
5. Oak Lodge Sanitary District has a well equipped and trained workforce that performs a variety functions related to the services the District delivers.
6. The City of Milwaukie has a well equipped and trained workforce that performs a variety functions related to the services the City delivers.
7. Oak Lodge Sanitary District and the City of Milwaukie agree that the public interest may best be served by sharing equipment between jurisdictions to avoid unnecessary duplication of investment of public funds in equipment which may be underutilized. Oak Lodge Sanitary District and the City of Milwaukie also agree that the public interest may best be served by sharing a well equipped and trained workforce when situations arise that require additional personnel, specific expertise or knowledge, and/or emergency action, to avoid unnecessary duplication of staff, equipment, and/or training.
8. Oak Lodge Sanitary District and the City of Milwaukie agree that sharing resources, as described above, between jurisdictions will promote efficiency and effectiveness in local government administration and service delivery.

NOW, THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

1. **EQUIPMENT SHARING.** District and City agree to make available to each other equipment as listed in the attached Exhibit A, and any amendments or revisions thereto. District and City agree to make available to each other only equipment which is in a well maintained and fully operable condition.

2. **SCHEDULED EQUIPMENT.** District and City agree to make available to each other equipment as listed on the attached Exhibit A provided reasonable notice is given and such request does not compromise District's or City's ability to meet its own needs and obligations. Where equipment use by either party to this agreement is anticipated on a regular or recurring basis, the requesting party shall endeavor to develop a schedule which shall be agreeable to both parties and which shall, to the extent practicable, provide assurances that such equipment will be available at the time requested. The parties to this agreement understand and agree that effective utilization of work crews is paramount to efficient and effective service delivery. Therefore, if circumstances require the cancellation of scheduled equipment use, the party canceling availability shall provide reasonable notice to the other. Reasonable notice shall be defined as a minimum of 48 hours prior to the scheduled equipment availability unless an emergency exists which precludes such notice. In cases of emergency, notice shall be given at the earliest possible time.

3. **UNSCHEDULED EQUIPMENT.** District and City agree to make available to each other equipment as listed on the attached Exhibit A provided reasonable notice is given and such request does not compromise District's or City's ability to meet its own needs and obligations. Where equipment use by either party to this agreement is desired on an "as needed" basis, the requesting party shall endeavor to provide as much advance notice as is reasonably practical given the nature of the parties' work and the need for effective crew scheduling. Such notice shall not be made less than 24 hours prior to the desired time of availability and shall include the desired duration of use.

4. **BORROWER RESPONSIBILITIES.** The user (District or City) of the equipment owned and maintained by the other shall be responsible for its care and security during the time of possession. The owner (District or City) of the equipment shall endeavor to provide equipment which is well maintained and operable in all respects. The user (District or City) of said equipment, through acceptance by authorized personnel, shall acknowledge the condition and fitness for purpose, and shall use the equipment only for its intended purpose. User (District or City) shall be responsible for returning equipment to Owner (District or City) in the condition received. Fuel, oil, and other routinely consumable supplies (water, special filters, etc.) shall be the responsibility of the user of the equipment to the extent such consumables are regularly and routinely consumed in the performance of the equipment's purpose. Maintenance activities for which there are normally scheduled maintenance intervals such as routine engine oil and filter changes, chassis lubrication, etc., shall remain the responsibility of the owner except where the borrower's use exceeds those routine maintenance intervals. In such cases the user shall be responsible for these regularly scheduled maintenance activities.

5. **INSURANCE.** Each party to this agreement shall maintain at all times levels of appropriate insurance coverage, including liability coverage, to insure against any loss incurred in the use of owners equipment, at an amount that would cover any and all losses including the use of rental replacement equipment during the period of time the owners equipment is being repaired or replaced.

6. **DAMAGE.** Whenever equipment subject to this agreement is damaged, or worn to a point requiring repair, and when such damage or wear exceeds routine wear and tear, the borrower shall be obligated to repair or replace said equipment. Any repairs to an owner's equipment shall be made in a manner that returns the damaged equipment to the condition existing at the time borrower accepted the equipment. Any replacement of the Owner's equipment shall result in replacement with equipment equal to or better than the original. In all such cases Owner shall have the right to determine original equipment capability including quality and performance and shall reserve the right to test proposed replacement in accordance with the plans, specifications, performance requirements, and general equipment quality as if the owner was conducting the purchase.

7. **LABOR SHARING.** District and City agree there may be times, both of an emergency and non-emergency nature, where the sharing of labor may be in the public interest. Any sharing of labor between jurisdictions shall be governed by the terms and conditions herein.

(a) **Request For Assistance.** Each party hereto agrees that any and all requests for assistance shall be made by the Chief Executive Officer (CEO) or Chief Administrative Officer (CAO), or designee, to the other party's CEO/CAO, or designee. Where emergency conditions exist, such requests may be made verbally and followed up with a brief written explanation of the nature of the emergency. Where assistance is requested which is of a non-emergency nature, the requesting party (hereinafter Requester) shall provide a written explanation of the reason for the request, expected duration of required assistance, and equipment, materials, and specialized nature of personnel required to efficiently and effectively perform the work.

The nature of this agreement implies emergency requests for assistance shall be acted upon with the primary concern being maintenance or restoration of services essential for public safety, health, and welfare.

(b) **Response.** Each party hereto agrees to make available to the other party, as soon as is reasonably practicable following request for assistance in paragraph 7(a) above, such equipment, materials, and personnel as the responding party (hereinafter Respondent) has reasonably available, until such time as the Requester has the use of its regular workforce in sufficient quantity to provide service.

Nothing contained herein shall be construed in a manner as to permit the Requester to maintain a workforce, equipment, materials, or practice which is inadequate to regularly and routinely perform the work normally required except as may be contemplated in a separate Intergovernmental Agreement, separate

attachment hereto, or other legal arrangement for the provision of permanent services by either party to this agreement to the other.

(c) **Release of Respondent.** As soon as the services of the Respondent, its equipment, materials, or personnel are determined to be no longer required by the Requester, the Requester shall release the Respondent.

Nothing contained herein shall be construed as preventing the Respondent from recalling its equipment, materials, or personnel should conditions within the Respondent's jurisdiction warrant such a recall. In the event of a recall of Respondent's equipment, material, or personnel, Respondent shall make every reasonable attempt to provide the assisted party with notice which is calculated to be reasonably practicable under the circumstances. The parties hereto agree that under no circumstances will such a recall place either party's personnel in a position of imminent danger to safety, health, or life. Respondent agrees in such circumstances to remain until personnel are removed from danger and the worksite has been temporarily secured.

## 8. EXPENSES

### (a) **Expenses During Planned Events.**

- (i) All expenses incurred by the Respondent during planned or anticipated events, including but not limited to direct expense, indirect expense, loss, and overhead in the performance of the functions and activities within the Requester's jurisdiction and at the Requester's direction, shall be borne by the Requester.
- (ii) Where charges for services rendered are deemed appropriate by the Respondent, an itemization of such expense shall be provided by the Respondent in accordance with Respondent's normal practice of cost allocation for equipment, material, and labor.
- (iii) The parties hereto agree that the chargeable rates for labor, materials and supplies, and equipment usage, which are the party's current rates and are not included in the attachments hereto, shall be provided to the Requester by Respondent within a reasonable time at the request of the other party.
- (iv) Responsibility for payment of wages, benefits, taxes, and other employment related expense incurred by the Respondent in assisting the Requester shall not be transferred to the Requester but will remain with the Respondent. Reimbursement for such expense shall be accomplished in accordance with the terms and conditions outlined in (d)(i), (ii), and (iii) above.

(b) **Expenses During Emergency Events.**

- (i) Expenses incurred by the Respondent in assisting the Requester during emergency or disaster situations, including but not limited to direct expense, indirect expense, loss, and overhead in the performance of the functions and activities within the Requester's jurisdiction and at the Requester's direction, shall not be charged to the Requester. Such expense shall be considered in the interest of the general public welfare and in the spirit of public service.
- (ii) Responsibility for payment of wages, benefits, taxes, and other employment related expense incurred by the Respondent in assisting the Requester shall not be transferred to the Requester but will remain with the Respondent for the reasons denoted in 8.(b)(i) above.

9. **MATERIALS, SUPPLIES, AND PURCHASE AGREEMENTS.** During the life of this agreement and subject to the terms of any applicable purchase agreements, each party agrees to make available to the other such materials, supplies, and purchase agreements as may be desirable to the other. All such materials, supplies, and/or purchase agreements shall be governed by the following conditions:

- (a) Materials and supplies may be made available upon request, at reasonable cost, subject to the provider's own needs and minimum stock requirements. Where the parties to this agreement find there to be an advantage to quantity purchases to meet both of their needs on a regular or recurring basis, the parties shall develop a separate attachment to this agreement defining the expected quantity and frequency of need, allocating responsibility for bidding, purchasing, or otherwise procuring at competitive cost, and assigning responsibility for purchase, storage, inventory control, and invoicing.
- (b) The parties hereto may enter into separate or joint procurement contracts for the acquisition of equipment, materials, or services. Each contract of one of the parties shall be made available to the other subject to any legal restrictions or contractual terms and conditions. The parties hereto may elect to jointly develop annual procurement contracts for goods or services of an infrequent or non-recurring basis. Such joint procurement contracts shall be so identified and shall be attached to this agreement defining the expected quantity, allocating responsibility for bidding, purchasing, or otherwise procuring at competitive cost, and assigning responsibility for purchase, delivery, storage, and invoicing.

**10. INVENTORY INFORMATION.** Each party hereto agrees to develop and provide to the other an inventory of equipment, materials, and supplies which may be made available to the other in the context of this agreement. Said inventory information may include available spare parts and specialized tools used in the maintenance and repair of equipment contemplated for use under this agreement. The parties hereto agree to develop inventory information within six (6) months of the date of execution of this agreement and to incorporate said inventories as appropriately designated exhibits to this agreement.

**11. FACILITY INFORMATION.** Each party hereto agrees to provide to the other upon request maps, manuals, operational procedures, and other materials as may be appropriate to enable efficient and effective rendering of service or assistance.

**12. COSTS AND INVOICING (including interest for delinquencies).** Each party to this agreement agrees to charge the rates or costs as specified in the attachments as may be amended from time to time to reflect actual market value or the true cost of ownership including all regular maintenance activities, true cost of labor, or true cost of acquisition. Charges may include the total cost of provision or procurement including, but not limited to, labor and overhead, shipping, delivery, storage, and inventory control, and accounting and invoicing. Charges shall be invoiced monthly by the entity providing goods or services for all activities occurring during the previous month. Payment of all invoices shall occur within thirty (30) days of receipt and shall be addressed as specified on the invoice. Invoices not paid within thirty (30) days shall be subject to interest, which shall accrue at the rate of one percent (1%) per month on the unpaid balance.

**13. NOTICE.** Any notice under this agreement, except in emergency, shall be in writing and shall be effective when actually delivered or when deposited in the mail, registered or certified, addressed to the parties at such addresses as either party may designate by written notice to each other. Emergency notice may be by telephone or in person and shall be confirmed in writing and delivered in the same manner as herein above within five (5) days. Notice shall be given to the following:

General Manager  
Oak Lodge Sanitary District  
14611 SE River Road  
Milwaukie, Oregon 97267

City Manager  
City of Milwaukie  
10722 SE Main Street  
Milwaukie, Oregon 97022

**14. RENEWAL.** This agreement and the terms thereof shall be subject to review, renewal, or renegotiation by both parties at the expiration of one (1) year from the date of signing hereof, or at any other time deemed appropriate by both parties. This agreement may be automatically renewed for a successive one (1) year term, unless either of the parties requests review or renegotiation of its terms no later than ninety (90) days prior to

the end of the current term. Subsequent renewals of this agreement shall be accomplished by a letter, in writing, to that effect, stating the terms of the renewal and any changes in said agreement, and signed by the CEO of both parties.

**15. TERMINATION.** This agreement is conditioned upon the faithful performance by both parties of all the terms and provisions hereof which on its part are to be kept and performed. Either party may terminate this agreement on account of breach of its terms by the other party, upon thirty (30) days written notice.

**16. AUDIT.** Each party agrees that the other may at any reasonable time upon reasonable notice inspect the books and records of the other with respect to matters within the purview of this agreement for the purpose of determining the accuracy of any expense accounting submitted.

**17. INDEMNIFICATION AND LIABILITY INSURANCE.** Each party agrees to hold the other harmless from any liability arising out of any accident or injury to any goods or persons whatsoever arising out of any act or omission of the other occurring in connection with the carrying out of the agreements and activities contained herein. Each party agrees to obtain such insurance as is necessary to cover the liabilities herein agreed to be indemnified for the risks and limits set forth in Chapter 30, Oregon Revised Statutes, and as they may be amended from time to time during the term of this agreement.

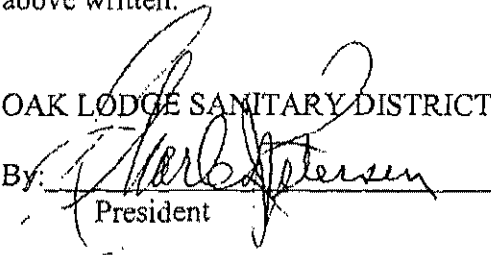
**18. AMENDMENTS.** The terms of this agreement may be amended by mutual agreement of the parties. Any amendments shall be in writing and shall refer specifically to this agreement, and shall be valid only when executed by the CEO of both parties to this agreement and attached hereto.

**19. PREVAILING PARTY.** In any action brought by either party to enforce the terms of this agreement, the prevailing party shall be entitled to recover all costs including reasonable attorney's fees as may be determined by the court having jurisdiction, including any appeal therefrom.

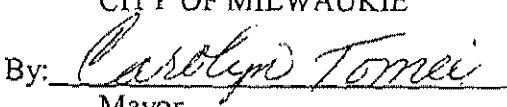
**20. SEVERABILITY.** The invalidity of any section, clause, sentence or provision of this agreement shall not affect the validity of any other part of this agreement which can be given effect without such invalid part or parts.

IN WITNESS WHEREOF, the parties have set their hands as of the date and year herein above written.

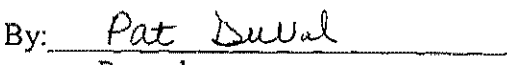
OAK LODGE SANITARY DISTRICT

By:   
President

CITY OF MILWAUKIE

By:   
Mayor

By:   
Secretary

By:   
Recorder

Attachment A  
 To  
 Intergovernmental Agreement  
 Between  
 Oak Lodge Sanitary District  
 And  
 City of Milwaukie

<u>Equipment</u>	<u>Rate/Hr.</u>
Tankers (3500 gallon)	\$25.00 <sup>1</sup>
Dump Truck (5 Yard)	\$15.00 <sup>1</sup>
Backhoe (JCB 1400B w/trailer)	\$25.00 <sup>1,2</sup>
Hydrocleaner	\$18.00 <sup>1,3</sup>
Vac-Con (Hydrocleaner/Vacuum Truck)	\$65.00 <sup>1,4</sup>
Sewer Line TV/Grouting Equipment	\$45.00
Small Diameter TV Camera (lateral)	\$20.00
Pavement Cutter	\$12.00 <sup>1</sup> plus \$3.00/.001" wear
Shoring Trailer, Shores, and Trench Shield	\$15.00

- <sup>1</sup> Consumables, such as fuel and oil, which are regularly consumed in the usage of this equipment shall be replaced. Where such consumables are not replaced, they shall be billed at cost.
- <sup>2</sup> Hours of usage will be billed based upon Operating Hour Meter.
- <sup>3</sup> Hours of usage will be based on Hose Reel Hour Meter.
- <sup>4</sup> Hours of usage will be based on the combined readings of the Auxiliary and Fan Hour Meters.

**Attachment B  
To  
Intergovernmental Agreement  
Between  
Oak Lodge Sanitary District  
And  
City of Milwaukie**

Class of Worker	Hourly Rate
Line Maintenance Technician <sup>1</sup>	\$50.04
Wastewater Treatment Plant Operator <sup>2</sup>	\$52.36
Backhoe Operator	\$54.13
Laboratory Technician	\$54.54
Maintenance Mechanic	\$48.97
Buildings/Grounds Maintenance	\$46.14
Clerical	\$43.18
Senior Civil Engineer <sup>3</sup>	\$73.25
Inspector <sup>4</sup>	\$52.75
Truck Driver <sup>5</sup>	\$51.98
Public Relations/Public Information <sup>6</sup>	\$54.71

<sup>1</sup>Skilled in all facets of operation and maintenance of Sanitary Sewer and Surface Water Management systems. Certified by DEQ in Waste Water Collection System operation and maintenance up through Class IV.

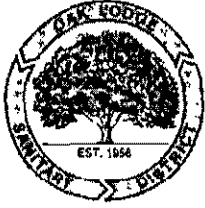
<sup>2</sup>Certified by DEQ in Waste Water Treatment Plant Operation up through Class IV.

<sup>3</sup>Registered Professional Engineer in Oregon and Idaho.

<sup>4</sup>Includes Erosion Control Inspection, Surface Water Management Facility Inspection, Building Sewer Inspection (Certified), Backflow Prevention Device Inspection and Testing (Certified).

<sup>5</sup>Licensed to operate Trucks of all sizes up through Class 8 (Class A CDL).

<sup>6</sup>Skilled in the development and production of Newsletters, Brochures, Displays, and other Public Information/Education mediums. Skilled in elementary classroom education through presentation of River Rangers<sup>®</sup> program.



# OAK LODGE SANITARY DISTRICT

*Protecting our valuable water resources*

August 2, 2000

Records and Information Management Department  
Attn: Barb Kwapich  
10722 SE Main Street  
Milwaukie, OR 97222

Dear Ms. Kwapich:

Enclosed please find a fully executed copy of the IGA between the City of Milwaukie and Oak Lodge Sanitary District. We look forward to sharing resources with the City of Milwaukie that will promote efficiency and effectiveness in our service delivery and added value for the public.

If you have any questions about the document, feel free to call me at 503-653-1653.

Sincerely,

OAK LODGE SANITARY DISTRICT

R. Kent Squires,  
General Manager

RKS/kdr

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# ATTACHMENT 2

**Amendment No. 1  
To  
Intergovernmental Agreement Dated July 27, 2000  
By and Between  
Oak Lodge Sanitary District  
And The  
City of Milwaukie**

The intergovernmental agreement entered into on the 27 day of July, 2000 by and between Oak Lodge Sanitary District (hereinafter "District"), a municipal corporation of the State of Oregon, and the City of Milwaukie (hereinafter "City"), a municipal corporation of the State of Oregon is hereby amended as follows:

Title: The Title of the Agreement shall be amended to read as follows:

**"INTERGOVERNMENTAL AGREEMENT  
BY AND BETWEEN  
OAK LODGE SANITARY DISTRICT  
AND THE  
CITY OF MILWAUKIE  
FOR  
RESOURCE SHARING SERVICES"**

1. **EQUIPMENT SHARING** is hereby amended as follows:

Delete the following language: "District and City agree to make available to each other equipment. District and City agree to make available to each other only equipment which is in a well maintained and fully operable condition."

Add the following language in lieu thereof: "District and City agree to make available to each other equipment owned and available consistent with the needs of the Owner. District and City agree to make available to each other only equipment which is in a well maintained and fully operable condition."

2. **SCHEDULED EQUIPMENT** is hereby amended as follows:

Delete the following language: "District and City agree to make available to each other equipment as listed on the attached Exhibit A provided reasonable notice is given and such request does not compromise District's or City's ability to meet its own needs and obligations. Where equipment use by either party to this agreement is anticipated on a regular or recurring basis, the requesting party shall endeavor to develop a schedule which shall be agreeable to both parties and which shall, to the extent practicable, provide assurances that such equipment will be available at the time requested. The parties to this agreement understand and agree that effective utilization of work crews is paramount to efficient and effective service delivery. Therefore, if circumstances require the cancellation of scheduled equipment use, the party canceling availability shall provide reasonable notice to the other. Reasonable notice shall be defined as a minimum of 48 hours prior to the scheduled equipment availability unless an emergency exists which

precludes such notice. In cases of emergency, notice shall be given at the earliest possible time.”

Add the following language in lieu thereof: “District and City agree to make available to each other equipment owned provided reasonable notice is given and such request does not compromise District’s or City’s ability to meet its own needs and obligations. Where equipment use by either party to this agreement is anticipated on a regular or recurring basis, the requesting party shall endeavor to develop a schedule which shall be agreeable to both parties and which shall, to the extent practicable, provide assurances that such equipment will be available at the time requested. The parties to this agreement understand and agree that effective utilization of work crews is paramount to efficient and effective service delivery. Therefore, if circumstances require the cancellation of scheduled equipment use, the party canceling availability shall provide reasonable notice to the other. Reasonable notice shall be defined as a minimum of 48 hours prior to the scheduled equipment availability unless an emergency exists which precludes such notice. In cases of emergency, notice shall be given at the earliest possible time.”

3. **UNSCHEDULED EQUIPMENT** is hereby amended as follows:

Delete the following language: “District and City agree to make available to each other equipment as listed on the attached Exhibit A provided reasonable notice is given and such request does not compromise District’s or City’s ability to meet its own needs and obligations. Where equipment use by either party to this agreement is desired on an “as needed” basis, the requesting party shall endeavor to provide as much advance notice as is reasonably practical given the nature of the parties’ work and the need for effective crew scheduling. Such notice shall not be made less than 24 hours prior to the desired time of availability and shall include the desired duration of use.”

Add the following language in lieu thereof: “District and City agree to make available to each other equipment owned provided reasonable notice is given and such request does not compromise District’s or City’s ability to meet its own needs and obligations. Where equipment use by either party to this agreement is desired on an “as needed” basis, the requesting party shall endeavor to provide as much advance notice as is reasonably practical given the nature of the parties’ work and the need for effective crew scheduling. Such notice shall not be made less than 24 hours prior to the desired time of availability and shall include the desired duration of use.”

4. **UNSCHEDULED EQUIPMENT BORROWER RESPONSIBILITIES** is amended as follows:

Delete the following language: “The User (District or City) of the equipment owned and maintained by the other shall be responsible for its care and security during the time of possession. The Owner (District or City) of the equipment shall endeavor to provide equipment which is well maintained and operable in all respects. The User (District or City) of said equipment, through acceptance by authorized personnel, shall acknowledge the condition and fitness for purpose,

and shall use the equipment only for its intended purpose. User (District or City) shall be responsible for returning equipment to Owner (District or City) in the condition received. Fuel, oil, and other routinely consumable supplies (water, special filters, etc.) shall be the responsibility of the user of the equipment to the extent such consumables are regularly and routinely consumed in the performance of the equipment's purpose. Maintenance activities for which there are normally scheduled maintenance intervals such as routine engine oil and filter changes, chassis lubrication, etc., shall remain the responsibility of the owner except where the borrower's use exceeds those routine maintenance intervals. In such cases the user shall be responsible for these regularly scheduled maintenance activities."

Add the following language in lieu thereof: "The User (District or City) of the equipment owned and maintained by the other shall be responsible for its care and security during the time of possession. The Owner (District or City) of the equipment shall endeavor to provide equipment which is well maintained and operable in all respects. The User (District or City) of said equipment, through acceptance by authorized personnel, shall acknowledge the condition and fitness for purpose, and shall use the equipment only for its intended purpose. User (District or City) shall be responsible for returning equipment to Owner (District or City) in the condition received. Fuel, oil, and other routinely consumable supplies (water, special filters, etc.) shall be the responsibility of the user of the equipment to the extent such consumables are regularly and routinely consumed in the performance of the equipment's purpose. Maintenance activities for which there are normally scheduled maintenance intervals such as routine engine oil and filter changes, chassis lubrication, etc., shall remain the responsibility of the owner except where the borrower's use exceeds those routine maintenance intervals. In such cases the user shall be responsible for these regularly scheduled maintenance activities."

10. **INVENTORY INFORMATION** is amended as follows:

Delete the following language: "Each party hereto agrees to develop and provide to the other an inventory of equipment, materials, and supplies which may be made available to the other in the context of this agreement. Said inventory information may include available spare parts and specialized tools used in the maintenance and repair of equipment contemplated for use under this agreement. The parties hereto agree to develop inventory information within six (6) months of the date of execution of this agreement and to incorporate said inventories as appropriately designated exhibits to this agreement."

Add the following language in lieu thereof: "**Upon request**, each party hereto agrees to provide to the other an inventory of equipment, materials, and supplies, which may be made available to the other in the context of this agreement. Said inventory information may include available spare parts and specialized tools used in the maintenance and repair of equipment contemplated for use under this agreement."

12. **COSTS AND INVOICING (including interest for delinquencies)** is amended as follows:

Delete the following language: "Each party to this agreement agrees to charge the rates or costs as specified in the attachments as may be amended from time to time to reflect actual market value or the true cost of ownership including all regular maintenance activities, true cost of labor, or true cost of acquisition. Charges may include the total cost of provision or procurement including, but not limited to, labor and overhead, shipping, delivery, storage, and inventory control, and accounting and invoicing. Charges shall be invoiced monthly by the entity providing goods or services for all activities occurring during the previous month. Payment of all invoices shall occur within thirty (30) days of receipt and shall be addressed as specified on the invoice. Invoices not paid within thirty (30) days shall be subject to interest, which shall accrue at the rate of one percent (1%) per month on the unpaid balance."

Add the following language in lieu thereof: "Each party to this agreement agrees to charge the rates or costs to reflect actual market value or the true cost of ownership including all regular maintenance activities, true cost of labor, or true cost of acquisition. Charges may include the total cost of provision or procurement including, but not limited to, labor and overhead, shipping, delivery, storage, and inventory control, and accounting and invoicing. Charges shall be invoiced monthly by the entity providing goods or services for all activities occurring during the previous month. Payment of all invoices shall occur within thirty (30) days of receipt and shall be addressed as specified on the invoice. Invoices not paid within thirty (30) days shall be subject to interest, which shall accrue at the rate of one percent (1%) per month on the unpaid balance."

All other terms and conditions of the Intergovernmental Agreement are hereby ratified and shall remain in effect.

This amendment shall become effective as of last date signed as shown below.

OAK LODGE SANITARY DISTRICT

CITY OF MILWAUKIE

\_\_\_\_\_  
R. Kent Squires  
General Manager

\_\_\_\_\_  
Michael F. Swanson  
City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**TO: Mayor and City Council**  
**FROM: Mike Swanson, City Manager**  
**DATE: October 12, 2005 for October 18, 2005 Agenda**  
**SUBJECT: Proposed Resolution to Transfer Funds**

### **ACTION REQUESTED**

The action requested is approval of the proposed Resolution of the City Council of the City of Milwaukie, Oregon approving a transfer of funds.

### **BACKGROUND**

The North Main Project, originally scheduled to begin construction in late August 2005, has been delayed due to construction costs that have been projected to exceed the funds available to the developer. Those funds include State bond money for the affordable housing component, Metro funds for transit oriented development, private bank loans for the market component, and funds from the developer and other private investors. The City's contribution has been both in making extensive off-site improvements funded through the State of Oregon Special Public Works Loan Fund as well as the property, which the developer will acquire by assuming the City's existing loan.

The unforeseen increase in costs above those which were anticipated is at least in part due to materials cost increases that were unanticipated. The North Main Project is not alone in facing this reality, which has been brought on by foreign demands for materials such as concrete, steel, and wood as well as precipitous increases arising from storm related damage to US port cities. Thus, the developer has had to adjust the costs of the project as well as raise additional funds in order to complete it.

Sources of additional funding necessary to complete the project are: an increase in outstanding bank loans, an additional \$100,000 in Metro funds, and \$40,000 from the City. The additional City funds are recommended to come from the General Fund Contingency. The proposed resolution will transfer funds from the General Fund Contingency and Reserve category to the General Fund Materials and Services category. Once approved, the funds will be used to offset the first \$40,000 in building permit fees by transfers to Building Inspections as the fee is incurred. Once the \$40,000 has been expended, the remaining fees will be paid by the developer.

ORS 294.450(1) permits “transfers of appropriations . . . within a given fund when authorized by official resolution or ordinance of the governing body.” ORS 204.450(2) requires that transfers from a “general operating contingency . . . which in aggregate during a fiscal year or budget period exceed 15 percent of the total appropriations of the fund” be made only by adoption of a supplemental budget rather than by resolution. The proposed transfer is four percent of the total operating contingency and may be made by resolution.

The North Main Project is essential to the redevelopment of the downtown. We anticipate that its success will lead to further development from private sources. It is the City’s first project of this size, and it will provide ninety seven additional housing units and the resulting economic activity. The first project is always the one that carries the biggest need for public subsidy because it carries the bigger risk that comes from an untested market. The City has shouldered the responsibility for much of the off site improvement work, and it has been active in moving the project forward by working with the developer and other units of government. The additional public subsidy has come from the State of Oregon Department of Housing and Community Services and Metro.

It is anticipated that the financing and real estate transactions will close during the week of October 24, 2005. Construction will begin immediately upon closing.

### **FISCAL IMPACTS**

This one-time transfer of \$40,000 will reduce the budgeted General Fund Contingency from \$911,666 to \$871,666. Assuming a value of \$15 million, the annual City property tax income will be approximately \$47,000.

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

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE,  
OREGON, APPROVING A TRANSFER OF FUNDS.**

**WHEREAS**, the Metropolitan Service District (Metro) has designated an additional \$100,000 in funds for the North Main Project (Project); and

**WHEREAS**, the successful completion of the Project will require an additional \$40,000 in local funding; and

**WHEREAS**, Oregon Local Budget Law allows a governing body to transfer appropriation authority by passing a resolution or ordinance [ORS 294.450(1) and ORS 294.450(3)].

**NOW, THEREFORE, BE IT RESOLVED** BY THE city Council of the City of Milwaukie:

**SECTION 1:** A transfer of appropriation in the General Fund of \$40,000 from Contingency and Reserve to Materials and Services for the North Main project is hereby approved.

**SECTION 2:** this resolution is effective upon its adoption.

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

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

ATTEST:

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

\_\_\_\_\_  
Pat Duval, City Recorder

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