

MINUTES

**MILWAUKIE CITY COUNCIL
JULY 20, 2004**

CALL TO ORDER

Mayor Bernard called the 1938th meeting of the Milwaukie City Council to order at 6:30 p.m. in the City Hall Council Chambers. The following Councilors were present:

Councilor Deborah Barnes

Councilor Susan Stone

Staff present:

Mike Swanson,
City Manager
Gary Firestone,
City Attorney
Alice Rouyer,
Community Development and
Public Works Director
JoAnn Herrigel,
Community Services Director

John Gessner,
Planning Director
Paul Shirey,
Engineering Director
Brenda Schleining,
Civil Engineer

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mayor Bernard announced Riverfest Events on July 23 – 25 and encouraged everyone to attend. **Councilor Barnes** said Councilor Loomis, volunteer coordinator, is still looking for help during the event.

CONSENT AGENDA

Councilor Barnes requested that consent agenda item C be pulled for discussion.

It was moved by **Councilor Stone** and seconded by **Councilor Barnes** to approve Consent Agenda items A & B.

- A. City Council Minutes of June 21 and July 6, 2004; and
- B. Personal Services Agreement for Insurance Agent of Record.

Motion passed unanimously among the members present.

Item III.C – Transfer of Portland General Broadband (PGB) Franchise to OnFiber Communication, Inc.

Councilor Barnes said the wording was, "OnFiber will provide the City with a surety bond, a letter of credit of funds deposited in an escrow account of at least \$20,000." Could that dollar amount be more specific?

Herrigel said the City asked for \$20,000, and OnFiber provided a letter of credit as of today for \$20,000.

It was moved by Councilor Stone and seconded by Councilor Barnes to adopt the resolution consenting to the transfer of the PGB franchise to OnFiber, with conditions. Motion passed unanimously among the members present.

RESOLUTION NO. 20-2004:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CONSENTING WITH CONDITIONS TO THE TRANSFER OF THE PORTLAND GENERAL BROADBAND FRANCHISE TO ONFIBER.

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

Annexation of Properties on Hill Street, File AN-04-01 – Ordinance

Mayor Bernard called the hearing to order at 6:40 p.m. To allow time to resolve an issue that has recently arisen regarding this application, the hearing was continued to until the City Council meeting on August 3, 2004 at 6:30 p.m.

Annexation of Property at Harmony Road and International Way, File AN-04-02 – Ordinance

Mayor Bernard opened the hearing on application number AN-04-02 at 6:45 p.m. This hearing was continued from the July 6, 2004 Council meeting at the request of the applicant and concurrence of City staff. The application is for annexation of property located on Harmony Road owned by Panattoni Development. The applicant is Michael Wells doing business as Panattoni Development.

The Planning Commission considered the request at its June 9, 2004 public hearing and recommended approval of the annexation proposal. This was a *de novo* hearing. All persons wishing to speak on the proposal were recognized.

The purpose of this hearing was to consider the Milwaukie Planning Commission's recommendation to approve the request for an annexation and related Comprehensive Plan and Zoning Ordinance amendments for a 6.58-acre industrial site located just east of the City limits at the northeast corner of International Way and Harmony Road.

Mayor Bernard reviewed the order of business and conduct of the hearing.

Conflicts of Interest and Site Visits: **Mayor Bernard** visited the site. **Councilor Barnes** has driven by the site. **Councilor Stone** walked the site. There were no exparte contacts or conflicts of interest announced. No member of the audience challenged any council members' impartiality or ability to participate in the decision.

Jurisdictional Issues: There were no objections to the Council's jurisdiction to consider the matter.

Correspondence: There was no additional correspondence other than what was included in the packet.

Staff Presentation: **Planning Director John Gessner** and **Annexation Consultant Ken Martin** provided the staff report that included a brief presentation on the Planning Commission's recommendation and the formal annexation criteria. The Planning Commission recommended that the City Council approve this annexation of a 6.5-acre parcel located at the intersection of Harmony Road and International Way. The land immediately to the west is already zoned industrial. The County zoning and land use designation is comparable to the City's. The developer requesting the annexation wishes to develop the property but cannot do so except through annexation so that City services can be provided. This is consistent with the Comprehensive Plan Policies and the Urban Growth Management Agreement (UGMA) between the City and Clackamas County. It is in a somewhat difficult location because of access, and staff understands there are concerns about how development might affect portions of Harmony Road especially the section at Railroad Avenue. We know there are significant backups at this leg. The purpose of the annexation is not necessarily to resolve specific site development issues but to allow the property to come into the City to receive services. The development-related impacts will be addressed at the time of the land use review. This application will have to go to the Planning Commission for transportation plan and water quality resource area reviews. The applicant has already contracted with a traffic engineering firm to look at what sorts of impacts might occur from the proposed development and what mitigation might be done to improve that condition. It is fair to note this is a big problem to fix. The County has an overpass improvement on its books, but Gessner did not believe it was funded. There is neighborhood concern regarding a linked project, which was the five-laning of Harmony Road. When an application comes in for development, staff will have to nail down the specific impacts. What is the ability of the street system to accommodate those impacts, and what sort of mitigation might be required at the time of development? What is the future of the County plans for Harmony Road and the Linwood/Railroad/Harmony intersection? The property does have a water quality resource area. There is a spring system from

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Minthorn that drains through the back of the property. The request for annexation includes both the business-industrial (BI) designation and putting the water quality resource overlay on the property. Because of the location of the creek, there is a required 100-foot buffer that will ensure the environmental quality will be maintained. Staff believes the application complies with the fundamental polices, economic development, resource protection, and industrial development in the Comprehensive Plan. It physically complies with the criteria for amending the Comprehensive Plan, zoning map and Section 1500, the City's annexation criteria.

Ken Martin, annexation consultant, spoke about the process. The criteria are in State Statute, Metro Code, and the Milwaukie Municipal Code. State statute lays out a local level process. The Metro Code lays out process for providing notice, which has been done as noted in this staff report. The municipal code has some basic criteria: the property must be contiguous to the City, within the urban growth boundary, and meets the Metro Code. The only real substantive criteria in the Metro Code are consistency with the Regional Plan, which does not address annexation to cities, so one may assume consistency with the Regional Plan. That is reflected in the staff report. We find that this proposal does meet those criteria. As part of the resolution approving an annexation, the City Council has the ability to withdraw this territory from any special district that it now sits in. That is an important thing to do because otherwise the property will end up paying taxes to the City for certain services as well as paying a special district that provides those same services. Staff recommended the City Council withdraw this property from the enhanced sheriff's patrol district, street lighting district, fire district, and in this case from the water district. All of those services are available from the City of Milwaukie and should be provided by the City under its general tax. There is an analysis in the report that explains how each of those services are available, where the water and sewer lines are, and so on. This seems to meet all the criteria, and staff recommends approval.

Councilor Barnes had concerns about traffic issues. Anyone who has driven out of International Way, down Lake Road to Railroad Avenue and up Harmony Road and Linwood Avenue between 3:00 p.m. and 6:00 p.m. on any afternoon knows it is bumper to bumper. You sit there for 10 – 15 minutes. How will we avoid adding to the traffic by making this property available for business?

Gessner said that would be done by controlling the way vehicles exit the property, and the applicant can speak more to that. He understood that there is an agreement that there will be a right turn in only to the site, so there will be traffic exiting from that point. At the driveway, it would be right-in/right-out only. Traffic leaving the site would not enter Harmony Road. Traffic coming to the site from the north and east will likely go through that intersection. The actual volume impacts created by the development will depend on the types of uses proposed and the square footage. Those issues will be identified and resolved by the Planning Commission at the time of development review. We have standards for acceptable levels of performance on intersections, and those levels are probably already being exceeded in a number of cases. The developer has been working with Kittelson, Clackamas County, ODOT, and the City on these issues.

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They have not been resolved yet, but before development occurs they will need to be resolved.

Councilor Barnes understood Clackamas County owned part of the area along Harmony Road, and the City could not do anything with it.

Gessner said the County has jurisdiction over the street. The City would work with the County to ensure that whatever improvements were needed were taken care of.

Firestone added the City could require that the County standards be satisfied or that transportation improvements to County facilities be provided at the time there is a development application.

Gessner said the City has been working closely with the County, and its staff has attended City meetings. He felt confident either through legal means or cooperation with the County that as much will be done as possible to reduce those impacts.

Councilor Barnes wants to ensure the Linwood Neighborhood District chair is kept in the loop, as it is one of her bigger issues too.

Gessner said the City provides notice to Neighborhood Districts of all applications that come in, and the Linwood chair will be kept informed.

Correspondence: None.

Applicant Testimony: **Mike Wells**, 6650 SW Redwood Lane #370, Tigard, Oregon 97223. He is a partner with Pannatoni Development, and they are the applicants purchasing the property from the Greer family. One representative of the family was in attendance at this meeting. He addressed the traffic concerns. In terms of process, Kittelson did two initial evaluations. They are now doing a full-scale traffic impact study that addresses concerns raised by the City, County, and State. It needs to address the ramp terminals for Hwy. 224 both north and south, the queues, how many cars will be added, and safety issues particularly for the northbound off ramp. The County is clearly concerned about Harmony and especially the Railroad Avenue intersection. From the City's standpoint, it is not only concerned with Harmony, but also the International Way intersection and traffic exiting the site. One of the things that is being explored is potentially to make this a right-out only to Harmony in part because this is a narrow strip of land that could be designed to allow traffic to enter in a more streamlined fashion. There would not be any backup of vehicles making a right turn into the site. They are also looking carefully at the intersection and turn. Right now the turn is fairly sweeping, and cars go around it quickly. It is a blind corner because of vegetation. The initial thoughts of the traffic engineer were to change the geometry to a sharper turn to slow traffic and increasing safety. Also, they are looking at the corner design for improved visibility. Kittelson is considering traffic on International Way and how it exits and enters. The draft report is due this week, and he hopes to be reviewing it with staff on

Thursday. Then it will be finalized and go on to the Planning Commission for further scrutiny.

The applicant has extended an invitation to the neighborhood association for a meeting and is in dialogue with the Linwood NDA co-chairs. He anticipates getting together with them as soon as possible to share the site plan and the traffic impact study. The applicant intends to build light industrial buildings suitable for manufacturing and warehousing. Generally, there will be office space in the front. The ratio would be 10-20% office with the balance industrial. More than likely, the occupants will be buyers because it is difficult to find small buildings to purchase. Parties may also lease with an option to buy. There has been very good interest from the market place. A number of businesses now located in Milwaukie wish to expand, and others are interested in coming into the area.

Councilor Barnes knows there are quite a few sites available for light industrial in Milwaukie. Before we put up another building, she asked Wells if he saw a real need to add more space without making sure we have people coming in to fill that space. Why would they choose this space over something on International Way or the North Industrial area?

Wells said that question was similar to the one his construction lender asked. Councilor Barnes was correct in saying there is a lot of space available for lease. Much of it is in larger blocks of space. There is a market niche for smaller buildings that are available for purchase. Many small or medium-sized businesses are having a difficult time finding those buildings to buy. While one can see an excess of about 15% on larger spaces for lease, smaller buildings for sale are very difficult to find particularly newer ones. Ninety percent of his prospects wish to buy. Part of it is to take advantage of the current low interest rates. Portland tends to be a community where business people stay. Many of the businesses are second or third generation. Once they reach a mature stage in their business, it is natural for them to want to own, and their accountants remind them of that each spring. The demand is there for buyers. He has met with Jeff King and paired him up with some prospects.

Testimony in Support: None.

Testimony in Opposition: None.

Neutral Testimony: None.

Applicant Rebuttal: None

Questions from City Council to Staff: None.

Close Public Hearing: **It was moved by Councilor Barnes and seconded by Councilor Stone to close the public hearing. Motion passed unanimously among**

the member present. Mayor Bernard closed the public testimony portion of the hearing at 7:02 p.m.

Council Discussion and Decision: Mayor Bernard was pleased to see more industrial development in the community. The City has been looking for additional tax dollars to offset some budget constraints. He commented on Harmony Road. About a year and a half ago, the City asked the County to reconsider that five-lane road it wanted to construct on Harmony. He believed the County had set that idea aside but was not sure about the overpass. The City will find out in the traffic study how to deal with that.

Councilor Barnes wanted to make sure that was in writing. It has been a sore spot since she moved here, and it has only gotten worse. It has to be fixed. We need to come up with something outside the box.

It was moved by Councilor Stone and seconded by Councilor Barnes for the first and second readings by title only and adoption of an ordinance approving annexation application AN 04-02 and related Comprehensive Plan and Zoning Ordinance amendments and adopt the recommended findings. Motion passed unanimously among the members present.

The city manager read the ordinance twice by title only.

The City Council was polled: Mayor Bernard and Councilors Stone and Barnes aye; no nays; no abstentions.

ORDINANCE NO. 1932:

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A CERTAIN TRACT OF LAND INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM TERRITORY OF CLACKAMAS COUNTY R.F.P.D. # 1, CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT, CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS, AND CLACKAMAS RIVER WATER AND ASSIGNING COMPREHENSIVE PLAN AND ZONING DESIGNATIONS FOR THE ANNEXED PROPERTY.

Mayor Bernard provided LUBA appeal information for parties with standing.

Proposed Resolution Calling for an Election to Authorize Annexation to Clackamas County Fire District No. 1

Mayor Bernard called the public hearing on the proposed resolution to order at 7:08 p.m.

The purpose of the hearing was to consider public comment on a resolution calling for an election on September 21, 2004 authorizing annexation to the Clackamas County Fire District No. 1.

Staff Report: **Swanson** said the matter before the City Council is a proposed resolution that will set an election date of September 21, 2004, and adopts the ballot title and summary. This matter has been on Council agendas at various times over the past few months. Tonight's action is the third step on the process. The first occurred several months ago when the City Council made a request per statute to the Clackamas County Fire District Board to annex to the district. The Board made the determination it would support the annexation. According to state statute, the Board set an election date that was September 21, 2004. It is now before the City Council to formally set the election date on the question the City residents will vote on which is whether or not to annex to Fire District #1. It will be a mail ballot. Ballots will go out between September 3 and 7, 2004. The date of the election is September 21, 2004.

Swanson reviewed the background. In 1998, the Fire District and the City conducted negotiations that led to an agreement whereby the Fire District took over provision of emergency medical services and fire suppression within the City. At that time, the City transferred its existing fire fighting staff to the District. Many of those people are still there. If he remembered correctly, seven or more have been promoted to officer status during the time they have been employed by the District. The City and County Rural Fire Protection District have since 1998 operated pursuant to the contract. Technically, the City is still a provider of fire services and has chosen to do so by contracting with Fire District #1. He noted part of the action in the annexation just considered was to withdraw the territory from the Fire District. The effect of that is that the City then takes over providing fire services when in fact the City contracts with the District to provide fire services. It is essentially a question of who is levying the tax to provide fire services.

Fire District #1 is one of three large districts in the metropolitan area along with several smaller providers such as the City of Lake Oswego. The City of Portland, Tualatin Valley Fire and Rescue, and Clackamas County Fire District #1 are the three large providers. The nationwide trend is to go to larger providers. Emergency medical services are something we found are handled nicely on a more regional basis. The question before the voters on September 21 will be whether or not to annex to the District. The effect, if it is approved, is that the District will become a governmental entity to whom the citizens within Milwaukie will make requests in terms of fire suppression and emergency medical services. The tax effect is that a successful annexation vote will authorize the District to levy its permanent rate of \$2.212 per thousand on property within the City. Presently, the City is paying for fire protection services out of its permanent rate. The City will be relieved of the responsibility to pay an equivalent amount or about \$2.40 per thousand. The City does not lose its authority to levy that amount under the permanent rate. However, there are a number of compelling reasons that are not financial that argue in favor of doing this. He recommended this City Council pledge not to levy any portion of that \$2.40 as long as a majority of the members are here, so the property tax consequence of a successful

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election would be neutral. It is important, too, that right now City residents are receiving their services from the District; however, City residents have no vote. City residents cannot run for the District Board. In addition, emergency medical services are something that admit to necessity for long-term planning. For example, a piece of apparatus is usually costed out at between 15 and 20 years. The nature of a contract is that it is temporary. Many ask about options. We could seek a contract with other fire providers such as Portland or Tualatin Valley. We could also reassume the provision of service directly and have a City fire department. To effectively plan for emergency services, it is important for the District to know that it is responsible permanently for residents' welfare within the City. Those two reasons are important enough -- that the City forego levying any portion of that difference and that we support the annexation to reap the benefits of being full-fledged members of the District to effectively plan for emergency services.

This is the City Council's final step. By adopting this, the Council will be setting the election date formally. We need to certify the action to County Elections by tomorrow to be on the September 21 ballot.

Mayor Bernard said Milwaukie's rate is about \$6. If this passes, property owners will pay the City about \$4, and the District about \$2. That is a \$6 total, so the taxes are neutral. This is not a tax increase. He noted the dollar amounts were for the sake of example and not the exact amount of the tax.

Swanson felt it was important for people to understand the City still has the authority to levy that difference. That authority does not disappear. Right now we have a permanent rate of \$6.5379. If the measure passes, the City will levy that amount minus \$2.4012, which is the Fire District's permanent rate.

Correspondence: None.

Testimony in Support: None.

Testimony in Opposition: None.

Neutral Testimony: None.

Councilor Barnes had two questions. Since we cannot campaign and it is our ballot measure, how do we educate the voters without actually campaigning?

Firestone responded the Council members individually or as a group may. City employees, staff, and non-elected officials may not.

Councilor Barnes asked if a Council member could write an article for *The Pilot*.

Firestone said "no" because the person publishing *The Pilot* is a City employee. The exception would be if both pro and con were presented in the publicatin. The key thing

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to remember is that City employees and non-elected officials may not advocate for or against and issue once it is on the ballot.

Councilor Barnes asked Swanson to discuss the importance of having a seat on the Board.

Swanson replied in Oregon there is a long tradition of citizens voting on financial matters. He was not saying the District has plans, but they could at some future time have plans to go out for an additional operating levy. It certainly would be reflected in the City's contract costs if such a levy passed. Without the annexation, people in the City would not have a vote on whether or not that operating levy passed or failed. Likewise, Milwaukie citizens have no voice as to who is elected to the District Board. The Board has treated Milwaukie well and do listen. At this point, there is no assurance of the future composition of the Board. This country is founded on the ability to have input into representation on elected bodies. Milwaukie has been treated very well by District, but this is the next logical step to really have a political voice in what takes place. Right now only electors within the District boundary vote for Board positions.

Councilor Stone commented that Councilor Barnes brings up a good issue in terms of the people at home really understanding this. The bottom line question is what will this do to their bottom line? Is this going to be a fiscally sound move for the voters? Will they see an increase in property taxes? What is this really going to mean for the citizenry in terms of economics. Looking at the figures she has here, it looks like the City Council will set a levy of the permanent tax not to exceed our current tax rate of \$6.5319. Is it basically the difference between what the District levies and what the City levies?

Swanson said that was correct. The City's current contract amount closely approximates what the District would be collecting within the City if it levied its permanent rate. We could do that with a no net increase.

Councilor Stone asked if the City Council could say that citizens are not going to feel any further impact financially in making this transition.

Swanson believed we could say that, but we cannot bind future Councils with this action. It is not our intention to increase revenues to the City by this act.

Mayor Bernard felt it would be stronger to say, "we – this Council – will not levy our permanent rate and will reduce our permanent rate to compensate for the addition of the Fire District tax."

Close Public Hearing: **Mayor Bernard** closed the public testimony portion of the hearing at 7:20 p.m.

Council Discussion and Decision: There was no further discussion.

It was moved by Councilor Barnes and seconded by Councilor Stone to adopt the resolution calling for the election to annex to the Clackamas County Fire District No. 1. Motion passed unanimously among the members present.

RESOLUTION NO. 21-2004:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CALLING FOR AN ELECTION ON SEPTEMBER 21, 2004, TO AUTHORIZE CLACKAMAS COUNTY FIRE DISTRICT NO. 1 TO ANNEX ALL OF THE TERRITORY WITHIN THE CITY FOR THE PURPOSES OF PROVIDING FIRE AND EMERGENCY MEDICAL SERVICES.

OTHER BUSINESS

Set Date for Transit Center Relocation Deliberations

Mayor Bernard said the City Council set the date when there is a full Council at the August 3, 2004 meeting.

Park Rules Ordinance

Community Services Director JoAnn Herrigel provided the staff report in which the City Council was asked to pass an ordinance adopting park rules for parks within the City of Milwaukie. The City of Milwaukie and the Parks District have never had rules for our parks, which makes enforcement impossible. If you do not tell people what they cannot do in your parks, then you cannot punish them for trying to do those things. The purpose is to establish some order and allow the City to enforce rules.

The District adopted a set of rules in June, and City Council is being asked to adopt an ordinance that is similar but not identical to the District's. The District rules would apply to entire District, which includes the City of Milwaukie because the District maintains and operates our parks for us with the exception of those not included in the intergovernmental agreement. The City is adopting its own park rules that are a subset of the District's and would apply to City-owned parks only. Herrigel outline how the City's rules would vary from the District's. They would allow code enforcement staff within the City of Milwaukie to also enforce the park rules in the City's parks. All of the District staff and those identified within the County could enforce within the City parks as well as Milwaukie code enforcement staff and police. Further, City rules allow Milwaukie police and code enforcement staff to cite violators into municipal court as opposed as to having a hearings office, which is what the County park rules do. Finally, they would allow the City to collect civil penalties and place these funds in a park fund that would potentially be used for maintenance and operation of our own City parks not maintained by the District. The rules cover a variety of activities including fires, hunting, fireworks, weapons, alcohol consumption and sale, event permitting, animals, motor vehicle use, waste disposal, and camping among other things. City staff has

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coordinated with District staff to avoid conflicts between the City and County permitting processes for parks. Staff sees no problems arising from the implementation of these new rules with respect to contradicting any other permit rules for the District.

Herrigel noted the ordinance included with the staff report did not reflect changes made by legal counsel. The changes indicate that the District rules are not adopted into the Milwaukie municipal code in their entirety. In fact, to make the changes she just described, the City would simply adopt sections 3 through 17. The other change that was made was that she did not refer specifically to civil infraction procedures, and counsel added that.

It was moved by Mayor Bernard and seconded by Councilor Stone for the first and second readings and adoption of an ordinance adopting parks rules. Motion passed unanimously among the members present.

The City Manager read the entire ordinance with the changes two times.

The City Council was polled: Mayor Bernard and Councilors Stone and Barnes aye, no nays, and no abstentions.

ORDINANCE NO. 1933:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT PARK RULES AND ADDING SPECIFIC RULES FOR ENFORCEMENT IN MILWAUKIE-OWNED PARKS.

Hill Street Reimbursement District

Engineering Director Paul Shirey provided the staff report. This reimbursement district pursuant to municipal code chapter 13.30 can be formed in order to fund the costs of public improvements to serve one or more properties. This district consists of lots fronting Hill Street between Stanley Avenue and Hollywood Street. The district proposes to build 491 feet of 8-inch sanitary sewer mainline. It is not an assessment against property. It is a funding mechanism by which the sanitary sewer fund front ends the cost of building the extension. The properties that connect to the line once it is done reimburse the fund for the cost. In this case, the City is anticipating that through the annexation some of the lots in the district will connect and reimburse. Some of the lots will not and are not required to connect until such time as the existing septic systems fail. At that time, the properties are required to connect and subsequently reimburse the fund. The City anticipates these lots will all eventually connect. The City is trying to accommodate the provision of service to the lots anticipated for annexation and development along with sufficient infrastructure to allow those other properties to connect at some time in the future. Costs were allocated on a frontage basis, and he

indicated the lots on the map. Some existing homes are on approved septic systems, and the new homes will be constructed in the next 6 – 12 months.

Councilor Barnes asked if the street would be dug up every time someone connects to the system.

Shirey said the project would be built with the laterals to the property lines, so the street will not be torn up with each connection. The cost of the laterals is minor.

It was moved by Mayor Bernard and seconded by Councilor Barnes to adopt the resolution forming a reimbursement district for sanitary sewer and approve the City Engineer's report.

Councilor Stone thought it seemed like putting the cart before the horse without the hearing.

Firestone said if the property is not annexed, then the resolution would not be in effect.

Motion passed unanimously among the members present.

RESOLUTION NO. 22-2004:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, FORMING A REIMBURSEMENT DISTRICT FOR THE EXTENSION OF THE SANITARY SEWER SYSTEM ON SOUTHEAST HILL STREET.

Update on 40th and King Road Community Development Block Grant

Civil Engineer Brenda Schleining provided the staff report. The City had about \$586,000 for construction of this project, and originally the dream was King Road from 42nd Avenue to 34th Avenue near Lewellyn for storm and would have encompassed 37th Avenue from King to Harvey and 40th Avenue from King to Harvey. It also includes Lewelling Park to which the neighborhood contributed \$12,000. There were also two railroad crossing. This was the dream plan to accomplish, and staff was hoping to get some lower prices. The engineer's estimate ended up being about \$1 million. Staff bid it out, and the low bid was \$1.2 million. The City is working with the County on this. The choice was to either throw them all out and start again, which would have meant another \$20,000 to \$30,000 in engineering costs or to shorten the scope. Staff met with the contractor to agree on a scope for the work. Based on a priority system King Road from 42nd Avenue from 40th Avenue that will tie into the development in that area and the sidewalk system. Then 40th Avenue from King Road to Harvey Street that ties into the park and an older CDBG project in that area. There was more traffic on 40th Avenue than 37th Avenue, and a variety of other reasons. It was more of a continuous sidewalk network by doing it that way. As we move to the west, there are a lot of storm drainage problems. The cost on the west side was close to \$250,000 just for the storm line

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alone. There is already flooding in there. It all contributed to building more sidewalks to the east than storm to the west, which made more sense for a development block grant. The contractor did agree to the shortened scope, and that way the project would come in under budget with about \$20,000 contingency left. That does include the park.

Shirey added the 37th Avenue portion of the project, King Road from 40th Avenue east to Lewellyn and the railroad crossing would move to the next round of grant funding. The City has project plans that are ready to be built. Staff explained to the neighborhood it will have to wait based on the market place reality in terms of construction costs. Staff expects to apply again as these are priority improvements. Given the funding cycle, these will probably be done in about three years.

Councilor Barnes asked how bad the flooding situations are and if there were alternatives.

Schleining said there are no continuous storm lines in the area. That would have been a long stretch of sidewalk only. The price of plastic pipe is going up because of the price of oil.

Shirey added there are interim measures that can be taken to alleviate localized ponding conditions with the use of drywells provided they are not within what is called the two-year travel time for the underground water to move from the drywell to the water wells. Under state law it is acceptable to build those facilities if they are under that timeframe. He will provide additional information on the drywell method. It is much less costly, and although it may not take care of the entire stretch, it can help the more significant flooding problems. The storm water department has been very successful with this method in the past.

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 7:45 p.m.



Pat DuVal, Recorder



AGENDA

MILWAUKIE CITY COUNCIL JULY 20, 2004

MILWAUKIE CITY HALL
10722 SE Main Street

1938TH MEETING

REGULAR SESSION - 6:30 p.m.

- I. **CALL TO ORDER**
Pledge of Allegiance
- II. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
- III. **CONSENT AGENDA** *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*
 - A. **City Council Minutes of June 21 and July 6, 2004**
 - B. **Personal Services Agreement for Insurance Agent of Record**
 - C. **Transfer of Portland General Broadband (PGB) Franchise to OnFiber Communications, Inc. (OnFiber) -- Resolution**
- IV. **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.)*
- V. **PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*
 - A. **Annexation of Properties on Hill Street, File AN-04-01 – Ordinance (John Gessner)**
 - B. **Annexation of Property at Harmony Road & International Way, File AN-04-02 – Ordinance (John Gessner)**
 - C. **Proposed Resolution Calling for an Election to Authorize Annexation to Clackamas County Fire District #1 – Resolution (Mike Swanson)**

VI. 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. Set Date for Transit Center Relocation Deliberations (Mayor Bernard)**
- B. Rules for Parks in the City of Milwaukie – Ordinance (JoAnn Herrigel)**
- C. Creation of Reimbursement District for Sanitary Sewer – Resolution (Paul Shirey/Jay Ostlund)**
- D. Status Report on King Road/40th Avenue Community Development Block Grant Project (Brenda Schleining/Paul Shirey)**

VII. INFORMATION

VIII. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council will go into Executive Session immediately following adjournment at pursuant to ORS 192.660(2)(d) – labor negotiator consultations.
- All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media will be excluded from this session pursuant to ORS 192.660(4). Executive Sessions may not be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

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.

MINUTES

MILWAUKIE CITY COUNCIL JUNE 21, 2004

CALL TO ORDER

Mayor Bernard called the special meeting of the Milwaukie City Council to order at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Lancaster
Councilor Joe Loomis

Councilor Deborah Barnes
Councilor Susan Stone

Staff present:

Mike Swanson,
City Manager
Gary Firestone,
City Attorney
Larry Kanzler,
Police Chief
Alice Rouyer,
Community Development/Public
Works Director

Paul Shirey,
Engineering Director
Grady Wheeler,
Information Coordinator
Jason Wachs,
Program Coordinator

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

Proposed Recommendation Regarding Transit Center Siting and Light Rail Alignment and Station Siting

Mayor Bernard reopened the public testimony on the proposed recommendation to TriMet and Metro regarding transit center siting and light rail alignment and station siting at 6:04 p.m.

Opponents

Keith Faust, 11551 SE 27th Avenue, Milwaukie. He discussed some of things he feels about the Kellogg Lake location. He walks his dog there every morning and he sees the views of the Lake and he tries to visualize a parking garage and buses, and asks if this is really what we want? He thinks about all the additional traffic, and that bothers him. Another thing that bothers him is that now Milwaukie owns the land. Giving more land away to other entities bothers him.

We gave away our fire department, and he did not see a lot of money come in from that. There is an impact study that needs to be done on that location. How much will this study cost? If we find some kind of animal down there that is an endangered species, then all that money is lost. Where we have options, where we have already have buildings and that type of thing makes more sense than this area. He lives close to that area, and it will impact him quite a bit.

Ed Zumwalt, 10888 SE 29th Avenue, Milwaukie, Historic Milwaukie Neighborhood. About three he years ago he wrote an ode to Milwaukie, and it was in *The Pilot*. He thought it would be appropriate to quote a couple of paragraphs from it. He is speaking as the City. "I am a gateway, and pressures of growth are threatening me from every side. I rely on those who govern and work for me to protect me from the outside influences that would crush our way of life and our community. People of honor and courage unfettered by selfish agendas or petty politics must step forward to find a way – and there is one -- to sensibly and realistically manage the human deluge that is on its way. To accommodate it, but control it so I remain an island of refuge within these regional boundaries." Those are idealistic standards to meet. When he was thinking about the City he was being very idealistic – that was how he felt. This can be done with effort and soul searching. The May 18 staff report is irrefutable evidence that some people do not want to meet those standards. It is smoke and mirrors. A complete sell out of livability to a fix that is, although politically expedient, cheap, quick and dirty. Just an aside. It is remarkable how the City can ignore the traffic problems of our neighborhood through 20 years and our pleas for assistance, and then in record time find a way to gleefully pour hundreds of more cars through our streets. This heavy-handed attitude by the City, Metro, and TriMet is clear evidence they feel they owe no accountability to our citizenry. He knows he is not Einstein, but he did not just parachute in here from Mars. He senses some things. They attempt to give this the illusion of being pushed by the people, but that is completely false. It is staff driven in its entirety, and it was a done deal from the very beginning. He saw the 2.4 plan near the post office and archery range in May one year ago. Over 20 years ago, roughly the time they started the transit center by City Hall, TriMet engineers were examining the entire area south of town including Kellogg Lake. Let no one tell you it came from the working group. It was a plant pure and simple. They keep alluding to our City's reputation of inconsistency when faced with regional demands. After two years of our meetings in 01 – 03 light rail was invited into our town only to have PDX, Portland, Clackamas County, and TriMet change their minds and take the rail down 205. In other examples our leaders have pushed the City toward obligations the citizens deemed unwise, so we voted them down. Who has been unstable? Our leadership. This is a perfect example of them changing their minds. It was set once. Persons of leadership keep saying if we don't do as they say, they will turn us into a slum -- meaning Metro and TriMet. He does not think they want to turn this into a slum. That is just preaching fear. He does not think people of leadership should attempt to influence through fear and lies. Lastly, he implored the City Council as leaders,

citizens and actual residents of the City as opposed to those who seem to be calling all the shots around here to step up and make the courageous and honorable choice – the only one you can make – take Kellogg Lake off the table.

Gil Frye, 12476 SE Guilford Drive, Milwaukie. A couple of years ago in 2002, he went to Vermont. Vermont is overwhelmed about the second week of October because that is the changing of the color. He just got back from Vermont and decided we have a lot of color. We have a lot of color right here in Oregon. He would like to be president of the chamber of commerce for the Oregon territory. The Oregon territory is beautiful. It is just as beautiful as Vermont if not more so. We need to promote it and work at it somehow, somewhere. An awful lot could be done. We have a beautiful City right here in Milwaukie. So the pictures he took in 2002 were of the Ledding Library, St. John the Baptist Catholic Church, and our trestle. He did not know of another city – there may be a number of them – but he does not know of another city that has a trestle. That trestle is right there at Kellogg Lake. He knows there was no money to develop that park. We never have any money– it is just tough. He hears about schools in Portland, Milwaukie, and North Clackamas. The recent report by North Clackamas is that the budget stinks. North Clackamas knocked \$7 million off its budget, and they feel cut cutting these positions is terrible. He does not know where the City would find the money for the park. Kellogg Lake is sitting there and what have we lost lately. What have we lost lately? Crystal Lake he thought was a city park. It later became Crystal Lake Gospel Park. It was a beautiful land and a beautiful park. He visited there in the 1940's. Now it is Crystal Lake apartments, and he thought there was still a small lake there. The North Clackamas School District came along and the state of Oregon and we had to consolidate. He has heard the City sold its Jr. High for \$10. That is what he heard. He cannot prove that himself. It would have been nice if we could have bought it back. And if we had thought about it that is the way it should have been handled. He does know in one case in Portland, a plot of ground was donated to the Portland Public Schools on the condition that if they do not use it as a school, it goes back to the heirs. That was done probably in the 1920's. The idea should have been way back when that if the District does not need the wonder property, the City gets it back for \$10. Their fiduciary responsibility would not allow them to do that. He does not really see any kids playing ball out there any more under the new plan. We have seen additional parking replacing the ballfields. He really did not know that those ballfields are rented out to the local people who would have appreciated that facility. Somewhere along the line we have the sewer system, and they tell him they do not like that site anymore. He does not know who was involved with making the decision of putting it there. He has taken a tour of the plant, and they spent a lot of money getting rid of the smell. They have shown him how it was done. They said somewhere in Everett he understands there is a hotel built over a sewage plant. You would have to find out if that is true. They have done a marvelous job of curtailing the smell, he can hardly imagine they would build a hotel on top of the sewage plant. Now that we think it is a lousy place to go, it is going to cost \$50 million to \$500 million to move it out of town

and send it somewhere else. Here we have our Kellogg Lake. We lost Crystal Lake. We lost the Jr. High. We lost some of our waterfront. Now for some reason or another we are trying to lose our Kellogg Lake. He thought there should be a work day with a bunch of volunteers and make some trails in there and enhance the beauty of the park. It is a beautiful site. It could be the classic place for a picture representing Milwaukie. It is just a beautiful site.

Councilor Loomis commented on Crystal Lake. He believed it was a private amusement park. A bond measure was put on the ballot to purchase it, but the citizens of Milwaukie chose not to buy it.

Roger Cornell read a letter from the Historic Milwaukie Neighborhood Association. "The Historic Milwaukie Neighborhood Association unanimously rejects the proposed relocation of our transit center to the Kellogg Lake site. While we support the move of our transit center north of downtown we do not support the Kellogg Lake 2.5 site for the following reasons. It reduces community livability and destroys our small town character. It does not support our Downtown and Riverfront Framework Plan and our Comprehensive Plan. Natural resources are key to our uniqueness. It would require selling our valuable waterfront open space. It is inconsistent with Willamette Greenway, the Endangered Species Act, Goal 5, and Metro's inventory of regionally significant habitat. It endangers one of Milwaukie's few registered significant historical sites, the Birkemerier-Sweetland home. Neighborhood traffic and bus impacts are too great. Unwanted traffic congestion is promoted in our downtown and on McLoughlin Boulevard. It fails as a transit center. It does not support revitalization efforts. The community does not support this site. Years of citizen work would be ignored. There are better sites available. The Historic Milwaukie Neighborhood Association is supportive of our Downtown and Riverfront Plan and desires to continue working for the visions and revitalization efforts that the community embraced. We are requesting that City Council reject the proposed 2.5 Kellogg site and refocus on designing a solution that includes moving the transit center north of our downtown.

Les Poole, 15115 SE Lee, Milwaukie. It seems since we last got together that some time has passed, and that indicates to him some of the issues that were presented previously were really taken in a serious manner. Originally we were going to vote on this and make a decision quickly. He thanked everyone for taking a little extra time because this will affect our future -- amen. He advised everyone in this room and everyone on the City Council to think of the conflict going on with our good friends at Metro. As someone who has been involved in land use for a long time, we, I, all of us are heading into a mine field and 15 or 20 years from now, he was sure that we will be sorry if we site at Kellogg Lake. You have heard that emotionally; you have heard that in a practical manner. When we get to the end of 2040, this is going to go down along with the Day Road prison and some of the other things that have happened out of convenience. He closed by saying it is literally amazing how much money we are spending

planning, politicking, micromanaging, twisting and bending in the wind in the entire Metro area. If there is anyone in the room who would like to discuss how well we are getting along with our regional partners when the reason we are having so many problems is that we have some top down mentality at Metro that creates situations like this. He was not here to say Metro is horrible. He is here to say it seems to him that in spite of all the talk, what is really happening is that once again Milwaukie is being divided. People are getting to know their neighborhood in the wrong way. We are all tweaked and irritated and throwing rocks back and forth. If he put a map on the wall and put some pins in it, he could show where everyone in this room and everyone in the working group lives and where everyone affected by this lives. It would provide a very interesting overview.

Linda Fields, 11593 SE 27th Avenue, Milwaukie. She is one of the 740 people who signed in opposition to the Kellogg Lake site. Having lived in Portland for quite a few years, we came to Milwaukie from whence we graduated from high school. We came back because we considered Milwaukie home. They also wanted to raise their children here and live out their lives. Our roots are deep in Milwaukie having family members here for 80 years. Four generations have graduated from Milwaukie High School. She chose her present home for easy access to schools, churches, the library, parks and medical care. Yet free from major traffic and noise pollution of a larger city. In this time of world unrest and actual fears that seems to come closer daily, our homes are more and more our safe havens. Quality of life, livability, ownership and tradition – our home. She appreciated the time the advisory group and the City Council have spent on this matter. She appealed that the City Council not be locked into the Kellogg Lake site. This area is heavily congested now let alone adding a park-and-ride structure and the buses. Her heart goes out to the residents whose homes are even closer to the site than hers. Our homes are probably our largest financial investment we make in our life time. Also, perhaps a legacy to our children. The Kellogg Lake site is residential and Greenspace, and nicely tied at this time to the Riverfront Plan. Please do not devalue our homes with more traffic and more pollution. Sacrificing Greenspace when another location would be more appropriate to the needs.

Allison Allison, 20955 SE 28th Avenue, Milwaukie. At the last meeting Roger and Karen [Cornell] presented information she was not aware of prior to that. One of the things they pointed out was that the location at Kellogg Creek would not eliminate the transit center or the need for bus layovers in the existing location. Her understanding is that was the purpose of relocating the transit center – to get them out of downtown. If Kellogg Creek cannot do that, it seems unwise to pursue that option. The second thing is that the working group voted on the night to recommend a location to the City Council based on inaccurate financial information. Now that it is more accurate, would that vote have remained at the same ratio? She would like to see it not happen there for various reasons, and these were two of them.

Councilor Loomis said there have been comments about buses laying over. In everything he has read, he has not seen that buses would be laying over in downtown. He asked for clarification.

Swanson said they would not be laying over in the sense there would be a transit center. The confusion is that all of the options result in basically the same effect in the downtown. The effect in the downtown is you continue to have a need for service and bus stops – not a transit center. Transit centers are typified by longer-term layovers, which is what we see around City Hall with buses either idling or shut down. What we will be seeing in the downtown is continued bus traffic. It will be of the short duration that you see when you are following a bus and it stops at a stop to pick up or let passengers exit. All of the options have the same effect in terms of the downtown with the exception of 2.4. It was located in the downtown but has been rejected because of concerns from the high school. Phil Selinger, TriMet, will speak more to that when staff gives its wrap up.

Councilor Stone said part of her research has uncovered there are indeed going to be some recovery layovers, if you will, in front of City Hall. Meaning it is not just going to be a stop. It is also going to be – if a bus has to catch up on a schedule – maybe they got there early or whatever – that they have to sit there. It is not going to just be like a stop in front of your neighborhood. That is some of the research she has uncovered. She asked if she was incorrect.

Mayor Bernard said that can be discussed during the staff portion.

Howard Steward, appointed to the Planning Commission, said he was speaking for himself. He was appointed to the Planning Commission as a representative of business. His business address is 4120 SE International Way, Suite A 112, Milwaukie. There is a piece of this that is going on here that the Planning Commission faces time after time. The shape of the lots are forever a bugaboo to the Commission. The depth of the lots. What he sees now is, we are trying to say, and by the way he was not there to support Metro or anyone else per se, but to say that as he talks with his grandsons, we are doing a job in regional planning that is not going on any place else in the country. People come here from Detroit, New York, Boston, Los Angeles, Phoenix, Dallas, you name it to see how we are planning. It is not all going to be smooth. It is not all going to be correct. But, to say that we are pre-packaged is a tragic misunderstanding. We work at it diligently on the Planning Commission just as the Council is wrestling with this decision. It is not easy; it is not fun. It is not always right, but it is the best we know how to do at a given time. He hoped the City Council would give thought to what it asked the citizens planning group to do, what it asked the Planning Commission to do, and to consider that when making the decision.

Neutral Comments

Teresa Bresaw, 12744 SE Weedman Court, Milwaukie. Planning Commission member. She wanted to bring up some questions she had. She would not say it is definitely a bad idea or a good idea. She still had questions that were unanswered, and the main thing is to get those assurances. If those assurances come though that means someone is actually following through. Rather than saying, “go ahead and do the study and whatever you find out go for it.” She does not want the City Council to put a rubber stamp on what the Planning Commission decided. She did vote for the study – not to say “yes” it is the best idea. It may or may not be; she does not know. At least two people are not sure, and she is one of them. One definitely voted against it. She wanted to make sure from the April 8, 2004 Planning Commission minutes that her main concern was the storm water. What will happen with the water runoff from the polluted cars and buses, the oils, etc? Is that something we might be able to plan for? Her questions were: does Milwaukie have stormwater management standards for developments? Is the City considering all or the upland development and impervious area when planning for the re-establishment of the old stream corridor when the Kellogg Lake dam gets removed? Need to determine the carrying capacity of the stream based on the amount of development. Public/private roads, etc. that drain into the stream. The ability of soils and vegetation to control and absorb the flow. The amount of flow that will travel through the corridor to the Willamette. How is the City going to comply with the new environmental zone being proposed by Metro? Who will be responsible for the decision that the placement of the transit center at the Kellogg Center is the best and right decision? Will there be someone in Milwaukie who will look out for Milwaukie’s competing interests – environmental, residential, and commercial – to help make the most fair, final decision in conjunction with the environmental study? In short, what assurances do we have the right decision is based on the best values, not just on saving money by putting the transit center on an empty piece of land? There were two of us who were not sure this was the right decision, but a study is just a study. Yet it is almost as if we are afraid that will open the door to let someone go through and go for it. It is going to save money in the long run, but she was not sure if that is the best decision for the future. In other words, money is not the best motivating reason to do this. But maybe the City Council knows the answer to that

Stan Link, Eastmoreland resident. He testified in a neutral capacity since this decision does not affect him personally. He did grow up in Milwaukie. This is his hometown. He graduated from high school here. His parents live here, and he travels through Milwaukie often. He is concerned the best decisions are mad for Milwaukie’s future. He wanted to make sure that this decision serves Milwaukie’s interests. Is the decision the City Council makes going to pay dividends for Milwaukie long term, guaranteed? He works in real estate investment business. A while back he ran into the Milwaukie Downtown and Riverfront Framework Plan. He was impressed with it. Thousands of man-hours and thousands of dollars went into producing this document. He was inspired by it because it was the first time that he has seen in a couple of decades a vision for Milwaukie that

everyone signed off on and wanted to see through to the end. It is a nice document. After he reviewed it, and because he does work in real estate, he saw a disconnect between how this plan becomes reality. The vision is excellent but paying for it is difficult. Over time he has observed that it appears that private investment in redevelopment in Milwaukie has largely stayed away from the downtown. He knows there are a few exceptions, but largely they stay away. Public investment in this kind of detail is fabulous, and if that were possible or easy you probably would have found that by now. The way he connects these to the particular issue of 2.5 and the vision is that he sees the real need for infusion of public money into the downtown district. That infusion would potentially come Milwaukie's way in federal transit dollars that would be coming from Washington, D.C. via TriMet and landing here possibly at Kellogg Lake. If a tremendous amount of money, he estimates upwards to \$20 million, could really be an engine that would produce immediate, tangible economic benefits and redevelopment for downtown. He provided a drawing. He apologized for coming into this late, but he felt there was a way to leverage this sort of federal money and be the real jump-start Milwaukie can use. It was a concept to open the City Council's minds and process as it formalized its decision. He provided a drawing of the southwest corner of Main and Washington Streets. It is a parking garage. It has on the street level a retail component as part of the development, which is consistent with the objectives outlined in the Downtown Plan. The housing component is also consistent with the Plan. It provides the parking the City Council is after. It is underneath or hidden toward the back. Imagine this investment planted right here as a beginning for some future development for the downtown. He left the drawings for the City Council to consider. In this scenario, the 2.5 money was taken and put downtown with the retail objectives with housing on top and about 2 acres of parking underneath. He was not selling this particular drawing, but he was selling the imagination that this parking could actually extend under Main Street. It could be extended, and other blocks would be jump-started. It could come north. There are a number of variations that would provide the parking that you need as well as meet some of the retail and housing objectives. More importantly, it would be the infusion of capital Milwaukie needs downtown.

Councilor Lancaster was intrigued with the concept Link developed. How many vehicles would 2 acres house?

Link thought about 200 cars. This was just a concept. It could be three levels of parking with housing on top. It could be two levels of housing on top of that. He pointed out a couple of other advantages. The housing and retail pieces could either be separated at the beginning of the development or towards the end. It can be added to the tax base, and the City could earn money from that to help fund other services. The parking being in this location is immediately across the street from the waterfront. If the City does develop its waterfront according to this vision and you have concerts or festivals there is immediate parking. On the weekends the City would have parking to help support the retail plans downtown.

In addition, 2.5 has people parking, jumping on the train, and passing Milwaukie by. This would have them park in Milwaukie with their money, and they would walk through town or parts of it to get to the train. There is a possibility to capture some of these people and help infuse some sort of business activity downtown. It could be built in phases. It is a small garage and not nearly as big as 2.5.

Councilor Lancaster understood Link just picked a City block for the concept plan.

Link picked that block because it has two property owners. It is more difficult for TriMet to acquire two blocks than to make a deal with the City that already owns a piece of property. It is less difficult than a property with five owners. It is the furthest block south, so it would more easily capture the northbound McLoughlin traffic.

Councilor Lancaster asked Link when he said more difficult was he simply speaking to the fact there would be numerous purchase transactions vs. one? Or would there be a price differential.

Link did not know if there would be a price difference but there would be numerous property transactions, which would be more difficult. He did think TriMet would be the hero in this scenario by using federal money to jump-start a community that really needs it. It might be harder, but TriMet would look better in the end.

Councilor Lancaster said theoretically, the City could do this to every block in downtown Milwaukie and create that parking.

Link thought it could be done. He did not know if it would have access to the train stops.

Councilor Lancaster asked if it would be feasible to create a parking area within that for buses for layovers?

Link thought that creative design could solve a lot of issues. He would imagine that would be accurate.

Jim Newman, 13557 SE Kuehn Road, Milwaukie. He lives on the west end of North Clackamas Park. He is concerned about the lawsuits that might arise out of the sale or transfer of this property. The City is responsible for anything it should know is a consequence underneath it. To drive piling in this thing would be extremely difficult. He was told by Ray McCorkle, a Milwaukie High School graduate who works for Condon Johnson in Seattle and is about 45 years old, so he remembers the end of some of this. Piling going through large rocks would have to be H-beams. These are shaped like an H, and large building are put on

them in order to drive through that rock. The vibration through it makes what is around it unstable. To go back a little on the history of that thing. Before McLoughlin Boulevard was built River Road went down and crossed under the track about 150 feet east of where it does now and turned sharply and went right up River Road. When McLoughlin Boulevard was put in that was a hole. They got rock from the gravel pit next to Hillside Park where the apartments are now to fill that area. It came down the Carver Street car line bumped on the tracks to 29th and Harrison, down Harrison and filled that up. It is under solid gravel with dirt. In the 1940's that lake was a lot larger and was like Aldercrest Creek. In the late summer, it becomes just a trickle. You could walk across it in places on rocks. There was not enough water to keep it in good shape. It smelled. There were no sewers then – those did not come in until the 1980's – so it was a pretty filthy thing. The lake is many feet of silt, and there are places where you could not walk through it. The City wanted to get that filled. Right where the sewage treatment plant is now before the plant was built, KPR Sand and Gravel bought it from Nichols's Boat Works. They would move the big rocks across the street – the Super Highway – and dump it down the bank. So you have layers of these big rocks. The people from Oak Grove driving by saw an easy place for a dump. When the Columbus Day Storm and other things happened, that was a great place to get rid of debris. You have layers of round rock that was put in there without any dirt or gravel in order to make it stable, but it is hollow. Then you have layers of yard trash, debris, and garbage, and then the trucks would come back across the road and dump more road in it. This whole thing is fill on a 45-60 degree angle across to where it is now. When they go to put in test borings to see what is under there, every test boring is going to be different. It will tell them what is under there, but it will not tell them it is on an unstable 60-degree slope. You do not notice depression or anything. With a park, it would not make any difference. When it is paved and has heavy traffic on it, the vibrations could cause more depressions. From the borings and the information, engineers are going to make those H-columns heavy enough to go down through the rock, silt, and high water table land to get to a solid place of compaction in order to put this in. They will design it big enough so it does not slide, but it will still loosen up the whole thing. It is subject to depressions. The word will get out to the piling people about it, but it would be important that it is noted what is there before any transfer is made. It could be very costly work.

Randall Welch, 2244 SE Lake Road, Milwaukie. He is a long time resident. His great grandfather lived here. Third generation Milwaukie High School. Went to Ardenwald and Jr. High. He left around 18, and he just moved back 2-1/2 years ago. He is a stakeholder. He purchased this property because of the beautiful lake. Even though some people do not see that, he encouraged any one to come by and see what it really looks like. You have heard lots of testimony about what the lake really could be, so he did not continue with that. He is dumfounded we would actually use waterfront property for a parking structure. He does not understand that. He also does not understand why you would take open and Greenspace and use it for a parking structure on waterfront property.

This does not make sense to him. From the very beginning, it seems to him it was a done deal, you already had all of your answers, and whatever we had to day did not really matter. He hoped that was not the case. Perception is that this was a done deal but hopes that is not the case. RiverFest is next month and has something to do with water. Then we are going to sacrifice other water. That river and that little patch of land could be a great park if you look at your plan it is actually in there as a park. It is something to be thought about. We talk about not wanting to sacrifice businesses. He as a business owner wanted to come to Milwaukie with 25 employees. He had a small conversation with the city manager to talk about incentives to bring his business here, but there was nothing. Somewhere along that line it makes him feel if business were so important, you would have had another 25 employees that would have been here. He does not know what that is really about. The 740 signatures from Milwaukie citizens should not be just pushed aside. That is a lot of people and just a fraction, he thought, of the number of people who would oppose the plan. Everyone he has talked to opposes this plan. People read about it in the newspaper, not even from Milwaukie, and they scratch their heads and do not understand why the City would sacrifice and put this on riverfront property. When we were in the other stage with the Planning Commission, there was some apprehension, and wanting some answers. What he felt happened was you need to push this through – City Council will take care of it. You need to deliver this recommendation. Now we are here. He hoped we really think about this and not just push it through to the next level. Or LUBA will look at it. He thinks this is the place it needs to stop. There are some great alternative ideas out there. We should really look at those. He is a stakeholder. John Gessner said there probably would not be any mitigation for someone like him because he did not see his property would be devalued. He thought it would be. OHSU is going to build the South Water Corridor. They are going to push ahead with the plans for the aerial tram. They are actually going to buy some of those houses that will be affected. His question to the City Council is are you planning to do that too? It is too close to the high school. The high schoolers come over to his house and hang out in his yard. They can walk a few more steps and go to this other plan 2.5. It will not be that hard. If it is not good at 2.4, it is not good at 2.5 he can guarantee. He provided a videotape to enter into evidence from a July 28, 2003 meeting concerning the future of the Willamette. Mayor Bernard spoke of his desire to redevelop his downtown property. This is offered in support of our request that the Mayor recuse himself. The tape is cued up. He entered it into evidence and encourage the City Council to look at it.

Councilor Barnes asked Welch what his business is.

Welch works for Columbia Collections Service. It relocated outside of Milwaukie close to the Aldercreek Jr. High. His family is from here. He lives here. His mother is co-owner of the company and has lived here all of her life. That was truly something they wanted to do.

Howard Dietrich, 9701 SE McLoughlin Boulevard, Milwaukie, spoke on behalf of the North Industrial Property Owners Committee owning most of the land in the area from the City limits to Hwy. 224 and from the railroad to 17th Avenue. He understood the purpose for the consideration today is talking about moving from the locally preferred option to a suggested option of Kellogg Lake. If we look at the locally preferred option, it indicates it provides that a line will run along Main Street and cut up through properties and then go back to Hwy. 224 on the railroad lines. That option has been studied at great depth, and for many different reasons rejected. It interrupts and substantially changes the existing character of the industrial area. It will affect a substantial number of jobs, property values, and the future of this town in the way of hiring people with living wage jobs. He does not like change. He is too old to like change. He does believe that we have to look at the future and look at transportation and say one part of the development of our City will require transportation improvements in the long-term. Whenever there is change there is one group that is effected, and the other group is affected a different way. This is a tough problem because nobody likes change. He does think the Milwaukie group that spent a lot of time together, came up with alternatives that they reviewed in great depth, and everybody was invited to join those groups. During that process they came up with the Kellogg Lake alternative and not because it was perfect. There is no such thing as perfect. It was because it would, we think, help the City and riverfront development. There are assurances from TriMet that they would solve any kind of environmental, structural issues, and making it as pleasing aesthetically as possible to the City. He has to believe that of alternatives seen, that is the best. He does love the idea of putting a huge parking garage under downtown, but he does not like the displacement that would during that process. It is almost like the Big Dig in Boston. The water table is about 6-8 feet underground, so we would have to deal with a lot of those problems. He does hope that TriMet and the City will look at the aesthetics and how we are able to improve the waterfront area along Kellogg Lake and the Willamette. He thinks it can be done in both ways, and it seems to him the waterfront area is not enhanced at this time and has not been for a number of years. He represented and helped bring this property to the City when it was originally donated. There were no restrictions placed upon the property specifically because the people who were donating the property said they hoped it would be used to help the furtherance of Milwaukie and the development of the City. He was sure they would be proud of this use.

Carlotta Collette, 3905 SE Johnson Creek Boulevard, Ardenwald-Johnson Creek Neighborhood Association and working group member. She appreciated the opportunity given to many to testify a second time, and she would try not repeat anything she said earlier. She did want to respond to a couple of things. The first thing was that it has been suggested the City Council look at option 2.2 rather than option 2.5 because that somehow protects Kellogg Lake. In all the 2-point options Kellogg Lake becomes a parking lot. At option 2.2, Kellogg Lake becomes a 600-car parking lot. Option 2.3. has an 875 car parking lot. The

proposal that the working group came up, which was the best compromise it could come up with, has a stacked park-and-ride above the station to reduce the footprint and reduce the amount of area that had to be developed. It has 525 parking spaces. None of the options preserve that site except for the 1-point options that were rejected out of hand because of the destruction they would do to the industrial community. Another issue that came up tonight that concerned her was Teresa's comment that as a Planning Commission member she had great concerns. What the working group was trying to say to her and trying to say to the City Council tonight is that while this is not just a decision to do a study, it is a study. There will be a study. All of her questions will be answered no matter what site is chosen – whatever option is chosen. An environmental assessment or a full-scale environmental impact statement will have to be done for any site, and all of those questions will be answered. If this site or any site fails that study, a different site will have to be chosen. We are fairly sure we can mitigate all of the potential damage and impacts to the Kellogg lot that would come from being a transit center and/or a light rail station. She liked some of Stan Link's suggestions. She loved the idea, as she did with the Kellogg site, of mixed use on site. Of having parking, residential, commercial, businesses being invited back into the community. We could not give the person who spoke earlier the kinds of tax breaks that Portland or other communities can give them to move their businesses here. We cannot afford it. Milwaukie needs money, and it need to cover the costs of permitting and processes with a cost to the business. We cannot just write them a blank check. However, if and when light rail comes through it does include development the kind of transit oriented development that Stan Link spoke of. Anywhere within a quarter mile of the light rail line and its stations. There could be all of that type of development. Starbuck's could be wherever we want them to be. We would not have to foot the bill, and Starbuck's would actually get a pretty good deal to move in. Another thing that came up is that 700 or so people are opposed to using that site. She sympathized and she could understand. She does not like using open space. She is a strong environmentalist, and she would be very careful about how we use any open space. This plan not only builds on the work of the working group, but it really builds on the work of the Downtown Plan and the Riverfront Park. There is nothing about this plan that drains Kellogg Lake. Kellogg Lake's draining is part of the Downtown Plan. Removal of the dam and restoration in order to put pedestrian walkways along the north side of the Lake where the lake water is right now – that would become a public park. It would not be the private property of the Kellogg Lake residents. It particularly concerns her for Marie Watkins whose historic house is a little further away. At least with the transit center on that site, it will be supervised. It will be a fairly secure site. If it is just a public park that is going to be accessible to people hanging out there at all hours of the day, it is likely to cause more trouble than it would resolve.

Mayor Bernard closed the public testimony portion of the hearing at 7:06 p.m.

Staff Presentation

City Manager Mike Swanson spent a few minutes reviewing where we are and then ask Phil Selinger, TriMet Project Planning Director, to specifically respond to a couple of issue the City Council heard tonight and at the last meeting. Planning Director John Gessner will close the staff presentation.

Like a lot of people, he has thought very deeply about this issue and struggled with what to say. He decided the best thing to do was to return to what our basic function as the local government, and that is to apply facts to our plans and our codes. How well does a proposal fit? The first question is why relocate the on street transit center at all. What is wrong with what we see out there? He thought the major reason was to remove the idling and standing buses from the downtown streets. They are there for quite a period of time. In the staff memo, he cited the agreement Milwaukie has with TriMet that if they stand more than a couple of minutes, they have to be shut down. There are a couple of other reasons. One is to removed the long term idling and standing people from the downtown. To return to a situation where the downtown is a place in which buses pick up and drop off people. Finally, to stimulate some investment in the downtown.

This brought him to a second question. Why do we need to do those things? Why do we need to get idling buses and idling people and stimulate investment. He was drawn to the Milwaukie Downtown and Riverfront Land Use Framework Plan. Page 1 – *“The Milwaukie Downtown and Riverfront Land Use Framework Plan represents a major opportunity to reinvigorate downtown Milwaukie.”* Page 6 cites the fundamental concepts, *“...Framework reconnects Milwaukie to the Willamette River, knitting together the seam of McLoughlin Boulevard. It creates the new Riverfront Park as the city’s ‘living room.’ And it calls for revitalizing historic buildings while designating new structures to harmonize with the town’s historic character.”* Page 6 – strategies for financing and phasing, *“Framework makes this bold statement: that investing in the future of Milwaukie makes sense. Investment offers employment and opportunity for all the citizens of Milwaukie; it enriches the town literally and figuratively. Smart public improvements stimulate substantial private investment. Thus investing today in a better quality of life for downtown Milwaukie makes sense for the whole town, for years to come.”* Page 9 – fundamental concepts, *“The keystone to building a successful downtown is to build upon existing resources – the quality stores and offices that we already have – and supplement these with anchors and attractors – places used by hundreds of people on a daily basis.... The framework includes key elements which will be necessary to achieve these goals. New ‘anchor’ uses are as follows: bus transit center...”* Page 11 – key land use features and four important principles, *“Revitalizing Main Street and downtown”* It specifically cites a new TriMet bus transit center. Another key feature, *“Reconnecting to the River”* cites a *“New McLoughlin Bridge -- to knit the seam between the downtown and the river. New Riverfront Park – the City’s living room”* Another of the key

land use features, *“Restoring Natural Areas and Parks”* and it cites restoring Kellogg Creek. Finally, he started thinking are we looking at a piece of property that is within the defined area. The Framework itself includes six established and emerging planning areas. One of which, in fact, is the area to the south of the downtown including the site we are discussing.

He returned to his original question, why relocate the on street transit center? When he looks at that question in light of our Plan, the answer he comes up with is because the effects of the current on street transit center act against implementation of the Milwaukie Downtown and Riverfront Land Use Framework Plan. They are a disincentive to economic vitality and quality of life.

He has only talked about why relocate, not where. So why the recommendation of Option 2.5? During the course of three Planning Commission hearings, two and now three hearings before the City Council, the Working Group process, and the Milwaukie-only process, he was struck by the fact that much of what we talked about was opinion. On the one hand there are those, like himself, who believe that Option 2.5 will lead to development in the downtown. There are those who do not believe that will occur. On the one hand there are those who believe that Option 2.5 will lead to an increase of cut through traffic in the Historic Milwaukie neighborhood. There are those, like himself, who do not believe that will necessarily be the case. What did these and other similar views have in common? It is the belief that all of us or any one of us can predict the future with any degree of accuracy.

Rather than doing what we believe, what do we know about Options 2.2 and 2.5? Option 2.5 is within the area that is defined as being covered in the Downtown Plan. It is part of the downtown. Option 2.2 is not. The Downtown Plan calls for a transit center within the downtown to act as one of those anchors and attractors – “places used by hundreds of people on a daily basis.” Option 2.5 is within that downtown area; Option 2.2 is not. The Downtown Plan calls for preservation of open space at Kellogg Lake. Frankly, Option 2.5 fails, but as Ms. Collette pointed out, the existing plans also call for a park-and-ride structure if any one of the 2-point options is implemented. Both Options 2.5 and 2.2 fail in terms of preserving open space. The Downtown Plan calls for measures that reconnect the river and riverfront development. Option 2.5 when fully developed will provide for access from the downtown to the riverside of McLoughlin via the pedestrian bridge. Option 2.5 will, in fact, fulfill that portion of the Downtown Plan that calls for reconnection to the river. The Downtown Plan calls for the restoration of natural areas and parks specifically mentioning the restoration of Kellogg Creek. Option 2.5 stands the best chance of doing that by leveraging money to do the work that needs to be done in terms of restoration of Kellogg Creek. Option 2.5 complements existing projects. There is a lot getting underway in that area. There is the McLoughlin Boulevard Treatment Project, there is the Trolley Trail, the process getting underway with regard to questioning

the continued operation of the Kellogg Treatment Plant, and the riverfront. There is a lot going on in that area, and Option 2.5 is right in the middle of it.

What about our Comprehensive Plan? The Comprehensive Plan turns out to have in this case conflicting goal statements. One is to *“conserve open space and protect and enhance natural and scenic resources in order to create an aesthetically pleasing urban environment while preserving and enhancing significant natural resources.”* In conflict with that in this instance is the continuation to *“support and encourage the development of a broad industrial base in the City.”* Option 2.5 arose out of that desire to preserve the industrial base within the North Industrial area. Option 2.5 – he is not going to suggest this option does not reduce open space that is available. As Mr. Dietrich said, none of the options are perfect. Option 2.5 is the most cost effective operational solutions. All of the options increase operational costs. They all come at a cost. Option 2.5 is the most cost effective in terms of that increase.

What about some local issues? Option 2.5 does carry a real impact to those who live in its vicinity. Option 2.5 also carries a solution to ongoing pedestrian problems at the McLoughlin Boulevard intersection at River Road and 22nd Avenue. He has been to three meetings in the Island Station neighborhood over the past couple of years, and there is never a meeting without an agenda item being “how are we proceeding on that particular issue?” This option solves that.

Timelines. He sat in this room a little over a year ago when the City Council decided the locally preferred alternative (LPA). He made the argument for the LPA. Councilor Barnes gave him a very difficult time because of the timelines. He could not assure her of what the actual timeline would be. In retrospect, he is glad because this process, which is necessary, has taken a great deal of time. Option 2.5 is, in terms of timeliness – timeliness is important in terms of the Downtown Plan – how quickly can we get things happening?

Finally an issue he is only beginning to understand, is where we are going in the future. The population is aging. There are differences in state law having to do with the medically at risk driver program which may in fact remove the ability to drive from some people. He cannot help but think every morning about the news in the Middle East and wonder if the Saudi regime does not survive, what is going to happen with gas prices? He is not sure we will see those go below \$2 again. This leads him to believe the future is in fact going to require that we have a close association with transit opportunities within the region. We may not like that. We may not necessarily want to go in that direction. When he thinks 20 years down the road, he hopes that we have an active transit function within this City. He thinks we are going to have a lot of people relying on that function. Our job today, and one of the difficulties of the job is we have to prepare both for today and for the future.

In closing, how do we do that. Option 2.5 definitely presents some challenges. The people who live in that area are impacted in many ways. The open space. For that, the only work he can offer is mitigation. More process because we are going to have to design ways in which to meet those challenges. This is an odd position for staff, because in a sense it is an advocacy position in a sense at this stage. Once this is handed over to TriMet, we will return to a staff function. Whatever is decided at that level – land use proceedings and whatnot – we will be in more of a classic staff role. Processes are never totally perfect. The process that has been undergone has been extensive. The answer that that process came up with is Option 2.5. As he looks at the Downtown Plan and the Comprehensive Plan, he sees many reasons to support it.

Phil Selinger, TriMet Project Planning Director. TriMet, Metro and ODOT support the Working Group recommendation. He emphasized that all work to date has been at the conceptual level. There are a lot of details to be worked out. It started with refining some issues related to Southgate and basically finding a better location if necessary for the transit center. It was really a locational exercise. We tried to be inclusive and comprehensive. There was a lot of attention given to the operating cost increment of the different options. They looked at 21 different evaluation factors, displacements, impact on the community, and many other cost considerations and really tried to cover the bases. Option 2.5 emerged after detailed consideration of the other 8 options. They started at Southgate and expanded out in search of a preferred site. They got to a stopping point with 8 options, and 2.5 came out relatively at the last minute as a solution to some of the issues found with the other 8 options. As a summary statement community engagement has been valuable and will continue to be essential throughout the process. We are not done tonight – we are just beginning. He covered some specific topics that highlight discussion to date. These were operating costs, buses in the downtown, the ODOT site, and finally the Kellogg Lake site.

Operating costs. This was a specific concern of the Council at the first hearing session. There was some confusion over the operating costs in particular running buses to the Option 2.2 ODOT site. There were three numbers that were passed around: \$1.4 million, \$600,000, and \$460,000. All of the options bear similar operating cost increments. The bus service all comes together in downtown Milwaukie. As you move the transit center out of downtown Milwaukie you create a distance between the downtown and that transit center the buses have to travel to lay over. The longer the distance, the greater the operating cost because buses have to go from downtown where they drop off passengers to the lay over location, then back downtown to pick up passengers, and then continue on their route. The \$1.4 million prepared for the ODOT site was an error. It was essentially a double counting error, and that same error was applied to all the options. In a relative sense it was applied across the board to all the options. The error was corrected after the open house and before the Working Group's final recommendation. The Working Group did have benefit of the correction to

that \$1.4 million cost of running buses to the ODOT site before making its decision. That corrected cost, rounded off, is \$600,000. Those numbers are detailed in the staff report. There was another number of \$460,000 mentioned. That was the cost that staff presented when buses were taken out of downtown and short turning them at the would-be ODOT transit center site. Buses from the north would come to the ODOT site, and rather than continuing downtown, they would stay at the ODOT site and return directly to the north. They would not enter the downtown. The tradeoff is a reduction in operating costs, but bus riders would have to transfer for the last leg of their trip downtown. That was one example provided to indicate how costs could be reduced incrementally but trading off service in the downtown. Other sites do have similar costs. The Kellogg site is \$195,000 assuming signal priority treatment to get onto McLoughlin Boulevard and into the transit center. Without the signal prioritization the cost would be higher because it would take longer for the bus to make that connection. It would be \$285,000, which is still about half of getting to the ODOT site. The LPA Southgate site cost is \$315,000. These are annual costs to TriMet.

Buses in the downtown. He emphasized the purpose of study was not to take service away from the downtown but a locational decision related to transit center. Main Street and Harrison Street are natural crossroads for bus service coming to downtown. There is service coming in on SE 17th Avenue, Harrison Street, Lake Road, from the south on McLoughlin Boulevard, and from the north on Main Street. That service naturally wants to come together close to the intersection of Main and Harrison. That is why in an effort to minimize the circulation of buses downtown a consolidated, single pair of bus stops was proposed in front of Milwaukie City Hall. It is close to that crossroad for service. He showed diagrams of the current bus volumes at typical mid-day hours, which under the existing set up. There are heavy bus volumes on Main Street and 21st Avenue. There are basically 28 buses per hour in front of City Hall with 15 to 21 buses per hour on some of the adjacent blocks. Basically buses are arraying themselves in this several block area to get to their lay over locations where they will park and wait between runs. The ODOT site orients the buses to the north to get to the proposed ODOT location. That would place 38 buses in front of City Hall with 14 buses on the street behind City Hall plus some on adjacent blocks. The Kellogg Lake option is not that different from the ODOT option. It still has 38 buses in front of City Hall and a somewhat lesser number of buses behind City Hall. For all the options that take the transit center out of downtown, we have consolidated the bus traffic to the single pair of stops in front of City Hall and reduced the overall bus activity on some of these other blocks in the downtown. They have reduced the distance the buses travel in the downtown and the number of streets used.

Selinger said there are the same number of buses but on fewer streets and with less circulation. That frees up a net of 47 parking spaces that are now taken up with all the lay over zones in the downtown. As Swanson mentioned these are

enhanced bus stops with full sets of amenities and conform to City's streetscape plan for Main Street. These would be stops, so buses would basically pick up and drop off passengers. They would not lay over. They would not have to recover their schedules. That is what the transit center is for. The buses that need to do that would continue to the transit center wherever that might be and do the sitting at that location – not in the downtown or in front of City Hall. Staff has not said anything differently, so he is not quite sure where that confusion arose.

Mayor Bernard asked how a driver corrects being a minute or so ahead of schedule.

Selinger said the driver would recognize that early on and probably dog it a bit – drive a little slower or purposely miss a traffic light. The driver could sit for a minute at a stop, but they do that anywhere on the system. Schedules are tuned so that does not happen too often. It is possible that could happen at the City Hall stop but not by design.

Mayor Bernard commented in theory there would be another bus directly behind.

Selinger agreed that drivers need to move through pretty quickly. Buses cannot do that downtown on the transit mall because they have to keep going and keep the stop clear.

Councilor Stone asked for clarification. What you are saying then is that there will be no route recovery time in front of City Hall. If a driver finds that they are several minutes ahead of schedule, they will not stop and turn their engines off after two minutes and wait there. They will go on to the transit site.

Tony Mendoza, Senior Service Planner, responded to Councilor Stone's question. Part of design of the transit center and part of the impact we have to downtown is that we have a timed transfer point. The scheduled design is so that they meet, so there is currently some overlap in their schedules. We understand what that means to the community and are working away from that. One thing TriMet can do to help avoid that situation when a driver is ahead of schedule and avoid them parking downtown we can give them a time point where they can catch up on their time or make up their time just outside of downtown Milwaukie. We do that, as Selinger mentioned, in downtown Portland, so that buses do not do that at the transit mall where the volume of buses is high. The same thing can be done in downtown Milwaukie.

Councilor Stone understood otherwise they would have to do the route recovery time in front of City Hall if they did not have another place to do that.

Mendoza said they would be doing their jobs by doing that. It can be part of their job to do it outside of downtown Milwaukie.

Mayor Bernard asked if that was in a written format or something the City could get that says that what they are going to do?

Mendoza said it is part of the standard practice in the way TriMet writes its schedules. Time points could be designated as part of this plan and where they occur.

Councilor Barnes asked how TriMet deals with drivers who do not follow procedure precisely. Is there something with the ATU?

Mendoza said there would be no reason why, if TriMet gives drivers a time point outside the City, they would want to have a time point in downtown Milwaukie.

Selinger added there is field supervision that would identify symptoms before they became problems. We also believe as specifically identified that this bus stop can work with the farmers market. The conceptual design really worked hard to make sure the market is accommodated and actually enhanced in many ways by the opportunity to do the improvement on Main Street. TriMet would continue to find ways to mitigate any of these issues. It is an evolutionary process. The development of the bus service is constantly going through changes, and TriMet stays in touch with the community. We have heard clearly what the issues are with this community tonight.

Selinger said the next topic was to address the ODOT site as a focus for an alternative to the Kellogg site. The Working Group process was a discovery process for all; it was just not limited to the Working Group. In many respects staff had visited some of these options 10 to 15 years ago for transit improvements in Milwaukie. Even sites like ODOT had been in various incarnations in the South/North and other work in an around Milwaukie. To say this was all totally fresh to staff was not quite true. We have been at this for quite a while. We did mix and match and borrow from some of that past work. As part of discovery process, they did arrive at some very fundamental concerns about the ODOT site. We believe those concerns are pretty serious. One is the functional redundancy with the proposed station at the Tacoma location, which is a very short distance from the ODOT site for to have two major park and rides next to each other. This would not make a lot of sense. It concentrates rather than disperses access to the system for park-and-riders. It creates many of the same traffic impacts they were trying to avoid with the Southgate scenario. The traffic impacts would occur both at Ochoco and Milport. There is the operating cost consideration he just detailed. ODOT like any industrial use would be displaced, and they, like other industries, have specific requirements for replacement siting. TriMet would have to comply with those needs. That would be difficult considering the size of that operation. Finally, another significant

concern was the isolation of the site. That translates into safety for people using the transit center and the park-and-ride and just the functionality. TriMet believes it gets more function having transit where people are active, living, working, playing. That adjacency would not be at the ODOT location. As was also mentioned, a facility at ODOT would still require by TriMet's assumptions at least, a parking structure at the Kellogg site. All the 2-point options have a park-and-ride structure at the Kellogg site. The reason for that is TriMet knows from the license plate surveys conducted at the Southgate park-and-ride when it was active 52% of the Southgate park-and-ride lot came from the south, and it is in everyone's best interest to intercept those trips before they get to central Milwaukie. A park-and-ride located at the Kellogg site would do that. They also had a small park-and-ride proposed as part of the LPA at the Cash Spot site which is also adjacent to the Lake but on the other side. In some ways that proposal actually bore some similarity to the joint development option Stan Link presented. The problem is the site is challenged physically, and TriMet could only get 275 spaces. This helped but was not adequate. We finally believe there are a lot of opportunities that would be missed at the ODOT site. The three main agencies prepared a memo that was provided to City staff and the Working Group in December which identified the agency concerns with all nine options including those about the ODOT site. We realized pretty early on in the process that we as staff from the three agencies could not support Option 2.2 at the ODOT site. He felt all staff would stand by that position tonight.

Staff knows the Kellogg site has its own challenges, but it does avoid traffic impacts experienced with the sites to the north. It actually improves the operation at River Road and 22nd Avenue by re-building those intersections. In that respect it is basically an asset. It works for ODOT's work program for McLoughlin Boulevard. Traffic engineers and ODOT staff look at it, and they believe it can work. It provides parking and bus connections at the end of a future light rail line, and staff thinks that is important to provide maximum transit service to the full extent of that light rail operation. It intercepts park-and-ride traffic before it reaches central Milwaukie. It provides good joint use potential with a pedestrian connection in its Phase 2 development between downtown and the Island Station neighborhood. It provides a shared parking opportunity with heavy use as a park-and-ride on the weekdays, but evenings and weekends it will be largely available for other civic uses including recreational activities at the waterfront or downtown activities as well. Staff actually believes it can help restore Kellogg Creek and the area around the proposed facility. It meets requirements for bus operations. It is the best of any of the non-downtown options that were considered. There are no significant displacements. It is City-owned land, so there will be no direct tax impacts. It has the potential for coordinating with other projects such as the Trolley Trail, Creek restoration effort of the McLoughlin Boulevard development work, and the riverfront work.

In closing, Selinger knows that there are some challenges ahead under any of these options. Certainly with the Kellogg site and the selected Tillamook

alignment and working that alignment with the Union Pacific Railroad. Moving the light rail alignment represents logistical and negotiating challenges between TriMet and the railroad. There are the environmental impacts at the Kellogg site that would have to be addressed, and staff is well aware of those. There are also visual impacts associated with a parking structure at the Kellogg site, and staff identified ways it believed it could begin to address those impacts in its memo to Mr. Swanson. We will continue to work with the community to advance that.

Selinger appreciated the thoughtful input and great patience in providing direction for this work program.

Mayor Bernard referred to the staff report and hoped that people would pick it up at City Hall and read it. It answers a lot of the questions that have been asked.

Bill Hupp testified via phone. He appreciated the opportunity to talk with the City Council. He followed this for a long time, and everything that has been said. He was on the City Council for 10 years and had arbitrary issues that had to be settled. He respects the City Council regardless of their opinions. He is very much opposed to the Kellogg Lake site. Regardless of which way this issue is voted upon by the City Council it becomes law. The sun is still going to shine and the blue sky is still going to be up above. Keep one thing in mind. You are all on the City Council because the voters voted you in. When he was on the City Council when an issue came up where he had to choose between the bureaucracy or the people, he always voted for the people. He hoped that in order to bring peace and tranquility back to the separated City of Milwaukie the City Council would put it on the ballot in order to know what the people want. If people do not want it, it should not go. If the people do want it, then it should go.

Councilor Loomis said with all the 2-point options are the intersections improved on McLoughlin Boulevard.

Selinger said with the Tacoma option there were already some intersection improvements established related to the Tacoma overpass. There are no other McLoughlin Boulevard interfaces with that option. At the ODOT site there might need to be some signal improvements like re-timing. The physical improvements would be minimized at that intersection. There would be improvements at Kellogg Lake with options 2.1, 2.2, and 2.3.

Councilor Loomis asked what would be the impact on the Sweetland home where Marie Watkins lives if the intersection is improved.

Bill Adams, ODOT, said in most of the designs no private property would be taken.

Selinger referred to the Kellogg scenario in its Phase 2 development with the improved intersection at 22nd Avenue and River Road. The River Road

intersection, in this conceptual plan, does not quite align with the Sweetland driveway, but it could. The distance between the home and the focus of the improvements which is at 22nd Avenue and McLoughlin Boulevard is significant. It is about 500 feet.

Councilor Stone had a question about the different options and the estimates for how much they would cost. She wondered in Option 2.2 you assumed a speed of 17 mph to get this figure of what it would cost per year. Option 2.5, you did both 27 mph and 25 mph with signal priority treatment. Is the 2.5 assuming 17 mph also with signal priority treatment?

Selinger said that was without the treatment hence the slower average speed.

Councilor Stone wondered why there were no figures that showed Option 2.2 assuming a speed of 25 mph. Certainly that would decrease your costs if they could get there quicker.

Selinger said there are no signals on Main Street between downtown and the ODOT site. In that case it is really distance rather than the signal issue.

Councilor Lancaster thought he would be speaking for the Council when he said he was struggling with so much information and a lot of it is conflicting. It makes it difficult for him to get his arms around it. He certainly was not prepared to ask every question he has at this meeting. He understood there were 21 evaluation factors. He asked if they were weighted.

Selinger responded there was no way to weight them because they felt it might lend more subjectivity to the factors. The factors were presented individually, and the Working Group drew their own weights to the various factors.

Councilor Lancaster said the cost issue continues to be vexing. It went from \$1.4 million, which Selinger explained, then it dropped to \$800,000, then to \$600,00, and then to \$400,000. Is that your final answer?

Selinger said the costs are detailed on the table that is part of the staff report. He did not recall \$800,000. \$600,000 he believed is what he mentioned in the City Council meetings, and Gessner was picking up the mitigated number by short-turning some buses. Selinger and Gessner were not making quite the same comparison.

Councilor Lancaster asked Selinger how he arrived at the last number he gave City Council for the cost comparison. When he looks at the numbers given in testimony by the certified transportation professional, he is having trouble reconciling that.

Selinger said respectfully, TriMet has certified transportation professional as well. This is something that is done routinely, and he asked City Council to keep in mind this is conceptual planning. To be honest, he did not know if TriMet had a bus going out there. There is detailed data about what the buses do to day along Main Street, and that is where the 17 mph average speed was developed. Beyond that, it is the number of buses per day or per week making that trip times the speed times \$65 per hour system cost of providing the service.

Councilor Lancaster asked if there were some point where TriMet actually goes out to interview the riders and drive the route?

Selinger said staff did drive the route to validate what they were seeing from the database that keeps detailed records of bus operating times in various segments along the system. It uses global satellite technology, and TriMet felt comfortable with that process for this level of detail. This is order of magnitude planning.

Councilor Lancaster said this has been brought up several times, and no one has actually asked it outright. Has TriMet purchased property at the Southgate site?

Selinger replied TriMet has for a long time desired to replace the park-and-ride facility that was once at Southgate. TriMet also knew that it had a locally preferred alternative that promised continued use of that site into the future. Regardless TriMet knew it needed a park-and-ride until that future came, so it proceeded to negotiate and has a pending offer on the site with that property owner. That offer is pending because of Federal Transit Administration (FTA) sign off with the negotiated purchase of the property. The answer is, it is pending.

Councilor Lancaster asked Selinger if he saw any obstacles to that deal being consummated.

Selinger responded none of these deals are ever easy. It is always different players, and the FTA is always a partner by providing the bulk of the funding for most of these projects.

Councilor Lancaster discussed the ODOT site and his involvement in the lengthy planning process with 9 months of visioning and the Comprehensive Plan. There have always been some very positive elements with the ODOT site. When he looks through the documents ... the one dated January 2003 where people were looking at the options. We spent a lot of time to get to the Southgate site, to the LPA. Suddenly the Southgate site is on its ear. He felt compelled to go to where we were before we started this latest process. This document shows the North Industrial landowners supported either option, the neighborhood associations were evenly split between the options, and downtown

was leaning toward it not being in their yard – which tends to be everyone’s case. When this process started, he understood Selinger ran the process.

Selinger said the Working Group was lead by TriMet and consultants.

Councilor Lancaster asked Selinger if he was at all involved with the process up to this point.

Selinger responded the project manager reported to him, and he is no longer at TriMet. He said he was aware of the process.

Councilor Lancaster was trying to get to the North Industrial business owners’ involvement. He was not sure where the Kellogg Lake idea came from. Was it a bolt of lightning out of the sky? Did someone just bring it forward? He was unclear how we got to that point. The caveat being there were accusations made or statements made the North Industrial business owners were never given an opportunity in that initial decision, when in fact they were. There was plenty of opportunity. Their involvement understandably is just get it out of here – we’ll go with anything that gets it gone. Did the idea come from them, or did it come from someplace else?

Selinger asked **Dave Unsworth** to respond since he was in all of the sessions.

Unsworth said there was a series of meetings. The first was a description of how we go where we are, and how we came to the locally preferred alternative at the Southgate site. It was very clear that one of the first things was how to mitigate the LPA, which means there were parking impacts, and traffic impacts, displacements. Initially, the focus was on how to fix the LPA and other concerns and comments that Tillamook was a better alignment that avoided some of these issues and could be a better transit location. The Group split into teams and asked people what concerns they had and started drawing them up. From his standpoint, he saw people from the neighborhoods, staff, industrial folks talk about what was right and what was wrong with the LPA and how it could be fixed. The point-2’s were looking outside the box and what benefits those had. The Kellogg Lake location started out to meet the needs for a park-and-ride. He would not say it was the industrial folks by themselves coming up with that idea. It was a collective thing. Option 2.5 built on 2.4. People said there were issues with 2.4 and asked if there were other ways to solve it. There is already a park-and-ride there, could the train be moved to go across the creek and serve that park-and-ride? Could we look at doing a transit center there? Each piece was looked at -- what were the issues with the buses in downtown Milwaukie? They idle, they are noisy, and they took up parking spaces. Let’s look at a way of fixing that. But we do not want all the transit service out of downtown because it is important to getting people in to and out of downtown.

Councilor Lancaster said getting back to bringing people into and out of downtown. One of the things that rang in his ears when the other testimony came forward with their study in terms of interviewing people, they were just here to transfer and go someplace else. Do you have any good evidence a transit center actually promotes development and stimulates business in downtown. All he has seen is to the contrary. That interview process seemed to confirm that. The gentleman from Gateway section – Councilor Lancaster had no idea why he came or what motivated him – he has not stake here he is aware of. He tended to share nothing but the deleterious effects of a transit center in that neighborhood. He was trying to delineate between assumptions – that light rail creates all kinds of great development and there is not of good evidence that it does. He is trying to get past the theory and assumptions and some real credible evidence of some past history of things that have really happened.

Selinger said good access is important for any town center – Milwaukie is a town center – whether that access is by car or by bus or walking. Transit service needs to be a part of that formula for providing good access to a community. He did not think a transit center or a transit facility or even great bus stops alone make a great downtown. It is not magically going to bring development to the downtown but it complements all those things that make a good or great town center. That is the important thing to remember. There is no magic in this. We can be creative in how we put these things together. TriMet does work hard to link its transit investments with land use opportunities. We are doing that on Interstate Avenue right now. We are trying to do that in Gresham and on the west side as well in Hillsboro. Beaverton is. It takes collaboration. TriMet and the transit service by itself do not make that happen. Even the proposal that was creatively presented, although a great scenario, requires some really strong partnerships – some very complicated partnerships. Developers. Community buy in. Tight funding packages. TriMet is trying to do what Lancaster was speaking to throughout the region.

Councilor Lancaster said his question was answered in part. It leads to other things in terms of assumptions. One of the objections to the ODOT site was that it was too close to Tacoma park-and-ride. Does that mean Tacoma is a given? He understood that was also just a proposal.

Selinger said the one advantage Tacoma has is that it is on major cross street with McLoughlin Boulevard, so it is a good connection to the community to the east and west. It also is a good bus connection, which the ODOT site does to naturally possess. Part of his point was to put a 600-space parking structure at Tacoma and then to put another one at Ochoco would create the same park-and-ride market area around those stations and also creating a little bit more traffic as people try to get to those 1,200 parking spaces within ¼ mile of each other. It would be redundant investment, and he believed the other partners in the agreed with that conclusion. Tacoma is in the LPA and not identified as a study area like Southgate. The LPA is subject to revision as it goes into the next step though

final preliminary engineering and the final environmental process. Tacoma Street could be modified through that process.

Councilor Lancaster said that is part of the problem. As we get farther into discovery, alternatives have to change because of new information. That is why it is important to him not to move too quickly until we are convinced we have all the information that is needed. From his perspective, this needs to be more of a long-term decision than a short-term decision. He will get to the funding piece in a later question.

Unsworth discussed Tacoma and why it works well. Tacoma is grade-separated, so cars coming down McLoughlin Boulevard or from Hwy. 224 have an access that gets them into the park-and-ride when they want to come home at night. There is no traffic signal there, so they are able to go over the top and come back down on a ramp. It allows people to get to and from that site much easier. Ochoco has a traffic signal that gives about 15 seconds of green versus about 1-1/2 minutes of red time, so it is very difficult to a lot of cars out of the intersection. TriMet looked at that site a long time ago and realized 600 spaces certainly did not work from a traffic standpoint, and it failed miserably. Tacoma works very well. The second reason is if you look at investment likely to happen along the Springwater Trail, which is the Three Bridges project, that connects the Ardenwald neighborhood and Sellwood all pointing to that location. That is a twofer where it provides the ability to park cars and the ability for recreational use at non-peak times. The Tacoma Street park-and-ride has a lot of strengths to it. Looking at duplicating a larger park-and-ride at Ochoco does not work from a traffic standpoint, and it did not when considered 6 or 7 years ago. If there is light rail, there would probably be a park-and-ride lot at Tacoma.

Councilor Lancaster we seemed to be boxed into building these multi-story park-and-rides versus this kind of concept that could have much greater economic positive impact. When you discuss trails, this scenario seems ideal. The again how much do we really need.

Unsworth said the LPA had a 275-space lot at the Cash Spot with parking above and retail on the ground floor. It also had a 600-space park-and-ride at Southgate and a 600-space lot at Tacoma. TriMet originally looked at 1,000-space lot at Tacoma because the demand is there. In discussing it with the Ardenwald neighborhood, it suggested trimming it to 600 spaces, which in fact happened under the proposal.

Selinger discussed traffic implications of having those spaces downtown.

Unsworth commented that is not dissimilar to Hillsboro. There is a structured park-and-ride lot with storefront retail on the bottom floor. It is actually commingled with the sheriff's department.

Selinger added this is actually on the western edge of Hillsboro with the intent of intercepting drivers before they go through the City.

Unsworth commented that was not dissimilar to concerns about getting across the street from downtown Milwaukie to the riverfront. He believed that was the impetus of looking at a park-and-ride farther south. Cars are being captured that would with go on to Southgate or Tacoma. They are stopped before driving through the central city.

Councilor Lancaster would be interested in any objective data that that has been successful in Hillsboro or not.

Selinger said the garage is not fully utilized, which is somewhat of a disappointment. He presumed part of it was that the market to the west of Hillsboro was not that great, and people tend to want to drive to the Sunset garage because it is closer in.

Councilor Lancaster said that was his point. We need to look at that.

Unsworth discussed the investment in the downtown and infrastructure in part because of the investment in rail that took place.

Selinger added from a design and scale standpoint, it works reasonably well. There are some large buildings around there as well.

Councilor Lancaster why would ODOT have to be displaced? He understood under this diminished footprint, we would only need two acres, and that is a two-acre site. Why could they not cohabitate?

Selinger replied the tentative response from ODOT was Phase 1 perhaps could be located on the ODOT site without displacement. They would have to compress their operations, and there would be some cost to that although it has not been estimated. When you get to Phase 2 with the parking facility, light station, and tracks going through the middle of the site that is when they believe they would have to be relocated given the size of the operation.

Councilor Lancaster understood this was based on light rail coming.

Councilor Stone asked if that was based on funding through voter approval? All the park-and-ride structures we are talking about are married to light rail.

Selinger said that is the general understanding at this point, but nobody has a particular strategy for doing that.

Councilor Stone understood Phase 1 would relocate the buses, and Phase 2 would bring park-and-ride structures with light rail. They would not exist without light rail.

Selinger said that was correct except for the proposal he referred to at Southgate, which is an interim arrangement for park-and-ride.

Councilor Lancaster recalled the comparative numbers, and he wanted a good comparison between the two that are on the table for serious consideration. The capital expense for ODOT was \$63 million and \$61 for the Kellogg site. He asked Selinger to share with him how to get to those costs. We are building sky bridges and massive amounts of improvements to the Kellogg site. How can it be less expensive than the ODOT site?

Selinger said those numbers are differences in cost from the cheapest scenario. There are so many parts of this that were moving between scenarios, staff did not try to cost the Kellogg site or the ODOT site in isolation because the alignment was moving, intersections were being considered, there were things in the downtown with the improved bus stops. This was basically a total cost that summed up all those pieces and the puts and takes the various changes created to come up with that cost differential. In-house cost engineers prepare estimates. This is a very conceptual level of planning, so the costs are order of magnitude and pretty rough at this stage.

Unsworth noted the length matters. Option 2.2 is a longer route than Option 2.5. there are more displacements with Option 2.2, so the length of alignment and the number of displacements will add costs.

Selinger included the number of stations, the number of parking structures versus surface parking, the number of grade crossings, and other similar things.

Councilor Lancaster said, based on his experience and perception of acquiring federal money for these projects that there is a strategic advantage to getting something started to get new amounts of money and do it in phases. Would it not make more sense to have a location that has less cost to get to it and develop it versus going all the way to the very end at Kellogg Lake.

Selinger believes the process to date has demonstrated we need to get to downtown Milwaukie to have a project at all. Once you have brought the would-be light rail project to Milwaukie, exactly where it stops, whether it is at the Jr. High School, Lake Road, or the Kellogg site, it is not academic because it all has a cost, but have basically arrived in Milwaukie. You need to optimize how you make it work within that terminus, the general location where you are terminating the project.

Councilor Lancaster said that make sense to him for light, but not necessarily a transit center.

Selinger said we are in the federal process right now with a proposed light rail project to Milwaukie. We are in that process. We have a locally preferred option. Were we to go to the federal government and say we want to build a transit center in Milwaukie, they are going to want to make sure we are building investment and that we are not creating throw away projects.

Councilor Lancaster thought all the money had been diverted to 205 and out to Clackamas County. He understood Selinger was saying Milwaukie still has a place at the table for light rail to Milwaukie at this point?

Selinger said for a process very much so. For a funding package that is a regional process which is yet to fully unfold.

Unsworth added there was a commitment in April 2003 to build South Corridor that involved two things. One was light from Gateway to Clackamas Town Center. The second phase is Milwaukie light rail. The intent is to build it. How we fund it, when it comes, the location of the transit center is all part of the process. It started with City Council asking questions about the right location and moving the transit center off street sooner than later, so they started looking at that. That is what we started to do. The first phase is to move the transit center and make sure it does not have to be moved again and make sure it is set there for light rail. The intent is to build light rail. That is what came to the City Council in March 2003. Funding is an open debate. When will it happen? Not soon. The "if" depends on a lot of things including funding.

Selinger commented Beaverton's new transit center went through that same process. It was located with the future light rail alignment in mind, and that did work. You keep your finger crossed when you do that because things do change. In that case it was successful.

Councilor Lancaster was confused about the actual bus lines. We have 12 lines right now that come into Milwaukie.

Selinger said that was correct.

Councilor Lancaster asked how many of those would actually be diverted to the Kellogg site? Based on what he has heard up to this point, he is still a little confused. It seems like there are still significant lines – he believed it was five – that would still have layover right in downtown Milwaukie. How many would layover and park in downtown Milwaukie.

Mendoza said there would none.

Councilor Lancaster understood 100% of the layovers would be at the Kellogg site.

Mendoza said they would either layover. Some of the things we would move to right away as early as September is to interline line 28 and line 29, for example. Interlining means they become one line and loop through. Those lines are still both operating and overlap and wait for the other lines to make the transfer. That is called a time transfer or a pulse, which causes those buses to take up a whole parking spot in downtown. We are looking at the importance of that pulse and it is possible the line can go right through. That pulse may go away as early as September. TriMet is also looking at the line that goes down to the industrial area and looping it with another line that could interline two more lines as early as September that will also take out another parking space. Where six lines have the potential to park in the new Kellogg Lake site, TriMet could immediately take out some of that layover function from Milwaukie as a result of what was learned in this process.

Selinger added those routes are doing their layover in Oregon City or Clackamas Town Center at the other end of that combined route. He mentioned the routes that would continue south on McLoughlin Boulevard would have stops alongside the Kellogg transit center and would pass through the ODOT transit center on Main Street. Those routes that go from north to south would do that but at least provide the connection both to the downtown bus stop and to the transit center.

Councilor Stone understood the 12 lines that come into Milwaukie will all go to the Kellogg site.

Selinger responded yes in the case of those that require a layover. Only some of the, however, would lay over at that location. The reason not all routes can do as Mendoza described is because some of the routes have already come a long distance. To combine two long routes creates too much uncertainty into the schedule. Those that are interlined are local routes that have relatively short distances and could be connected into one long route.

Mendoza said not all need to go to Kellogg site because they all have the ability to meet each other between Jackson and Harrison on Main Streets. So whether we bring that bus to Kellogg is academic.

Councilor Stone understood the effect of interlining these routes was that they could potentially meet in front of City Hall and not have to go to the Kellogg center, so therefore we have quasi transit center at City Hall if they are doing that.

Mendoza said this would be a bus stop where they will meet each other and not necessarily a transit center where they are laying over.

Councilor Stone's concern is not just a stop and they go on. They will not have any time delay layovers.

Mendoza said there would be no layover. They pass through, drop off, and pick up. It is the place where all services can meet.

Councilor Lancaster was struggling with, and he actually loves aerial photography, the fact there is one way in and one way out. He heard them say they would be able to reduce traffic volumes on McLoughlin Boulevard.

Selinger said the intent would be to take park-and-ride commuters off McLoughlin Boulevard before they pass through central Milwaukie. They may continue going north to get to another park-and-ride, but if you had a facility at Kellogg Lake they would not even have to pass through the downtown. They would turn off at Kellogg and pick up their bus or train from there.

Councilor Lancaster is looking at what we are living with in the meantime. Light rail may never make it that far in his lifetime.

Selinger described the Southgate scenario and it as a park-and-ride.

Councilor Lancaster was done with his questions for the time being and will formulate others.

Planning Director John Gessner discussed the highlights of the Planning Commission decision. One because we feel it was an independent review of the Working Group recommendation, and two it largely incorporates or accommodates many of the concerns the City Council has heard on both sides of the issues. It does a pretty good job of addressing the substantive concerns that have been raised in testimony before the City Council. One of the things that characterizes planning decisions is that it involves resolving competing interests, goals, and values. The Working Group was by design a collaborative process from the beginning. The Group resolved those competing differences largely through identification of individual stakeholder concerns, coming up with the alternatives, then deconstructing for critical evaluation. After five months there was a sense of agreement that option 2.5 ought to be forwarded to the Planning Commission for its consideration, and by that process, the competing values were resolved. It is a much different environment when we go from a collaborative process to a competitive process. Essentially the testimony before the Planning Commission and before the City Council has changed in character from collaborative where all the stakeholders were working together to come up with a common agreement to all the stakeholders trying to impress the Planning Commission and City Council with their own best interests. It went from a collaborative to a competitive process. The Planning Commission decision does a good job of representing the resolution of those differing values and concerns.

He thinks that is why it received such a strong endorsement from staff and the Planning Commission. When trying to resolve competing interests, a cure for one might offend another. It becomes a difficult task, and he appreciated the difficulty the City Council has as elected officials and being asked to resolve those differences.

What did the commission consider? All these issues have been represented in documentation both from staff and public testimony. Transit needs and goals, industrial, downtown, open space policies, and costs. A lot of discussion before Planning Commission and City Council had to do with specific locational impacts and how it affects a location or a resource. Traffic and environmental concerns. Impacts on historic properties and visual impacts. Development opportunity, effects of all the options on the City's tax base, business displacements, public safety, and loss of open space. It is a real challenge to be able to think of all these different areas of concern at the same time while trying to find a solution that offends the least and benefits the most.

Why did the Planning Commission support the Kellogg site? There was a great deal of enthusiasm in that it results in the timely relocation of the transit center. There is great advantage in City's for owning the site and for being able to facilitate removal of the transit center from downtown. The problems with LPA initially identified by the Planning Commission and then acknowledged and adopted by the City Council with regards to LPA, traffic, and business impacts in the north industrial area and lack of participation by some stakeholders are resolved by Option 2.5. Councilor Lancaster asked the question about the claim that there would be reduction of commuter traffic through the City. That supposes that the Kellogg site would act efficiently as a grab, meaning the parking lot is going to fill, and thereby keep the 500 plus cars out of the downtown and McLoughlin Boulevard at the Kellogg site. The McLoughlin Boulevard intersections are corrected. The industrial tax base is preserved, and there was testimony about the actual loss in taxes. Gessner cited \$6.3 million in today's value if the LPA were to be constructed today. That resulted in a total governmental loss of \$120,000. Compound that every year, and it results in a significant loss. The Planning Commission found it supports the City's economic, land use, and transit policies. There was discussion of site-specific impacts, and the City Council believed that through the Committee process that TriMet committed to, mitigation of environmental, public safety, and architectural impacts could be accomplished. The one with the greatest currency is that it has the fewest adverse consequences and results in the greatest benefits to the City in the judgment of the Working Group and Planning Commission.

Gessner reviewed the next steps because there is a lot of concern about what happens if the City Council decides to forward a recommendation in support of Option 2.5. The matter would first go to the South Corridor Policy Steering Committee for its recommendation to the TriMet Board and Metro Council. Once that is accomplished, money would be released to start phase 1 environmental

analysis on the site to ensure that any impacts can be mitigated by identifying any actual sensitive resources and mitigation methods. An important part of the discussion before the Planning Commission was City participation in a design mitigation and public safety committee. A decision to go forward would address public testimony and concerns about environment, public safety, and design impacts and provide people the opportunity to participate in future design decisions so that we have some assurance that whatever design is landed upon, we will be off than if that participation not occurred. There is still quite a bit of local review that would need to be completed. This includes a rezoning of the site and change to the downtown plan. These are judicial hearings before the Planning Commission, which would make recommendations to the City Council. There is still a lot of opportunity for debate and discussion on those changes. Funding approvals would be necessary for funding approvals for future light rail. State and federal environmental permit processes and City review of land use applications would occur. TriMet and Metro would have to make application before the Planning Commission for the actual construction of these facilities. He felt this overview summarized the reasons for the Planning Commission's decision and why it supported the application.

Councilor Lancaster asked if there was objective data on crime statistic near transit centers especially in proximity to schools.

Gessner said the Group requested report history for the existing transit center from Chief Kanzler. It was apparent there were a lot of calls having to do with juvenile offenses, which might indicate a strategy for dealing with that particular problem.

Councilor Lancaster raised this because he has a good friend who used to be a transit police officer. He told stories about all the sites around the Metro area, and none of them were pretty. When he looks at this site and we talk about security and visibility and access, this seems like a perfect place for crime to work.

Police Chief Larry Kanzler said what has happened historically is the environment is created around the transit centers without the planning processes taking into account the influence of crime. It has happened in Gresham, Portland, and Hillsboro. The cart came before the horse. In Portland, for example, he was responsible for supervising the downtown core area. The transit center drew a lot of police resources because there was no consideration before the fact in the design and construction process to try to mitigate crime. We have learned from that, and he has had many discussions with then Gresham Chief Guisto and the Hillsboro Chief about what they would have done differently. All of them agree that if they could have had the opportunity to provide input into the design process of how the transit center is created, they could mitigate any of the impacts of crime at the front end rather than on the backend. If Milwaukie gets involved, it will have the opportunity to shape future

facility and be ahead of the curve. In all the instances, in Hillsboro and Gresham where they had gang impacts right on the platforms, they did not have the resources, the police, the surveillance cameras, or TriMet police. Everything was catch-up. TriMet police was not of the size or capacity to deal with the problems, so everything had to be catch-up. Resources had to be created. He has talked to the City Council many times about how long it takes to develop a police officer before they can go out and do their job. The same lag happens when you have to deal with these crimes that develop. During the process when we were talking about putting the transit center near the Library, he mentioned to the City Council and Working Group about a system called crime prevention through environmental design. It is a process to evaluate the structures and environment you create to provide access for police, supervision, observation of people who use the facility, and mingling police with the community. He provided some reports to Gessner about creating the design of the parking structure so it allows access and egress from control points and surveillance of those locations with video cameras to mitigate car prowls, purse snatches, and assaults. Once it is known these things are in place, they will go to softer targets. Crime will go where it is easiest to conduct.

Councilor Lancaster asked Kanzler if that was his opinion regardless of where the transit center is sited.

Kanzler said that was correct.

Councilor Lancaster asked if there were additional concerns after hearing from that gentleman who had some of the history of the Kellogg Lake site.

Selinger said borings and samplings have not have not done to see first hand what is down there. Through conversations, we do know there is all kinds of stuff in there. We have talked to our structural engineer about how to manage that, and he is not concerned. There would have to be pilings, and there was a similar situation at the Long Bridge at the end of the Interstate light rail line. It is part of the cost of the project, and TriMet feels it can manage it.

Gessner asked at what point in the process would the geotechnical analysis be done.

Selinger believed it was done during preliminary engineering.

Councilor Lancaster was concerned that if we narrow it down to these two locations and move toward one and find there is a fatal flaw, he does not want to go back a long ways to look at the next-best alternative.

Selinger said neither does TriMet.

Mayor Bernard has set up a meeting with the ODOT Regional Director on July 18 to get a couple of these issues answered. One of the issues he is concerned about is the Sunrise Corridor that does in fact dump into Hwy. 224. He is interested in meeting with them and finding out what they have talked about or what they would consider to eliminate some of those lights such as Monroe Street. He had some preliminary discussions at a Sunrise Corridor meeting, and they said they would love to get rid of some of those lights. Councilor Lancaster and he will attend this meeting. He intends to give ODOT some homework. He needs to find out more about the transit center location. We talked about design criteria for entering the transit center and for fixing River Road and 22nd Avenue. He wants some answers from them on that. Furthermore, on the ODOT site – are they interested in selling? Would TriMet even be interested in considering a transit center there. If they are not, why are we talking about it? Some of those issues need to be clarified. He recommended setting a date specific for deliberations on the transit center relocation.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to continue deliberations to a future meeting.

Mayor Bernard requested that interested persons submit their comments in writing to move the process forward.

Councilor Loomis was concerned about dragging this on. He felt the meeting was an acceptable reason. There are a couple of things he wanted to address and the beating staff took this evening. There was the accusation of lies and underhanded this and that. To him this process has been open. What really bothers him is that type of testimony undermines all the hard work over the past 5 years that Mike Swanson, for one, has lead to bring people together. The benefits out of this whole process are now we have a new member into the community of the industrial landowners who have not been part of the process. Now we have the citizens and industry. We are all working together, and then it all blows up. To accuse and undermine the process is upsetting to him. He asked people not be bitter about the process. He hears things about TriMet. In all the testimony and all the written material, the City Council asked them to do something and they and staff went out and did it. He felt they did a great job. Because someone disagrees, it does not mean someone is right and someone is wrong. It is a disagreement -- do not make it personal. We all say we are here for the benefit of Milwaukie and to make it better. He believes that, and he has no hidden agenda. Speaking for the City Council, there is no hidden agenda. We want what is best for Milwaukie. To muddy the waters and cloud the issues with opinions which are good to have, but it comes down to the facts. We hear arguments on both sides that use conflicting statements trying to make their point, and all it does is muddy the waters. Let's try to stay positive and come out of this with something that will benefit Milwaukie. In talking with some of the homeowners and visiting their property, they live in a paradise. It is a beautiful sanctuary, and he is committed to protecting that for everyone to enjoy. We talk

about livability and in speaking with some of the homeowners on the Lake, one of the good things that has come out of this is that you have gotten to you're your neighbors. Ms. Shepard said she has lived there for 4 years, and did not know anyone. Now she knows everyone on the Lake. It is all about community. Ms. Watkins talked about having a tour of homes. Do not lose that perspective. No one is trying to do some secret deal. He has not found the secret door, but he has been looking. Maybe he is not included in the back room. He thanked Swanson for his hard work.

Mayor Bernard said this process has been great. Every time you move along in the stages, someone else says they have not been contacted so did not get involved. No one gets involved until it impacts him or her. This is our community, and we should be involved in everything. During the budget process, nobody came to the meetings. If we said we were going to raise taxes, everyone would be at the meeting. Back room meetings, smoking cigars, and cooking deals does not happen. He has a home in Milwaukie. He has a business in Milwaukie. He has property here. You are right – he wants to increase the values. What is wrong with that? There is nothing wrong with that, and he hoped people would see that tape because he is proud of what he said. We were talking about access to the Willamette River and tying our cities together. Why? Because we can increase the value of our communities and use the Willamette River, which is very valuable. You are right, his property value is going to go up and so is everyone else's. That is important. This is a community, and we need to work together. We need to be here all the time, not just when it impacts us. This is a great process. He met a lot of business owners and people who walk by his business every day that he never talks to. He has been involved every step of the way. The day after he was elected Mayor, here comes light rail – let's deal with it. That was when the 14-Points were created and agreed upon by everyone. He never heard anyone say those 14-Points were bad. In every one of them light rail came to Milwaukie. It was a way to deal with light rail. The same people who got that group together are the same people who showed up today angry at him for even thinking about Kellogg Lake. This is a great process, and everyone is going a great job.

Councilor Barnes asked if Mayor Bernard's intent was to deliberate after the meeting with ODOT.

Mayor Bernard said that was correct for a couple of reasons. It is time to focus on the RiverFest.

Councilor Barnes does not want this to wait until the end of July and Riverfest where we should be celebrating the community spirit and healing. She was against waiting until the end of July for a final decision. We have to come up with a decision that offends the least and benefits the most. This will probably be the hardest decision this group is ever going to make and the hardest decision we have made to date as a team. For those who said this was a done deal from the

beginning -- it was not a done deal – it was not predetermined. She struggles with this daily as do other member of this Council. We have listened to testimony night after night. People have taken her to various places to see various things. It has not been a done deal. This Council does not operate that way. In fact, its major goal has been communication for a long time. Anyone who even says that publicly bothers her a great deal. The five people sitting at the dais want you to know that they have been listening. We do listen to people in this community. We take the phone calls at 9 and 10 at night when people are angry. We take the e-mails. We keep stacks and stacks of information, and we go through it. We put hours and hours in. We ask the staff to do the same thing over and over again, and they come through because they know this is important. This is a major decision affecting the City. No one is taking it lightly. Everyone knows what is at stake. The threat of lawsuits is sad when someone outside our community comes in threatens a lawsuit when we make a decision. That is not what this process is about. You have a right to speak. You have a right to say what you need to say. If you take part in the process it is even more full of weight because you worked on it. You were there and put in the sweat and time. She wants people to realize it was a done deal, but anyone that sat with the working group or read their minutes or sat through the Planning Commission meetings or watched it on television knows it was not a done deal. Everyone struggled to make the decision, and they did the best they could. Finally, she felt there have been a lot of questionable acts going on in the community over this issue. Things that have been disappointing at best. Phone calls that were made that never should have been made. Statements that were made that never should have been made. She is hoping when all this is said and done, that people realize how hurtful this process has been for this community – not helpful. She would like to get back together with another clear vision for the future of what we can do with this much opportunity and this many people willing to invest their time. Do not give it up on the bad things. Reinvest it in what we can do for this City in the future.

Councilor Stone asked if there was a motion on the table. She wants to stay focused on that.

Councilor Lancaster said this is a decision that has very dramatic impacts for Milwaukie for the next 20-plus years. While he is all for moving the process forward as quickly as it should move, decisions of this magnitude should not be rushed. He wants to ensure he has heard every voice and has every bit of information that is available to make his decision before moving forward.

Councilor Stone said he took the words right of her mouth. That was exactly what she was going to say. This decision, as much as she does not want to delay things, she feels the City Council should not make a hasty decision without hearing all the facts and clarifying all the questions. She is most willing to wait until after that meeting and look at future dates at the next meeting that the City Council can convene and deliberate about this.

Motion passed 3 –2 with the following vote: Mayor Bernard, Councilor Lancaster, Councilor Stone aye; Councilor Barnes and Councilor Loomis nay.

ADJOURNMENT

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

Mayor Bernard adjourned the meeting at 9:20 p.m.

Pat DuVal, Recorder

MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION JULY 6, 2004

Mayor Bernard called the work session to order at 5:40 p.m. in the City Hall Conference Room.

Councilors present: Barnes and Loomis.

Staff present: City Attorney Gary Firestone, Community Development and Public Works Director Alice Rouyer, Police Chief Larry Kanzler, and Engineering Director Paul Shirey.

Proposed Waiver of Sewer Connections for Annexed Properties

Engineering Director Paul Shirey provided the staff report. The proposed code amendment would give the engineering director the discretion to waive sewer connection requirements for annexed properties under certain circumstances. The staff report outlined criteria staff felt were reasonable.

Mayor Bernard said this is one of the tools to get people to annex. For example, if a house were annexed that has been on a septic system for 10 years that property would have to connect if the septic fails. They would not be able to repair it.

Shirey said the City actually wants them to maintain it. There is a requirement to connect if the septic system fails or requires repairs in excess of a yet to be determined dollar amount. He is gathering information on what amounts are reasonable for maintenance costs and will come back to Council with the dollar threshold.

City Council indicated support of the code amendments as provided, which it will consider for adoption on August 17, 2004.

Mayor Bernard had a question on the Johnson Creek Boulevard right-of-way vacation. He understood the difference between the two surveys left some confusion about where the property line actually was. Some titles showed the property line existed in a different place depending on the survey. He recalled the unused property would go back to the property owner. At what point does the title get adjusted? Does someone survey the land and put the markers in.

City Attorney Gary Firestone responded in this situation dedications originally were in favor of Clackamas County, so the County has to vacate. Under state law, the City has to concur on County vacations within the City. When the County vacation becomes effective, which is when the City concurs, the vacation document itself is filed and acts in effect as a deed. There is no deed per se, but there is a recorded vacation that acts to transfer the property to the adjoining owners.

Mayor Bernard asked if there would be markers.

Firestone replied it is whatever the survey attached to the vacation says.

Shirey said the action requested of the City Council is to concur. The County took the vacation action, and once the City concurs, then it becomes legal. The property corners will be identified by the City of Portland who built the project and provided the survey services for the project. The back of the sidewalk is the property line and right-of-way line, and he understood there were some questions about corners.

Firestone said the vacated property is what is legally described in the vacation document. The County has the legal description as well as the map. The only options the City has is to either concur in the vacation which gives the indicated property back to the property owners, or not concur which means the property will remain in County ownership.

Mayor Bernard said one of the other issues is that some of those people have money coming.

Firestone said as soon as the vacation is recorded, they become owners of the property and that will be indicated in the County records for that property.

Mayor Bernard understood some of the people have money in escrow.

Gene Hatlelid thought there was a lot of misinformation the City Council is making decisions on. Gross misinformation.

Mayor Bernard feels comfortable with the vacation after reading the document. He understands and remembers the direction. He does not see a problem with vacating it. His concern was that the County has the description of the land and asked if the property owners did.

Firestone said it is in the property owners' petition for the vacation.

G. Hatlelid said that is misleading. That petition was signed only because that was the only way they could get the property that was left over back. Every one is implying the residents requested this to come back. The only reason anybody signed that was because it was the only way they could get the property not used back. We did not make this request. They were told if they wanted it back – that is misleading. We did not request this. The description in his case overlaps – this map shows one 1917 survey. It does show the other survey, and it does not show where the property deeds and titles overlap onto these things. We are talking about some 20 feet that our deed and title and survey went out into what is now part of that street. When you give this little section back in order for somebody to figure out the size of our lot, they are going to have to take whatever survey in our system. Then they are going to have to take the

1917 system and lay it in, and then subtract from that whatever you are giving back to us. What is left is going to be the land that we have.

Mayor Bernard said what is left is at the back of the sidewalk.

G. Hatlelid said our titles go into the middle of the street. That is the starting point for our title.

Mayor Bernard said that is not an issue the City Council deals with.

G. Hatlelid said it is because you said you were going to get our titles and stuff straightened out for us so we would have a description of our property.

Mayor Bernard said that is in fact what will happen.

G. Hatlelid said no – that is not what he said. He said they are going to describe this wedge of land they are going to give back.

Firestone said the effect of the dedication of the right-of-way with your vacation establishes where the property line is, which is more or less at the back of the sidewalk.

G. Hatlelid drew up a diagram of his property and survey markers. He wants clean deeds for this because it would cost them \$12,000 for a survey and get the deeds cleaned up. The property line has never been defined. The deeds do not say to the back of the sidewalk. They say 380' to a cast iron pipe that is not there.

Mayor Bernard said when it is vacated, the property will be part of his title.

G. Hatlelid said it would be an additional title.

Mayor Bernard has been involved with this for 3 years and was comfortable.

The group discussed Riverfest events.

The work session adjourned at 5:55 p.m.

Pat DuVal, Recorder

MINUTES

MILWAUKIE CITY COUNCIL JULY 6, 2004

CALL TO ORDER

Mayor Bernard called the 1937th meeting of the Milwaukie City Council to order at 6:30 p.m. in the City Hall Council Chambers. The following Councilors were present:

Councilor Joe Loomis

Councilor Deborah Barnes

Staff present:

Gary Firestone,
City Attorney
Alice Rouyer,
Community Development and
Public Works Director
JoAnn Herrigel,
Community Services Director

Paul Shirey,
Engineering Director
John Gessner,
Planning Director
Kelly Somers,
Fleet/Facilities Manager

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Police Chief Larry Kanzler recognized Officer Kevin Krebs for being selected as the American Legion Officer of the Year for the State of Oregon. He was also runner up for the national award. It demonstrates Officer Krebs' work with the community, particularly Hillside Manor and Willow Court, in bringing peace and safety areas that did not have it prior to his work.

Mayor Bernard believed Milwaukie has a fantastic police department, and as Mayor he is always concerned about the safety of officers and citizens.

Councilor Loomis lives in Officer Krebs' patrol area, and he has noticed a big difference. He also thanked Chief Kanzler. He asked for comments on the public meeting about recent gang activities.

Chief Kanzler said recently there was a drive by shooting on the 4600 block of SE Jackson. The effective departmental team response identified the suspects, seizure of the weapon used, and arrest of the people involved. Although all of them are 16 and 17 years old, they will all be remanded to adult court and incarcerated with a minimum mandatory 60 months in jail. They shot randomly into a house occupied by 5 people.

About 40 people attended the community meeting, and there was a lot of insights and witness information. Milwaukie will not let neighborhoods be tormented by outlandish behavior.

Councilor Barnes understood officers in the schools have been cut back because of budget problems. Is there a way to get some gang education into the high schools?

Chief Kanzler has 2 officers that are gang trained, and they provide internal and external education programs. The police department primarily works with the executive level to get the information down to the teacher level. It would be great to have enough resources to get to the teacher level.

Councilor Barnes suggested producing a video later this summer that could be distributed.

Mayor Bernard said since Councilor Lancaster and Councilor Stone were not present, the City Council will set the date for transit center deliberations on July 20, 2004.

CONSENT AGENDA

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

- A. City Council Minutes of June 15, 2004;
- B. Resolution No. 18-2004: A Resolution of the City Council of the City of Milwaukie, Oregon, Regarding Membership in the City County Insurance Services Trust;
- C. Resolution No. 19-2004: A Resolution of the City Council of the City of Milwaukie, Oregon, Concurring with the Vacation by Clackamas County of a Portion of Johnson Creek Boulevard;
- D. Elevated Water Tank Seismic Upgrade Bid Award;
- E. Personal Services Agreement for Collection Services with Valley Credit Services, Inc.;
- F. Fleet Vehicle Purchases; and
- G. OLCC Application for Happy Baskets – 9401 SE 32nd Avenue, New Outlet.

Motion passed unanimously among the members present.

AUDIENCE PARTICIPATION

None.

PUBLIC HEARING

Mayor Bernard made the following announcements:

1. The hearing on application number AN-04-01 is called to order 6:45 p.m.. The application is for annexation of property located on Hill Street owned by Prime Properties. The applicant is Darrin Williams doing business as Prime Properties.

The applicable substantive criteria are Milwaukie Municipal Code Sections 900 and 1500, Milwaukie Comprehensive Plan Chapter 2, and Metro Code 3.09.

Testimony, arguments, and evidence must be directed to the criteria just mentioned or other criteria that are believed to apply to the decision.

Failure to raise an issue accompanied by statements or evidence to afford the council and the parties an opportunity to respond to the issues precludes an appeal to LUBA on that issue.

At the request of applicant and concurrence of City staff, the hearing is hereby continued to 6:30 p.m. on July 20, 2004 at City Hall Council Chambers, 10722 SE Main Street, Milwaukie.

2. The hearing on application number AN-04-02 is called to order at 6:47 p.m. The application is for annexation of property located on Harmony Road owned by Panattoni Development. The applicant is Michael Wells doing business as Panattoni Development.

The applicable substantive criteria are Milwaukie Municipal Code Sections 900 and 1500, Milwaukie Comprehensive Plan Chapter 2, and Metro Code 3.09.

Testimony, arguments, and evidence must be directed to the criteria just mentioned or other criteria that are believed to apply to the decision.

Failure to raise an issue accompanied by statements or evidence to afford the council and the parties an opportunity to respond to the issues precludes an appeal to LUBA on that issue.

At the request of applicant and concurrence of City staff, the hearing is hereby continued to 6:30 p.m. on July 20, 2004 at City Hall Council Chambers 10722 SE Main Street, Milwaukie

OTHER BUSINESS

Metropolitan Transportation Implementation Project (MTIP) Support for Trolley Trail and River Crossing Projects

Community Services Director JoAnn Herrigel requested the City Council authorize the Mayor to sign letters of support for MTIP applications for two trail projects benefiting the City of Milwaukie. One of them is construction of the southern half of the Trolley Trail that would begin at the Jefferson Street Boat Ramp. The first segment is being

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built in 2006 from Jefferson Street south to the southern border of the City. The second segment, for which she is asking support, goes from the southern tip of Milwaukie to Gladstone. The second project is a master plan and trail alignment study for a bridge trail crossing the Willamette connecting Lake Oswego, the Trolley Trail, and the City of Milwaukie. That project is sponsored by Metro, and Lake Oswego is partnering with the City of Milwaukie and North Clackamas Parks and Recreation District to pull together a feasibility study. They are looking at the trestle and other crossings if that is not feasible.

Mayor Bernard said the study on the relocation of the sewage treatment plant would use the Trolley Trail to bury the piping. What is the construction date of this trail?

Herrigel did not believe it would be funded until 2008. Her feeling on that issue is that if there is a very strong possibility that the treatment plant project is going to go forward, it might push that pipe issue faster than we are ready to do it. It is a complicated issue even for the northern portion.

It was moved by Councilor Loomis and seconded by Councilor Barnes to authorize the Mayor to sign letters of support for MTIP applications for the Trolley Trail and River Crossing Project. Motion passed unanimously among the members present.

Other

Councilor Barnes asked if there were criteria for submitting art to the riverfront.

Herrigel said she would research the question.

Mayor Bernard described the process used by the Milwaukie Downtown Development Association and its partnership with Clackamas Community College.

The group discussed putting a percentage for art on new development in the downtown area.

Councilor Loomis asked for volunteers to help with the Riverfest. He is working on a treasure hunt for the event. A medallion will be hidden with the first clue published in July 14 *Clackamas Review*, and the following clues will be on the City website and at the Ledding Library. Bernard's Garage donated \$250 in cash, and there is a \$250 bonus if the finder has a Ledding Library card.

Councilor Barnes announced the admission is \$3 and two cans of food for the Annie Ross House per person. The money will go directly to the renovation and upgrading of the riverfront. Children under 12 are free.

Councilor Barnes congratulated Community Development/Public Works Director Alice Rouyer on being quoted in a Krispy Kreme article in *The Oregonian*.

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ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 6:55 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

Through: Mike Swanson, City Manager
Pat DuVal, City Recorder

From: Barb Kwapich, Risk Manager

Subject: Personal Services Agreement for Insurance Agent of Record

Date: July 20, 2004

Action Requested

Authorize the City Manager to sign a personal services agreement with Marsh USA, Portland, Oregon, for Insurance Agent of Record.

Background

The City identified the need to sign an agreement with a qualified Insurance Agent of Record to act on its behalf in areas of Property, Liability and Workers Compensation insurance programs. Staff elected to go through the request for proposal (RFP) process.

A committee of City staff from affected departments was assembled. Members were Mike Swanson, City Manager, Mary Rowe, Human Resource Director and myself. The committee's tasks were to prepare a final RFP, evaluate the proposals received based on identified objective criteria, interview the top proposer(s) if needed, and recommend the firm that most closely fit Milwaukie's needs.

The RFP was published in the *Daily Journal of Commerce* on May 6 and May 13, 2004 and posted on the City's website. The process closed on June 10, 2004 with two companies responding. Committee members evaluated each proposal using the evaluation outlined in the RFP. On June 15th, calls were placed to vendors' references with some final questions. Based on completion of this full process, the selection committee unanimously recommended that a contract be negotiated with Marsh USA of Portland, Oregon. The proposed contract is for an initial three-year period and may be extended for an additional three-year period.

Concurrence

Representatives of affected departments agreed on this provider. The City Attorney reviewed the final agreement and found it is satisfactory to the City.

Work Load Impacts

Contract administration is assigned to Risk Manager.

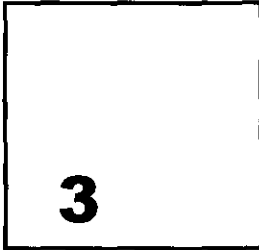
Alternatives

The Council may authorize the City Manager to execute the agreements, or direct staff to reissue the RFP for Insurance Agent of Record services.

Attachments

Exhibit A from Personal Services Contract – Scope of Work
Exhibit B from Personal Services Contract – Compensation

EXHIBIT A

**Service Approach**

- A. Submit a work plan to accomplish the scope of work defined in the section entitled “Scope and Schedule of Work” in this RFP. The work plan should include time estimates (in hours) for each significant segment of the project and the staff level to be assigned. Where possible, individual staff members should be named and their titles provided. The planned use of specialists (if any) should be described.
- B. Indicate the extent to which City personnel would be expected to contribute to the service work effort.

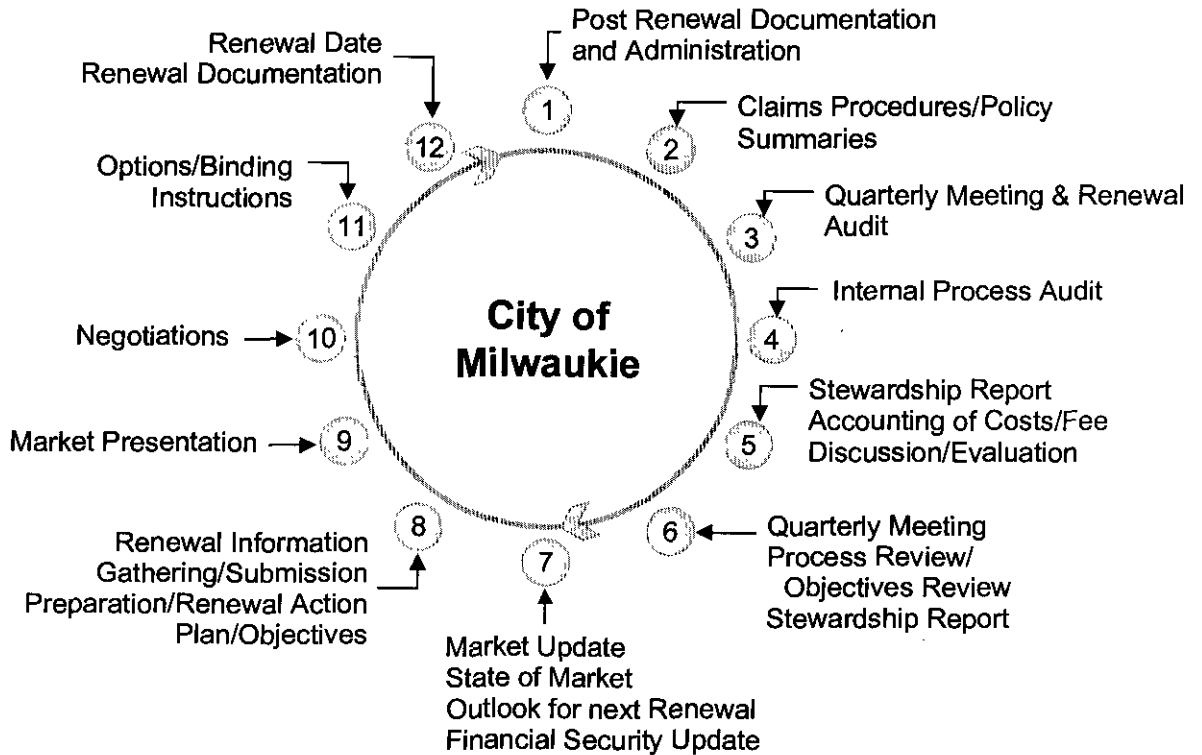
Work Plan

The core services performed for the City of Milwaukie as described in their “Scope and Schedule of Work” revolve around the structuring and purchasing of the appropriate insurance coverages as designed in collaboration with the City and Marsh. Although Marsh understands that the Scope and Schedule of Work are the most visible services provided, we also include as part of our core services to the City the following:

- Work with the City to assess its risk;
- Monitor published financial information of the City’s current insurers and alert you when the status of one or more of such insurers falls below Marsh’s minimum financial guidelines;
- Keep the City informed of significant changes and/or trends in the insurance marketplace and provide you with an annual forecast of market conditions;
- Follow-up with insurers with respect to timely collection of claims;
- Act as a liaison between the City and insurers;
- Consult with the City on alternatives to insurance with the thought of controlling the City’s total cost of risk;

- Assist the City in connection with issues relating to interpretation of insurance policies placed by Marsh;
- Conduct strategic planning sessions to review current performance and establish future objectives and strategies for the City’s risk and insurance program;
- Develop a mutually agreeable renewal action plan and timeline that highlights accountability and meets the City’s objectives; and
- Meet regularly with the City’s key people designated by the City’s Risk Manager to discuss strategy and open items.

The following Work Plan provides a visual demonstration of the annual timeframe contemplated for the services provided to the City of Milwaukee. The service continuum implies that there is no beginning or end to service, rather an evolving process that has targets identified and established up front. It includes:



Task	Person Responsible	Estimated Time
1	Youlanda Frazer	8 hours
2	Debora Leopold / Youlanda Frazer / Pat Hanson	6 hours combined
3	Debora Leopold / Pat Hanson / the City	4 hours
4	Debora Leopold / Pat Hanson / Youlanda Frazer	4 hours
5	Debora Leopold / Pat Hanson / Youlanda Frazer / Marsh Mgmt.	4 hours
6	Debora Leopold / Pat Hanson / Youlanda Frazer / the City	4 hours
7	Debora Leopold / Pat Hanson	3 hours
8	Debora Leopold / Pat Hanson / Youlanda Frazer / the City	24 hours
9	Debora Leopold / Pat Hanson / Youlanda Frazer	3 hours
10	Debora Leopold / Pat Hanson	8 hours
11	the City / Debora Leopold / Pat Hanson / Youlanda Frazer	2 hours
12	Debora Leopold / Pat Hanson / Youlanda Frazer	2 hours

We view this as a “working” document subject to changes and amendments as determined by team members from both the City and Marsh to meet your actual requirements and expectations. Times shown are estimates based on time tracking of the City’s current program.

Your Marsh core team members would be integrated into each of the segments as necessary with Debora Leopold-Hutchins, Client Executive, being responsible for the overall accomplishment of the plan and services. Pat Hanson, Client Executive, will be second principal available to the City in Debora’s absence. Bob Limperis, Client Executive Practice Leader, will provide expertise to both Debora and Pat in identifying Marsh resources for the City of Milwaukie as well as act as liaison to Marsh senior management.

Beth Sutherland, Marsh Risk Consulting Practice Leader will provide guidance and expertise in securing any Risk Consulting and Claims Management opportunities as needed. Youlanda Frazer, Client Representative, will perform the day to day tasks and functions associated with the placement and servicing of your insurance coverages.

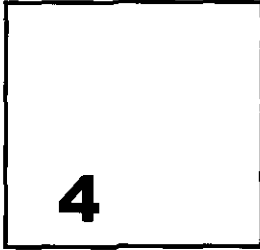
The next visual is a Sample Insurance Placement Plan providing a detailed timeframe for the renewal process. We have populated it contemplating a July 1st renewal date to provide specific dates anticipated and completed as well as responsible team members. You'll notice that several of the items do anticipate City team member involvement. i.e. Gathering of Underwriting Information; Submission sign off; Review of Renewal Proposal and Ordering coverage to be bound.

This Placement Plan has been in effect and used annually as part of the City's renewal process.

Today's	3/1/05		
Client	City of Milwaukee	BASYS ID #:	
CE/Designee	Debora Leopold-Hutchins	CR	Youlanda Frazer
I/A	Doris Hubbard	(Print Full Names)	
Coverage(s):	Package, Workers' Comp.		
Current Carrier(s):			
Effective	7/1/05		

Activity	Target Date	Actual Date	Responsibility of	Completed by
1. Client Contact (120 days)	03/01/05		Debora Leopold-Hutchins	
2. Underwriting Info	04/05/05		Youlanda	
a. From client				
b. From all other				
3. Underwriting Info Reviewed	04/15/05		Debora Leopold-Hutchins Youlanda	
4. Additional Limits/Coverages	04/15/05		Debora Leopold-Hutchins	
5. Submission	04/20/05		Youlanda	
6. Submission signed off by client, if applicable	04/20/05		Youlanda	
7. Submission to Market(s)/Global	05/01/05		Youlanda	
8. Quote(s)	06/10/05		Youlanda	
9. Renewal Proposal Prepared/Reviewed client	06/15/05		Youlanda Debora Leopold-Hutchins	
10. Order from Client (if verbal, must be confirmed in writing - (Prior to inception)	06/28/05		Debora Leopold-Hutchins	
11. Binder to Market / Global (Prior to	06/28/05		Youlanda	
12. Signed Binder (Prior to	06/29/05		Youlanda	
13. Binder to Client* (Prior to	06/30/05		Youlanda	
14. Surplus Lines Warning Letter sent to client, where	06/30/05		Youlanda	

* Insert date when first quotes were received, first binders went to the markets and first signed binders received.
 **Use the initials of the individuals named in the



Service Timeframe

Prepare a timeframe that demonstrates a practical approach to meeting the City's specific deadlines by providing detailed information as to how the firm proposes to meet the timelines and reporting deadline requirements for the services.

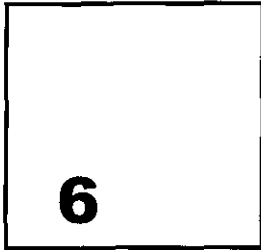
The following is a draft of a Client Services Calendar used by several of our service teams. It is in draft form to allow input from all service team members pertaining to your goals and expectations. Reviewing this document as a group on a monthly or quarterly basis provides you a basis for measuring our service during the year and also provides us detailed information on what the City can expect from Marsh.

We always encourage dialogue and feedback from our clients concerning your expectations and your perception of the services provided. Toward this end we ask each of our clients to participate in our Client Loyalty Survey on an annual basis allowing you to provide your critique of all aspects of the Marsh service.

Another resource provided to our clients is the addition of a Senior Relationship Officer to each team. This colleague's function is to act as a liaison between clients and Marsh senior management as well as provide depth to your service team. Bob Limperis works closely with the Client Executive to ensure that all appropriate Marsh best practices and tools are readily available to the City.

Sample Property & Casualty Client Services Calendar

August, 2004	September, 2004	October, 2004	November, 2004
<ul style="list-style-type: none"> ▪ Monthly Team Meeting ▪ Set up time frame/action plan for year ▪ Discussion of possible risk control services and set game plan 	<ul style="list-style-type: none"> ▪ Monthly Team Meeting ▪ Progress Report on Risk Control services ▪ Deliver insurance policies and summaries to City 	<ul style="list-style-type: none"> ▪ Monthly Team Meeting ▪ Introduce other Marsh resources to City 	<ul style="list-style-type: none"> ▪ Monthly Team Meeting ▪ Review the partnership 6 month report card
December, 2004	January, 2005	February, 2005	March, 2005
<ul style="list-style-type: none"> ▪ Monthly Team Meeting 	<ul style="list-style-type: none"> ▪ Monthly Team Meeting ▪ Discuss City's goals and expectations for 2005 	<ul style="list-style-type: none"> ▪ Monthly Team Meeting 	<ul style="list-style-type: none"> ▪ Monthly Team Meeting ▪ Renewal Strategy Meeting for July renewal
April, 2005	May, 2005	June, 2005	July, 2005
<ul style="list-style-type: none"> ▪ Request insurance company claims history ▪ Gather underwriting information from client ▪ Identify outstanding and immediate issues with carriers ▪ Clarify goals & objectives for renewal ▪ Identify any outstanding service issues 	<ul style="list-style-type: none"> ▪ Update property values and general liability exposures ▪ Market specifications to insurance companies 	<ul style="list-style-type: none"> ▪ Monthly Meeting ▪ Continue dialogue and negotiations with carriers ▪ Continued negotiations and dialogue with insurance companies ▪ Analyze renewal proposals from carriers ▪ Provide renewal proposal to City ▪ Receive renewal instructions from City ▪ Receive signed Binder from carriers 	<ul style="list-style-type: none"> ▪ Monthly Team Meeting ▪ Implement Risk Control Services ▪ Analyze proposals ▪ Coverage bound ▪ Deliver Certificates of Insurance and insurance binders



Additional Services

Provide a brief description of any other services that your firm could provide the City and an approximation of the hourly charge for each service of this type. Such services would be contracted for on an “as needed” basis, to be provided and billed for separately.

In addition to Marsh’s core brokerage solution, we also have the expertise to provide the following services to the City. Some of these services are already being performed and at no additional cost:

- Natural Hazards Study
- Contract Review – **no cost to the City**
- Property Risk Assessment
- Emergency Response Planning
- Business Continuity Management
- Business Interruption/Pre-and Post-Loss
- Security and Fire Protection Consulting
- Claims Advocates – Marsh practice-specific claims technicians that assist in providing clients expedient and optimal claims outcomes – **no cost to the City**
- Environmental Assessment and Consulting
 - Pollution Cost Cap
 - Mold

The pricing of each of these contracted services is determined by the depth and scope of the individual opportunity agreed upon by the City and Marsh. This remuneration can be in the form of a flat fee for a defined project or an hourly rate for continuing service type work.

Other Marsh Differentiators available to our clients are:

- **Benchmarking Reports – no cost to the City**
 - Industry specific analysis of limits, retention levels, and rates vs. industry peers
- **Financial Analysis and Funding Alternatives**
 - Self-insurance options
 - Captive feasibility studies
- **On-line Resources – no cost to the City**
 - Market Updates – monthly analysis of rating trends in marketplace
 - Marsh.com – management insurance program on-line
 - Memorandum/Certificates of Insurance
- **Legislative updates (TRIA, HIPAA) – no cost to the City**
- **Market Leverage – no cost to the City**
 - Ability to tap into insurance marketplace at senior executive levels

EXHIBIT B

5**Compensation**

The City is requesting Agents' proposals provide either a straight fee-based proposal, a commission-based proposal, or a combination of the two. Include written justification for such fees.

- A. Indicate clearly which fees are "commission-based" and which are "fee-based".
- B. Identify any other charges that would, or could, be billed in connection with the agent services to be provided.
- C. Set forth any alternate fee structure that you would like the City to consider and explain why you think it is preferable.

As the current agent of record for the City of Milwaukie Marsh is compensated for its services on a commission basis. The commissions derived from the placement of the current program is \$22,000, which excludes the workers' compensation as Marsh is not the agent of record on this line of coverage. We would be happy to continue to service the City of Milwaukie's insurance and risk management program on a commission basis and we estimate the commission to be around \$22,000 - \$25,000.

As the consultant on the Liberty placed workers' compensation program we propose a flat fee of \$3,500. This fee was arrived by averaging the standard commission's payable for workers' compensation, which is generally between 1% - 5%. We are proposing a 3% consulting fee.

An alternative is that Marsh would be agreeable to a compensation of a flat fee which includes the Workers' Compensation of \$25,000. The OAR does not allow us to accept a fee less than the standard anticipated commission (OAR 836-030-0065).

Marsh will include as part of the compensation arrangement, at no additional cost to the City, a recently developed risk-quantifying tool – Marsh Risk Advisor. This is an online tool to assess, quantify & document the City’s risk. This tool provides automatic risk mapping to graphically illustrate the City’s risk profile. This service routinely costs around \$5,000; however, as a long time client of Marsh, we are agreeable to providing this service within our compensation.

Additional Marsh services are available and may be subject to an additional cost that is not included in the commissions derived from the placement of your policies. Refer to the Additional Services as outlined in question 6 of this RFP.

Marsh is compensated for the services it provides to Insureds in the form of transaction fees and/or commissions. In addition to such compensation and to any wholesale brokerage commissions, Marsh has market services agreements (“MSAs”) with most of its principal insurance markets through which it is paid for services provided to the markets. Payments under MSA agreements are based upon such factors as the overall volume, growth, and in limited cases profitability, of the total business placed by Marsh with a given insurer during the relevant period. Clients who wish additional information are requested to contact their client executive.



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: JoAnn Herrigel, Program Administrator

Subject: Transfer of Portland General Broadband (PGB) franchise to OnFiber Communications, Inc. (OnFiber)

Date: July 7, 2004

Action Requested

Adopt a resolution consenting to the transfer of the PGB franchise to OnFiber, with conditions.

Background

In December of 2002, Council granted a five year franchise to Portland General Broadband to use the public rights of way within the city to provide telecommunications services. PGB does not provide services but is currently leasing dark fiber to meet the connectivity needs of its commercial customers.

In June 2004, PGB requested the City's consent to a transfer of their franchise to OnFiber. OnFiber, headquartered in Austin, Texas, is a provider of metro optical services, constructing and operating fiber optic networks in fourteen major metropolitan areas in the United States. PGB has signed a purchase and sale agreement with OnFiber that is expected to close in September pending receipt of all third party consents. The City's consent is required before the closing can take place.

Staff has reviewed the financial and technical information submitted by PGB and OnFiber and recommend that Council approve the resolution consenting to the transfer of this franchise with the following conditions to be met before the consent becomes final:

- OnFiber will continue to meet all the obligations of the PGB franchise and the City's telecommunications ordinance referenced therein.
- OnFiber must provide the City with a certificate of insurance that meets all requirements of the franchise and the telecommunications ordinance.

- OnFiber will provide the City with a surety bond, a letter of credit or funds deposited in an escrow account of at least \$20,000.
- OnFiber shall acknowledge the conditions of transfer in writing.

Concurrence

Legal council has reviewed the resolution and finds it complete.

Fiscal Impact

None. On Fiber will continue to pay \$4,000 per year in franchise fees to the City or five percent of its gross revenues earned in the provision of telecommunications services, whichever is larger.

Work Load Impacts

Staff will work with PGB and OnFiber to ensure they meet the franchise obligations before final consent to transfer is approved.

Alternatives

Consent cannot be unreasonably withheld. However, Council could place additional conditions on the consent to transfer.

CITY OF MILWAUKIE, OREGON

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE,
OREGON, CONSENTING WITH CONDITIONS TO THE TRANSFER OF THE
PORTLAND GENERAL BROADBAND FRANCHISE TO ONFIBER INC.**

Whereas, Portland General Distribution, LLC d.b.a. Portland General Broadband (PGB) is the grantee of a five year franchise for the provision of telecommunications services, granted by the Milwaukie City Council in December 2002, and

Whereas, OnFiber Communications, Inc. (OnFiber) has signed a purchase and sale agreement with PGB which is expected to close in September 2004, pending consent of all third parties, and

Whereas, Milwaukie City Code Chapter 3.13.060(M) requires that consent be granted by City council for transfers of such franchises and that consent may not be unreasonably withheld or delayed and then only on such reasonable conditions as may be prescribed in such consent, and

Whereas, OnFiber has agreed to abide by the terms and conditions of the franchise and meet the conditions of consent as stated below.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL FOR THE
CITY OF MILWAUKIE THAT:**

Section 1. The City of Milwaukie does hereby consent to the transfer of the PGB franchise, approved in of December 2002, to OnFiber Communications, Inc. and

Section 2. The consent granted herein shall not become effective until the following conditions are met:

- a) The City's consent to transfer of this franchise shall not be construed to constitute a waiver or release of any rights the City may have under the franchise or any separate written agreements.
- b) OnFiber shall continue to comply with all local laws, agreements and franchise requirements consistent with applicable federal and state law.
- c) OnFiber shall provide the City with the proof of the following:
 - Certificate of Insurance meeting the required levels of insurance stated in the City's telecommunications rules (Chapter 3.13.070 (H))

- A surety bond, a letter of credit or funds deposited in an escrow account of at least \$20,000.
- d) OnFiber will provide the City with written notification that the above requirements have been met and acknowledging the conditions of transfer approval.

Section 3. This resolution shall take effect immediately upon passage.

Introduced and adopted this _____ day of July, 2004.

Mayor James Bernard

ATTEST:

APPROVED AS TO FORM:

Pat DuVal, City Recorder

Ramis, Crew, Corrigan &
Bachrach



To: Mayor and City Council

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

From: John Gessner, Planning Director
Ken Martin, Annexation Consultant

Date: July 13, 2004 for the Council's July 20, 2004 hearing.

Subject: Annexation of Properties on Hill Street
File AN-04-01

Action Requested

Approve Annexation Application AN-04-01 and related Comprehensive Plan and Zoning Map amendments, and adopt the recommended findings in support of approval.¹

Background

On June 9, 2004, the Planning Commission passed a motion recommending that the City Council approve the request to annex several lots located on Hill Street. Since the property is now under County jurisdiction, the Comprehensive Plan Land Use Map and zoning must be changed to meet city designations.

Project Description

The applicant has requested annexation of 8 lots, 5 of which are vacant, located on Hill Street east of Stanley Avenue. The requested Comprehensive Plan designation and zoning is Medium Density and R-7 Residential, consistent with the surrounding city neighborhood. Lot sizes range between 5,800 square feet and 17,900 square feet.

¹ See Attachment 1 for the annexation area map. Proposed findings of facts and conclusions in support of approval are in Attachment 4 Annexation Ordinance.

The annexation area includes all but three lots between the easterly Hollywood Avenue right-of-way and Stanley Avenue.² The owner of those properties is not interested in annexation at this time according to the applicant. Existing homes on Hill Street are served by septic systems.

Urban Growth Boundary Management Agreement (UGMA)

In 1990, the City and County adopted an agreement that establishes procedures for provision of public services and annexations. The annexation is located in "Dual Interest Area A". The UGMA specifies that the City is the lead agent in providing services in this area, details notice requirements, and establishes requirements for street improvements at the time of annexation.

Sewer Service

Residential development of the vacant lots requires installation of a sewer line, which will be funded through the creation of a Reimbursement District.³ It is recommended that existing houses on the street that have functioning septic systems should not be required to connect to the sewer at this time. Connections to the sewer should be mandatory in the event of needed septic system repair or upgrades. The intent of the annexation is to have long-term conversion of houses now on septic to city sewer.

Water Service

The street is served by Clackamas River Water (CRW), which maintains a main that extends east of the site. Staff recommends against withdrawing from CRW, which would require construction of a city water main, thereby resulting in redundant water services.

Key Issues

1. Annexation proposals are subject to city, Metro, and state laws and regulations. The annexation application has been prepared in accordance with these laws and regulations.
2. Improvements to Hill Street are required in accordance with the City and County Urban Growth Management Agreement. The specific means for providing street improvements will be determined in the near future.
3. County zoning in the Area is R-10, minimum lot size 10,000 square feet. Staff recommends the annexation area be zoned R-7 consistent with neighborhood zoning as it more closely matches existing lot areas, and minimizes potential complications with zoning nonconformities.

² The Hollywood Avenue right-of-way measures approximately 12 feet wide and contains a single unimproved lane that provides access to homes located east of the annexation area.

³ Reimbursement Districts (Municipal Code 13.30) provides reimbursements to developers who oversize facilities in anticipation of future development and must be authorized by City Council.

4. Staff believes the application is consistent with criteria for annexation and Comprehensive Plan and Zoning Map amendments and recommends approval.

Analysis of Key Issues

1. The UGMA requires that the City take jurisdiction of local streets within and abutting the annexation area. As a condition of this transfer the County must either construct the street to a minimum 20-foot asphalt cross section or contribute funds to the city to cover the cost of upgrading the street. Hill Street does not presently meet this standard.

Street improvements should be coordinated with the developer who is also responsible for street frontage improvements at the time of development. The preliminary recommendation is to combine developer and county resources in a near-term capital improvement project following construction of the sewer line. Desired stormwater improvements would be made at the time street improvements are constructed. Staff is working with the County to resolve the manner in which street improvements should be completed, and believes the proposed annexation and related process is consistent with the UGMA.

2. Lands east of Stanley and north of King Road were divided by a series of subdivisions starting in 1913 and continuing through the 1940's. These land divisions resulted in a typical street grid pattern with 40-foot rights-of-way and 5,900 square foot lots between Hazel Street to the north and Maple Street to the south. Exceptions to the 5,900 square foot lot size exist along Stanley Avenue, where lot size is typically closer to 10,000 square feet.

Staff advised the applicant that the area should be annexed to the city as R-7 Residential Zoning based upon the historical pattern of development and relationship of the site to the nearby Lewelling neighborhood which is primarily zoned R-7. Staff believes that the R-7 zone is better suited for the area than the R-10 zone or R-5 zone as follows:

- Vacant lots within the annexation area may be developed at their present lot area (subject to sewer availability).
- The checker boarding of differing zoning designations should be avoided where possible to maintain consistency in development patterns.
- The R-5 zone would allow lesser setbacks and increase lot coverage than the R-7 zone, which is inconsistent with R-7 development patterns.
- The R-7 zone allows for reasonable residential development and may result in higher potential property valuations (subject to quality residential development).

3. Staff believes the proposed Comprehensive Plan land use designation to Low Density Residential and the R-7 zoning amendment are consistent with city criteria as follows:⁴

Comprehensive Plan Low Density⁵

- The Low Density applies to both R-10 and R-7 zoning.
- There is a public need to amend the plan. The amendment is necessitated by the proposed annexation.
- The public need is best satisfied by the Low Density Residential designation based upon consistency with surrounding city land use designation and development pattern.
- Annexation will not adversely affect the health, safety, and welfare of the community. Annexation will result in the long-term provision of urban services to 8 lots. Potential health and environmental impacts associated with failing septic systems will be minimized.

Zoning Map

- Notice of the proposed map amendment has been provided in accordance with city code and applicable statutes.
 - The proposal is consistent with the Comprehensive Plan and Urban Growth Management Agreement.
 - Potential residential development that will result from the annexation is consistent with the R-7 zone.
 - Needed public utilities can be provided without adverse impacts to the remainder of the service area.
4. Staff believes the annexation proposal is in the city and public interest as follows:
- It is consistent with the city urban service agreement with the County.
 - It will lead to the long-term elimination of existing septic systems thereby reducing potential public health risks.
 - It will result in construction of new housing, thereby helping to meet market demand and increase the city stock of modern housing.

⁴ Comprehensive Plan Amendments are subject to Zoning Ordinance Section 900 and Comprehensive Plan Chapter 2- Amending the Plan. Zoning Map Amendments are subject to Zoning Ordinance Section 900.

⁵ Substantive compliance requirements include Chapter 2, Policies 3 and 7. See Attachment 3.

- It will contribute to the city's tax base and help cover general fund expenses.
- Fees collected at the time of permitting will contribute to funds that cover the cost of providing park, street, sewer, and stormwater improvements.

Compliance with Annexation Criteria

Staff believes the proposal complies with city, state, and regional criteria for annexation. (See Attachment 2 for full analysis.)

Decision Making Process

Annexation requests and the related amendments to the Comprehensive Plan Land Use and Zoning Maps are subject to Zoning Ordinance 1011.4 Major Quasi Judicial Review. Annexations are also subject to state law and Metro Code.⁶ Approval requires adoption of the attached ordinance. (See Attachment 4)

A decision must be rendered no later than September 9, 2004 to meet state law that limits the amount of time allowed for the City to take action.

Comments

The proposal was forwarded to the affected neighborhood, service providers and agencies. No objections have been received. Lewelling NDA supports the proposal.

Concurrence

The application was forwarded to Public Works Operations Departments, Engineering, Fire, City Attorney, Building, and Police. No concerns about the annexation have been received. Affected departments will review any future development proposal for comment on traffic, stormwater drainage, and other typical development issues.

Fiscal Impact

The annexation is expected to have a positive fiscal effect through collection of property taxes and other revenues. Potential negative effects include the costs of providing governmental services to the site. The value of the property, for tax revenue purposes, will depend upon the extent of future site development. While it is not now possible to quantify the net fiscal effect, staff believes that annexation will result in an overall long-term fiscal benefit, due to increased development potential within the annexation area.

A reimbursement district is proposed to cover the cost of installing a needed sewer line.

⁶ Oregon Revised Statutes 268.354 and Metro Code Chapter 3.09.

Work Load Impact

Workloads will be affected by the annexation including the set-up and maintenance of property records, utility billing, and general governmental services.

Alternatives

The Council has the following decision-making options:

1. Approve the application and adopt findings in support.
2. Deny the application and adopt findings that specify reasons for denial.

Attachments

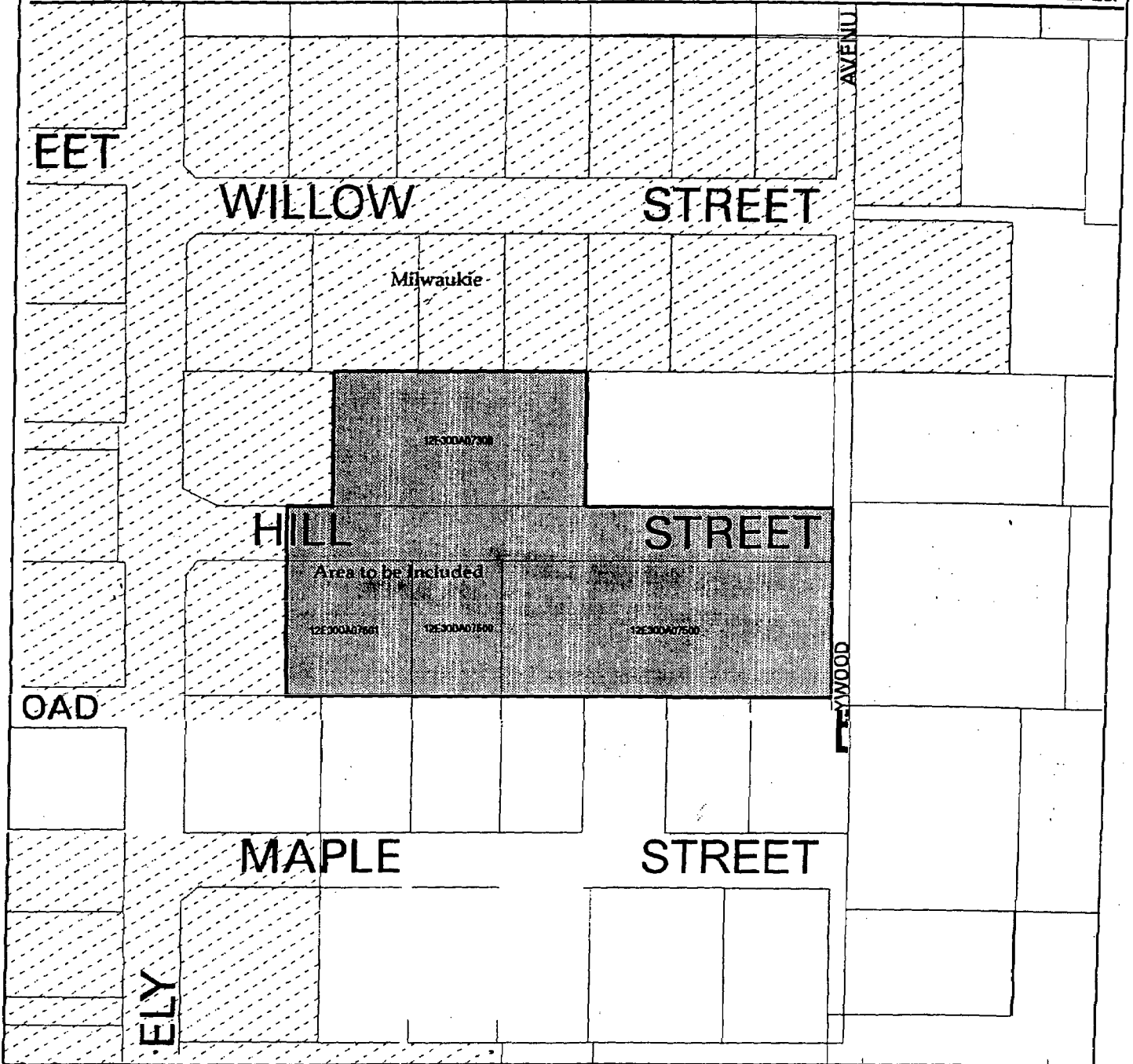

1. Annexation Area Map
2. Compliance with Approval Criteria
3. Inventory of Service Providers & Facilities
4. Proposed Annexation Ordinance (including Findings, Area Map, and Legal Description)

Proposal No. AN 04-01

1S2E30

Annexation to the City of Milwaukie





Clackamas Co.

600 NE Grand Ave.
Portland, OR 97232-2736
Voice 503 797-1742
FAX 503 797-1909
Email drc@metro-region.org

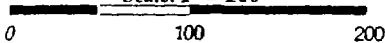
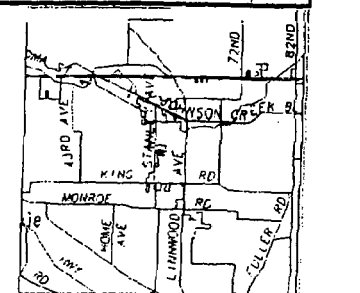
METRO

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the accuracy of reproducibility or fitness for a particular purpose, accompanying this product. However, verification of any errors will be appreciated.

-  County lines
-  City
-  Annexation boundary
-  Urban Growth Boundary

Proposal No. AN 04-01
CITY OF MILWAUKIE
Figure 1

Scale: 1" = 100'

Attachment 2

Compliance with Plans, Codes, and Statute

Section 1. Compliance with Milwaukie Comprehensive Plan

The purpose of this chapter is to provide a process for the periodic amendment of the plan, provide for public participation, and a factual basis for decisions. The following substantive policies apply to all plan amendments. Compliance with these policies is detailed in preceding sections of this report.

Chapter 1 Citizen Involvement

Policy #3

Individuals, the Planning Commission, or the City Council may request Plan amendments at any time separate from the normal Comprehensive Plan Amendment application process. A request by an individual will be considered by the Planning Commission, who may initiate further formal consideration of a Plan amendment if it is determined the proposed change is in the public interest. The Planning Commission should also hold a public hearing annually to evaluate issues related to the Plan or recommended Plan changes. A report of this public hearing will be provided to the City Council who may approve it or take further action as required.

Chapter 2 Plan Review and Amendment Process

This chapter allows for changes to the Comprehensive Plan and includes the following criteria to be evaluated for proposed changes:

- A. Conformance with Comprehensive Plan, goals, policies, and spirit.
Staff believes the proposal is consistent with this criterion. It meets specific policies concerning neighborhood land use and public facility provisions of Chapter 5.
- B. Public need for the change.
The public need is related to providing public services in accordance with the intergovernmental agreement with the County over coordination of public services, which maximizes existing investments in public utilities, and makes land available to meet housing demand.
- C. The Annexation will not adversely affect the health, safety, and welfare of the community.

The proposed annexation will result in the long-term provision of urban service to an established residential area. The Comprehensive Plan supports the adequate supply of housing lands and providing needed urban services.

- D. The change is in conformance with applicable Statewide Planning Goals.
1. Goal 1 requires local governments to establish a land use planning process as a basis for all decisions and actions to ensure a factual basis for such decisions.
The proposal has been processed in accordance with established plans and polices and therefore complies with Goal 1.
 2. Goal 11 requires development of public facility plans that ensure the orderly and timely arrangement of public services.
The proposed annexation is consistent with the urban growth management agreement with the County that implements Goal 11.

Chapter 4, Land Use, Residential Land Use and Housing Element

This supports and encourages the low-density development outside of the Town Center. Planning objectives include the following:

- A. Objective #1 – Buildable Lands
- To utilize lands in the City according to their relative measure of development capacity, based on drainage, geology, and steep slopes, and significant wildlife habitat.
- The lots contained within the annexation area do not contain development constraints that would conflict with the purposes of this Objective.*
- B. Objective #2 Residential Land Use: Density and Location
- This objective acknowledges that that lands outside the Town Center will be primarily single-family residential. Objective #1, Policy 1 specifies that areas may be designated low-density in the following cases. The proposal is consistent with this policy.
- *The predominant housing type is single family detached.*
 - *The area is developed at low density, which allows up to 6.2 units per acre. The actual density of the annexation area minus the Hill Street right-of-way is 6.2 units per acre.*
 - *Within Low Density area, transportation routes are limited primarily to collectors and local streets. Hills Street connects the annexation area to Stanley Avenue, which is a collector street.*

Section 2. Zoning Amendment Criteria, Section 900

Proposals for zoning map amendments must provide evidence that all requirements of this title relative to the proposed use or uses are satisfied, in addition to addressing the following:

- A. Applicable requirements of Section 19.1003;
The application has been processed in accordance with Zoning Ordinance section 1011.4 Major Quasi-Judicial Review.
- B. Reasons for requesting the zoning map amendment;
The request is made to implement a proposed annexation. All lands within the city must have a zoning designation.
- C. Description of existing site conditions, including but not limited to topography, public facilities and service, natural hazards, natural areas or open space, historic sites, transportation, current uses of the subject site and current zoning of the subject site;
The annexation area was platted throughout the early 1900's. The site lies on high ground, is generally flat, but slopes in some areas to the north. Access is provided by Hill Street, which does not meet city design standards for streets. There are a total of 8 lots, 5 of which are undeveloped, or combined with previously developed residential uses. Current zoning of the area is county R-10. Water service is provided by Clackamas River Water District. There are no existing stormwater facilities.
- D. Description of the intended use or uses;
The intended use is residential development at the city R-7 standard.
- E. Identification on a detailed site plan of public facilities both existing and proposed; existing and proposed structures and site development details, including display of setback and other zoning standards compliance information; and an indication of mitigation or other measures proposed for purposes of health, safety, or welfare within the community.
A graphic site plan is not available. However, the following information satisfies the intent of this section:
- 1. Water service is available by an 8-inch main in Hill Street.*
 - 2. Hill Street is an asphalt street approximately 15 to 20 feet wide. It terminates at the informal and unimproved lane within the Hollywood Avenue right-of-way.*

3. *The existing lots are typically 58 to 59 feet wide and 100 feet deep. R-7 yard requirements are 20 feet for front and rear, 5 and 10 feet for side yards, and 20 feet for street side yard on corner lots.*
4. *It is believed that existing houses comply with applicable city zoning standards.*

F. The approval criteria of Section 19.905, which includes the following:

1. The proposed amendment must conform to applicable Comprehensive Plan goals, policies and objectives and be consistent with the provisions of city ordinances, Metro urban growth management functional plan and applicable regional policies.

Staff believes the amendment complies with this provision. The land use pattern and designation is consistent with nearby city lands. The proposal is consistent with the city/county Urban Growth Management Agreement. There are no known regional or functional plan polices that would apply to this proposal.

2. The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The Planning Commission and City Council shall use its discretion to weigh these factors in determining the intent of the proposed zone.

The potential future development that would ensue as a result of annexation and provision of sewer service will be consistent with the predominant land use patterns in the area. Though undersized, the pre-existing platted lots are suitable for R-7 residential development. The annexation will increase the supply of buildable lands in the City, thereby increasing housing supply and improving the quality of the housing stock. There are no known potential adverse effects of the proposal.

3. The proposed amendment will meet or can be determined to reasonably meet applicable regional, state, or federal regulations.

State regulations related to the annexation have or will be met. There are no known federal regulations applicable to this matter.

There are no known regional regulations that would apply to the rezoning from county R-10 to city R-7 zoning.

4. The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

The proposal will not restrict the capacity of services to serve additional development potential within the area.

5. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact analysis may be required subject to the provisions of Chapter 19.1400.

Street improvements consistent with Section 1400 will be provided through the annexation and subsequent residential development. A traffic study has not been required due to the small number of new lots that will be developed.

Section 3. Compliance with Section 1500 Annexation

The City Council shall approve or deny an annexation proposal based on the following:

- A. The site must be located within the city urban growth boundary;
The site meets this requirement.
- B. The site must be contiguous to the existing city limits;
The site meets this requirement.
- C. The requirements of the Oregon Revised Statutes for initiation of the annexation process must be met;
The application has been processed in accordance with applicable statutes.
- D. The proposal must be consistent with Milwaukie Comprehensive Plan policies; and
The proposal is consistent with the Comprehensive Plan as detailed elsewhere in this report.
- E. The proposal must comply with the criteria of Metro Code Sections 3.09.050(d)
The proposal is consistent with the Metro Code as detailed elsewhere in this report.

Section 4. Compliance with the City-County Urban Growth Management Agreement

Milwaukie and the County have an urban growth management agreement (UGMA) by which they coordinate their planning within an area of mutual interest next to the City. The territory to be annexed falls within the Urban Growth Boundary Management Area identified in the Agreement. Section 6 of Part C of the Agreement provides the following:

- The City shall assume jurisdiction of county roads and local access roads that are within or abutting the area annexed.
- The County shall either improve Hill Street to a 20-foot asphalt overlay cross section or provide funds in lieu of the improvements to the City.

Street jurisdiction will be transferred to the City and the County will provide funds in lieu of making street improvements in accordance with the UGMA Agreement

Section 5. Compliance with Metro Code

This territory is inside Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB). The Legislature has directed Metro to establish criteria, which must be used by all cities within the Metro boundary. Metro Code states that the City Council's decision on this boundary change should be ". . . consistent with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans." Metro Code states that a final decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:

1. Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.
There are no such agreements presently in place. The Metro Code also contains a second set of 10 factors, which are to be considered where: 1) no ORS 195 agreements have been adopted, and 2) a necessary party is contesting the boundary change. Those 10 factors are not applicable at this time to this annexation because no necessary party has contested the proposed annexation.
2. Consistency with directly applicable provisions of urban planning area agreements or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party.

The proposal is consistent with the 1990 Urban Growth Management Agreement between the City and County.

3. Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans.

The proposal is consistent with the Public Facilities Element of Milwaukie Comprehensive Plan Chapter 5. There are no provisions of the Clackamas County Comprehensive Plan that apply to the proposed annexation.

4. Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework or any functional plan.

The Regional Framework Plan, which includes the regional urban growth goals and objectives, the Growth Management Functional Plan and the Regional Transportation Plan were examined and found not to contain specific criteria applicable to boundary changes.

5. Whether the proposed boundary change will promote or not interfere with the timely, orderly, and economic provision of public facilities and services.

All public facilities and services needed for development of the site are presently in place.

Section 6. Compliance with Urban Service Statutes

ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this area of the County.

Attachment 3

Service Providers & Public Facilities

1. Milwaukie provides fire protection via a contract with Clackamas County Rural Fire Protection District No. 1. Oregon Revised Statute 222.120 (5) allows the City to specify that the territory be automatically withdrawn from the District upon approval of the annexation. The City should withdraw the territory from the District so that all property in the City is being served uniformly [via the contract].
2. The territory to be annexed lies within Clackamas River Water. The City is authorized by ORS 222.120 (5) to withdraw the territory from Clackamas River Water at the time of annexation. The City should not withdraw the territory from the District, as it would require construction of a redundant water main in Hill Street.
3. The site is currently served by the Clackamas County Sheriff's Department. Subtracting out the sworn officers dedicated to jail and corrections services, the County Sheriff provides approximately .5 officers per thousand population for local law enforcement services. The Milwaukie Police Department provides a level of service of 1.4 sworn officers per 1,000 Population.
4. The area to be annexed lies within the Clackamas County Service District (CSD) for Enhanced Law Enforcement, which provides additional police protection to the area. The combination of the countywide service and the service provided through the Enhanced Law Enforcement CSD results in a total level of service of approximately 1 officer per 1000 population. According to ORS 222.120 (5) the City may provide in its approval ordinance for the automatic withdrawal of the territory from the District upon annexation to the City. If the territory is withdrawn from the District, the District's levy would no longer apply to the property. The City should withdraw the territory from the District so that all property in the City is being served uniformly by City police.
5. The site is within Clackamas County Service District # 5 for Street Lights. In that District only some areas are lighted and if lighted the property owners in the lighted area pay a yearly assessment of \$32.50 for lights on existing wood poles or \$45 on metal poles. ORS 222.120 (5) would allow the Council to specify in its approval ordinance that the territory be withdrawn from that District. The City of Milwaukie provides street lighting service at no extra charge to City residents. Therefore the property should be withdrawn from the County Service District as allowed by statute. There are presently no light poles in the annexation area.

6. Planning, neighborhood associations, nuisance abatement and other municipal services are also provided by the City and will be available to the territory from the City upon annexation.

Attachment 4

ORDINANCE NO. _____ MILWAUKIE, OREGON

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A CERTAIN TRACT OF LAND LOCATED ON HILL STREET INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM TERRITORY OF CLACKAMAS COUNTY R.F.P.D. # 1, CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT, AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS, AND ASSIGNING COMPREHENSIVE PLAN AND ZONING DESIGNATIONS FOR THE ANNEXED PROPERTY.

WHEREAS, the City received written consent from a majority of the electors in the territory proposed to be annexed and all the owners of land in the territory proposed to be annexed, as required by ORS 222.125; and

WHEREAS, the tract of land is contiguous to the City and can be served by city services; and

WHEREAS, the City Council dispenses with submitting the question of the proposed annexation to the electors of the City for their approval or rejection as provided for in ORS 222.125; and

WHEREAS, the City Planning Commission and City Council have held the public hearing in accord with ORS 222.120, Metro Code 3.09.045, and Milwaukie Municipal Code Sections 1502 & 1011.4; and

WHEREAS, the tract of land lies within the territory of Clackamas R.F.P.D. # 1; and

WHEREAS, the tract of land lies within the territory of Clackamas County Service District for Enhanced Law Enforcement; and

WHEREAS, the tract of land lies within the territory of Clackamas County Service District No. 5 For Street Lights; and

WHEREAS, the City conducted public meetings and mailed notice of the public meetings as required by law; and

WHEREAS, a report was prepared as required by law, and the City Council having considered the report, does hereby favor the annexation of the subject tract of land and withdrawal from the districts based on findings and conclusions attached hereto as **Exhibit A**; and

WHEREAS, the annexation and withdrawals are not contested by any necessary party; and

WHEREAS, the City considered a Plan Change from County Low Density Residential to City Low Density and a zone change from County R-10 to City R-7 as a part of the proceeding as provided for in Milwaukie Municipal Code 1502.1;

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

Section 1: The tract of land, described in Exhibit B and depicted on Exhibit C, the annexation area map, is annexed to the City of Milwaukie.

Section 2: The tract of land annexed by this ordinance and described in Section 1 is withdrawn from Clackamas R.F.P.D. # 1, Clackamas County Enhanced Sheriff's Patrol District, and the Clackamas County Service District No. 5 For Street Lights.

Section 3: Upon annexation the tract of land is hereby assigned a City Comprehensive Plan designation of Low Density Residential and a zoning designation of R-7.

Section 4: The findings and conclusions attached as Exhibit A are adopted. The City shall immediately file a certified copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.050 (g) and ORS 222.005. Except as provided in Section 3 above, the annexation and withdrawals shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on _____, 2004, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____, 2004. .

Signed by the Mayor on _____, 2004.

James Bernard, Mayor

ATTEST:

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

Pat Duval, City Recorder

City Attorney

Hill Street Annexation Ordinance

Exhibit A

Findings of Fact in Support of Annexation

Findings of Fact

1. A petition to annex the site to the City of Milwaukie was submitted by one hundred percent of owners and a majority of registered voters in accordance with Milwaukie Municipal Code 19.1502.2. The applicant is proposing to annex the following lots of the Hollywood Park plat to the City of Milwaukie:
 - A. Block 6, lots 10 and 11;
 - B. Block 7 lots 2 (including the easterly 25 feet of lot 1), 3, 4, 5, 6, and 7.The annexation area also includes the Hill Street right-of-way from the city limits east to the Hollywood Avenue right-of-way.
2. The annexation includes the withdrawal of all county and special district services other than water, which shall continue to be provided by Clackamas River Water.
3. The existing land use pattern in the area and adjoining city lands support amending the Milwaukie Comprehensive Plan Land Use Map by designating the annexation area as Low Density.
4. The existing land use pattern in the area and adjoining city lands support amending Milwaukie Zoning Map by zoning the annexation area as R-7 Residential.
5. The annexation application has been processed and notice provided in accordance with Milwaukie Municipal Code 1500, Metro Code, and the Oregon Revised Statutes.
6. The request for Comprehensive Plan and Zoning Map amendments were processed in accordance with Milwaukie Comprehensive Plan Chapter 2 and Municipal Code Title 19.900 and 19.1011.4.
7. The Planning Commission conducted a public hearing on June 9, 2004, and heard and considered all testimony.
8. Annexations are governed by the Urban Growth Management Boundary Agreement between the City and Clackamas County. The annexation area is located within Dual Interest Area A as described in the agreement.

9. The annexation is in the public the interest as follows:
 - A. It is consistent with the city urban service agreement with Clackamas County.
 - B. It will lead to the long-term elimination of existing septic systems thereby reducing potential public health risks associated with failed septic systems.
 - C. It will result in construction of new housing, thereby helping to meet market demand and increase the city stock of modern housing.
 - D. It will contribute to the city's tax base and help cover general fund expenses.
 - E. Fees collected at the time of permitting will contribute to funds that cover the cost of providing park, street, sewer, and stormwater improvements.
 - F. The annexation facilitates the efficient use of land and utilities by taking advantage of existing investments in streets and water service.

10. The annexation is consistent with the following applicable plan and code provisions:
 - a. Metro Code 3.0 Local Government Boundary Changes.
 - b. Milwaukie Comprehensive Plan Chapter 2 Plan Review and Amendment Process.
 - b. Milwaukie Comprehensive Plan Chapter 4 Land Use, Residential Land Use & Housing Element.
 - c. Milwaukie Comprehensive Plan Chapter 5 Public Facility Element.
 - d. Milwaukie Municipal Code 19.900 Amendments.
 - e. Milwaukie Municipal Code 19.1500 Boundary Changes.

Hill Street Annexation Ordinance

Exhibit B

Legal Description

A tract of land in the Northeast one-quarter of the Southeast one-quarter of Section 30, Township 1 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, said tract being a portion of Blocks 6 and 7 of the duly filed plat of Hollywood Park, along with a portion of Hill Street (C.R. 2327, being 40.00 feet in width), as disclosed by said plat, said tract being more particularly described as follows:

Beginning at the Northwest corner of Lot 11 of said Block 6; thence East, along the North line of said Lot 11 and of Lot 10 of said Block 6, a distance of 179.00 feet to the Northeast corner of said Lot 10; thence South, along the East line of said Lot 10, a distance of 100.00 feet to a point on the South line of said Block 6; thence East, along said South line, a distance of 176.00 feet to the Southeast corner of said Block 6; thence south along the Southerly extension of the East line of said Block 6 and the East line of Said Block 7, a distance of 140.00 feet to the Southeast corner of Lot 7 of said Block 7; thence west, along the South line of said Lot 7 and of Lots 6,5,4,3,2, and 1 of said Block 7, a distance of 387.50 feet to a point on a line being 25.00 feet West of and parallel with the East line of said Lot 1; thence North, along said parallel line and the Northerly extension thereof, a distance of 140.00 feet to a point on the South line of said Block 6; thence East, along said South line, a distance of 32.50 feet to the Southwest corner of Lot 11 of said Block 6; thence North, along the West line of said Lot 11, a distance of 100.00 feet to the point of beginning.

Proposal No. AN-04-02

1S2E31D

Annexation to the City of Milwaukie

Clackamas Co.



R L I S
REGIONAL LAND INFORMATION SYSTEM



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Portland, OR 97232-2736
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Email drc@metro-region.org

METRO

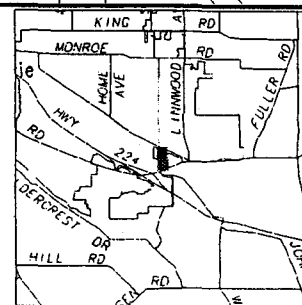
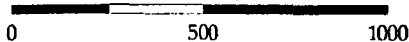
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- County lines
- City
- Annexation boundary

Urban Growth Boundary

Proposal No. AN-04-02
CITY OF MILWAUKIE
Figure 1

Scale: 1" = 500'





To: Mayor and City Council

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

From: John Gessner, Planning Director
Ken Martin, Annexation Consultant

Date: July 13, 2004 for the Council's July 20, 2004 hearing.

Subject: Annexation of Property at Harmony Road & International Way
File AN-04-02

Action Requested

Approve Annexation Application AN-04-02 and related Comprehensive Plan and Zoning Map amendments, and adopt the recommended findings in support of approval.¹

Background

On June 9, 2004, the Planning Commission passed a motion recommending the City Council approve the request to annex a 6.58-acre industrial site located just east of the city limits at the northeast corner of International Way and Harmony Road. Since the property is now under County jurisdiction, the Comprehensive Plan Land Use Map and zoning must be changed to meet city designations. The requested land use designation is "Industrial". The requested zoning is "Business Industrial". If approved both designations would match the adjoining industrial lands already in the City.

Project Description

The annexation will facilitate access to city services thereby allowing development of the property. The applicant has developed two preliminary development schemes.

¹ See Attachment 1 for the annexation area map. Proposed findings of facts and conclusions in support of approval are in the Annexation Ordinance Attachment 5.

Scheme #7 shows construction of 77,000 square feet within two buildings, related parking and access. Scheme #10 shows 72,175 square feet in three buildings with related access and parking. These schemes are only illustrative and are not specific requests for land use approval, for which will be submitted in the future if the annexation is approved. (See Attachment –2 Development Schemes.)

Urban Growth Boundary Management Agreement (UGMA)

In 1990, the City and County adopted an agreement that establishes procedures for provision of public services and annexations. The UGMA specifies that the City is the lead agent in providing services in this area, details notice requirements, and establishes requirements for street improvements at the time of annexation.

Key Issues

1. Annexation proposals are subject to city, Metro, and state legal requirements. The annexation application has been prepared in accordance with these requirements.
2. The proposed Industrial land use designation and Business Industrial zoning complements existing designations for the adjoining city properties and also complements existing county zoning.
3. Using economic development grant monies, the City contracted with Kittelson & Associates to evaluate vehicle access issues. The site's location at the intersection of Harmony Road and International Way complicates driveway location and turning movements into and out of the site. Access issues will be resolved as a part of development review. Other site development issues include environmental impacts of the proposed stream crossing and stormwater management. These issues will also be resolved as part of a future land use application review.
4. The State Transportation Planning Rule requires evaluation of the rezoning on state transportation facilities.² Expressway Highway 224 is potentially affected by development of the site, however since the site is already zoned industrial by the County, Staff believes there will be no net traffic effect of the annexation and rezoning to Business Industrial.
5. The City and County have an agreement governing the annexation process. The Urban Growth Management Agreement specifies that disposition of streets shall be resolved at the time of annexation. Harmony Road is an arterial street, which is subject to case-by-case review. Staff recommends the City not take

² Oregon Administrative Rules 660-12-0060

jurisdiction because it would fragment existing County jurisdiction, resulting in potential administrative and maintenance inefficiencies.³

6. Staff believes the application is consistent with criteria for annexation and concurrent amendments to the Comprehensive Plan and Zoning Map and recommends approval.
7. The Oregon Transportation Plan Rule⁴ requires that proposed land use changes be evaluated for their impact on highway facilities, which in this case is Expressway 224. This provision applies to the comprehensive plan and zoning changes associated with the annexation. ODOT has determined that the proposed changes will not have an impact on the expressway.

Analysis of Key Issues

1. Compliance with annexation application requirements is detailed in the attached staff report from Ken Martin, the City's annexation consultant.
2. Staff advised the applicant that the property should be brought into the City under the Industrial land use designation and Business Industrial zoning to ensure land use consistency and ease of zoning administration in the area.
3. Staff believes the proposed Comprehensive Plan land use designation to Industrial and the Business Industrial zoning amendment are consistent with city criteria as follows:⁵

Comprehensive Plan Industrial⁶

- There is a public need to amend the Plan. The amendment is necessitated by the proposed annexation.
- The public need is best satisfied by the Industrial designation based upon consistency with surrounding city land use designation and development pattern.
- Annexation will not adversely affect the health, safety, and welfare of the community. Annexation will result in the long-term provision of urban service to an industrial property. The Comprehensive Plan supports the adequate supply of industrial land and providing urban services to industrial land.

³ Staff believes that it would not make sense to provide street services for the short section of the site's frontage. Splitting jurisdiction between the County and City would complicate capital project planning and maintenance schedules, costs and standards.

⁴ Oregon Administrative Rules 660-12-0060

⁵ Comprehensive Plan Amendments are subject to Zoning Ordinance Section 900 and Comprehensive Plan Chapter 2- Amending the Plan. Zoning Map Amendments are subject to Zoning Ordinance Section 900.

⁶ See Attachment 3.

Zoning Map

- Notice of the proposed map amendment has been provided in accordance with city code and applicable statutes.
 - The proposal is consistent with the Comprehensive Plan and Urban Growth Management Agreement.
 - Potential industrial development that will result from the annexation is consistent with the Business Industrial zone.
 - Needed public utilities can be provided without adverse impacts to the remainder of the service area.
5. Staff believes the annexation proposal is in the public interest as follows:
- It is consistent with the city urban service agreement with the County.
 - It will contribute to the city's economy and tax base.
 - Fees collected at the time of permitting will contribute to funds that cover the cost of providing street, sewer, and stormwater improvements.

Compliance with Annexation Criteria

Staff believes the proposal complies with city, state, and regional criteria for annexation. See Attachment 3 for full analysis.

Decision Making Process

Annexation requests and the related amendments to the Comprehensive Plan Land Use and Zoning Maps are subject to Zoning Ordinance 1011.4 Major Quasi Judicial Review. Annexations are also subject to state law and Metro Code.⁷ Approval requires adoption of the attached ordinance. (See Attachment 5)

A decision must be rendered no later than September 9, 2004 to meet state law that limits the amount of time allowed for the City to take action.

Comments

The proposal was forwarded to affected departments, service providers, and agencies. No objections have been received.

Concurrence

The application was forwarded to Public Works Operations Departments, Engineering, Fire, City Attorney, Building, and Police. No concerns about the annexation have been were received. Affected departments will review any future development proposal for comment on traffic, stormwater drainage, and other typical development issues.

⁷ Oregon Revised Statutes 268.354 and Metro Code Chapter 3.09.

Fiscal Impact

The annexation is expected to have a positive fiscal effect through collection of property taxes and other revenues. Potential negative effects include the costs of providing governmental services to the site. The value of the property, for tax revenue purposes, will depend upon the extent of future site development and trends in industrial property values.

Industrial properties typically have low governmental service demands. City sewer and water lines are already in-place to serve the site. No new utility lines are needed other than for on-site connections, which are installed at the developer's expense.

While it is not now possible to quantify the net fiscal effect, staff believes that annexation will result in an overall long-term fiscal benefit.

Workload Impact

Workloads will be affected by the annexation including the set-up and maintenance of property records, utility billing, and general governmental services.

Alternatives

The Council has the following decision making options:

1. Approve the application and adopt findings in support.
2. Deny the application and adopt findings that specify reasons for denial.

Attachments

1. Annexation Area Map
2. Development Schemes
3. Compliance with Approval Criteria
4. Inventory of Service Providers & Facilities
5. Proposed Annexation Ordinance (including Findings, Map, and Legal Description)

Proposal No. AN-04-02

1S2E31D

Annexation to the City of Milwaukie

Clackamas Co.



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REGIONAL LAND INFORMATION SYSTEM



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METRO

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County lines

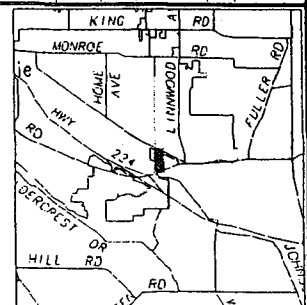
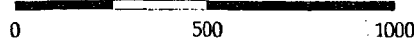
City

Annexation boundary

Urban Growth Boundary

Proposal No. AN-04-02
CITY OF MILWAUKIE
Figure 1

Scale: 1" = 500'



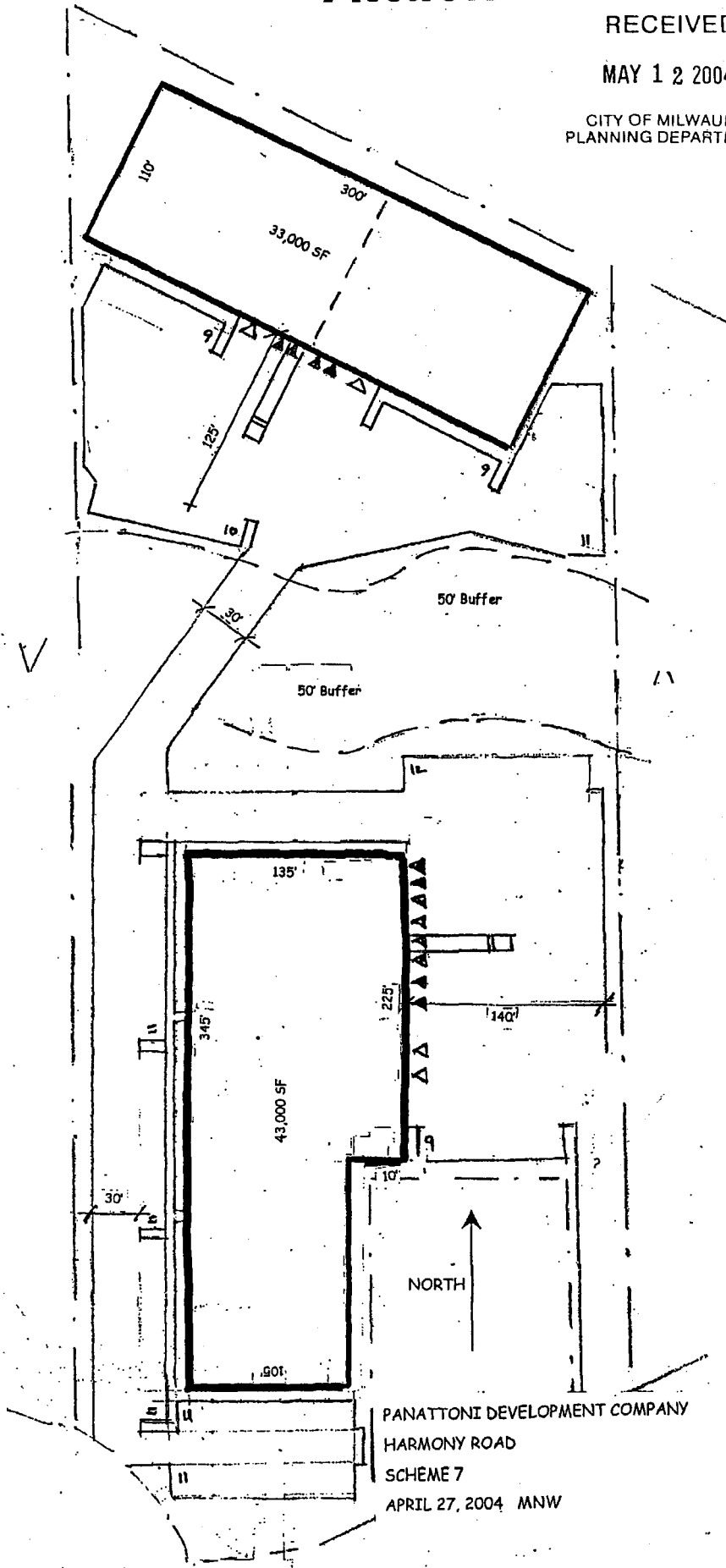
Attachment 2

V.B. 7

RECEIVED

MAY 12 2004

CITY OF MILWAUKIE
PLANNING DEPARTMENT



PANATTONI DEVELOPMENT COMPANY
HARMONY ROAD
SCHEME 7
APRIL 27, 2004 MNW

Attachment 3

Compliance with Plans, Codes, and Statutes

Section 1. Compliance with Milwaukie Comprehensive Plan

Comprehensive Plan Chapter 2 allows for amendments and includes the following criteria to be evaluated for proposed changes:

- A. Conformance with Comprehensive Plan, goals, polices, and spirit.
Staff believes the proposal is consistent with this criterion. It meets specific policies concerning neighborhood land use and public facility provisions of Chapter 5.
- B. Public need for the change.
The public need is related to providing public services in accordance with the intergovernmental agreement with the County over coordination of public services, which maximizes existing investments in public utilities, and makes land available to meet housing demand.
- C. The Annexation will not adversely affect the health, safety, and welfare of the community.
Annexation will result in the long-term provision of urban service to an industrial property. The Comprehensive Plan supports the adequate supply of industrial land and providing urban services to industrial land.
- D. The change is in conformance with applicable Statewide Planning Goals.
 1. Goal 1 requires local governments to establish a land use planning process as a basis for all decisions and actions to ensure a factual basis for such decisions.
The proposal has been processed in accordance with established plans and polices and therefore complies with Goal 1.
 2. Goal 11 requires development of public facility plans that ensure the orderly and timely arrangement of public services.
The proposed annexation is consistent with the urban growth management agreement with the County that implements Goal 11.
- E. Chapter 4, Land Use, Economic Base and Industrial/Commercial Land Use Element supports and encourages the development of a broad industrial base in the City. Planning objectives include the following:

Objective #1 – Economic Development:

The City will encourage an increase in the overall economic development activity within the City, will strive to retain existing businesses as well as actively attract new businesses, particularly those identified as having growth potential.

Objective #4 – Industrial Land Use:

To encourage new industries to locate within the three major industrial areas of the City, in order to take maximum advantage of existing access and public facilities serving industry.

Properties adjacent to industrial areas will be evaluated against the following criteria when considering an industrial designation:

1. Those having an historical commitment to industrial use;
The site is presently undeveloped but adjoins the Milwaukie Business Zone, which is committed to industrial use.
2. Access to a regional transportation network, which should include one or more of the following: freeway, major or minor arterial access, or rail service;
The site has close and direct access to Expressway 224 and Harmony Road.
3. Significant traffic increase shall not result on streets of collector or less status serving low density residential areas;
Traffic generated by future development on the site will be distributed to arterial and collector streets including Lake Road, Harmony Road, Expressway 224, and Linwood Avenue
4. Areas with sites large enough to accommodate expansion of individual establishments or serve several establishments within one district;
The site will accommodate individual or multiple industrial establishments.
5. Compliance with all applicable Plan policies.
The proposal complies with the Comprehensive Plan as detailed elsewhere in this report.

Section 2. Compliance with the City-County Urban Growth Management Agreement

Milwaukie and Clackamas County have an urban growth management agreement (UGMA) by which they coordinate their planning within an area of mutual interest next to the City. The territory to be annexed falls within the Urban Growth Boundary Management Area identified in the Agreement. Section 6 of Part C of the Agreement provides the following:

- The City shall assume jurisdiction of county roads and local access roads that are within or abutting the area annexed.
- Arterial roads will be considered for transfer on a case- by-case basis. Terms of transfer for arterial roads will be negotiated and agreed to by both jurisdictions.

Section 3. Compliance with City Code

Compliance with Section 900 Amendments.

Proposals for zoning map amendments must provide evidence that all requirements of this title relative to the proposed use or uses are satisfied, in addition to addressing the following:

- A. Applicable requirements of Section 19.1003;
The application has been processed in accordance with Zoning Ordinance section 1011.4 Major Quasi-Judicial Review.
- B. Reasons for requesting the zoning map amendment;
The request is made to implement a proposed annexation. All lands within the city must have a zoning designation.
- C. Description of existing site conditions, including but not limited to topography, public facilities and service, natural hazards, natural areas or open space, historic sites, transportation, current uses of the subject site and current zoning of the subject site;
The annexation site contains an existing single-family residence, is largely unwooded, contains a sensitive water resource (stream associated with the Minthorn Spring complex to the west), and abuts the Union Pacific rail line to the north. Points for potential vehicle access are located on Harmony Road and International Way.
- D. Description of the intended use or uses;
The intended use is industrial development.

- E. Identification on a detailed site plan of public facilities both existing and proposed; existing and proposed structures and site development details, including display of setback and other zoning standards compliance information; and an indication of mitigation or other measures proposed for purposes of health, safety or welfare within the community.

See Attachment 2 for the two development schemes, which demonstrates the site can be developed in accordance with Business Industrial standards. Mitigation of development impacts will include the appropriate design and treatment of the stream crossing, stormwater discharge, and traffic control improvements at the time of development.

- F. The approval criteria of Section 19.905, which includes the following:

1. The proposed amendment must conform to applicable Comprehensive Plan goals, policies and objectives and be consistent with the provisions of city ordinances, Metro urban growth management functional plan and applicable regional policies.

Staff believes the amendment complies with this provision. The land use pattern and designation is consistent with nearby city lands. The proposal is consistent with the City/County Urban Growth Management Agreement. There are no known regional or functional plan polices that would apply to this proposal.

2. The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The Planning Commission and City Council shall use its discretion to weigh these factors in determining the intent of the proposed zone.

The potential future development that would ensue as a result of annexation and provision of sewer service will be consistent with the predominant land use patterns in the area. There are no known potential adverse effects of the proposal that will not be addressed during development review.

3. The proposed amendment will meet or can be determined to reasonably meet applicable regional, state or federal regulations.

State regulations related to the annexation have or will be met. There are no known federal regulations applicable to this matter. There are no known regional regulations that would apply to the rezoning from county industrial to city industrial.

4. The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

The proposal will not restrict the capacity of services to serve additional development potential within the area.

5. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact analysis may be required subject to the provisions of Chapter 19.1400.

Street improvements consistent with Section 1400 will be provided through the annexation and subsequent development. A traffic study will be conducted at the time of development review.

Compliance with Section 1500 Annexation

The City Council shall approve or deny an annexation proposal based on the following:

- A. The site must be located within the city urban growth boundary;
The site meets this requirement.
- B. The site must be contiguous to the existing city limits;
The site meets this requirement
- C. The requirements of the Oregon Revised Statutes for initiation of the annexation process must be met;
The application has been processed in accordance with applicable statutes.
- D. The proposal must be consistent with Milwaukie Comprehensive Plan policies; and
The proposal is consistent with the Comprehensive Plan as detailed elsewhere in this report.
- E. The proposal must comply with the criteria of Metro Code Sections 3.09.050(d).
The proposal is consistent with the Metro Code as detailed elsewhere in this report.

Section 4. Compliance with Metro Code

This territory is inside Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB). The Legislature has directed Metro to establish criteria, which must be used by all cities within the Metro boundary. Metro Code states that the City Council's decision on this boundary change should be ". . . consistent with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans." Metro Code states that a final decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:

1. Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.

There are no such agreements presently in place. The Metro Code also contains a second set of 10 factors, which are to be considered where: 1) no ORS 195 agreements have been adopted, and 2) a necessary party is contesting the boundary change. Those 10 factors are not applicable at this time to this annexation because no necessary party has contested the proposed annexation.

2. Consistency with directly applicable provisions of urban planning area agreements or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party.

The proposal is consistent with the joint Urban Growth Management Agreement between the City and County.

3. Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans.

The proposal is consistent with the Public Facilities Element of Milwaukie Comprehensive Plan Chapter 5. No provisions of the Clackamas County Comprehensive Plan apply to the proposed annexation.

4. Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework or any functional plan.

The Regional Framework Plan, which includes the regional urban growth goals and objectives, the Growth Management Functional Plan and the Regional Transportation Plan were examined and found not to contain specific criteria applicable to boundary changes.

5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.

All public facilities and services needed for development of the site are presently in place.

Section 5. Compliance with Urban Service Statutes

ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this area of the County.

Attachment 4

Service Providers & Public Facilities

1. Milwaukie provides fire protection via a contract with Clackamas County Rural Fire Protection District No. 1. Oregon Revised Statute 222.120 (5) allows the City to specify that the territory be automatically withdrawn from the District upon approval of the annexation. The City should withdraw the territory from the District so that all property in the City is being served uniformly [via the contract].
2. The territory to be annexed lies within Clackamas River Water. The City is authorized by ORS 222.120 (5) to withdraw the territory from Clackamas River Water at the time of annexation. The City should withdraw the territory from the District. City has a 12-inch water line in Harmony Road adjacent to the territory to be annexed. This line will serve the area to be annexed.
3. The site is currently served by the Clackamas County Sheriff's Department. Subtracting out the sworn officers dedicated to jail and corrections services, the County Sheriff provides approximately .5 officers per thousand population for local law enforcement services. The Milwaukie Police Department provides a level of service of 1.4 sworn officers per 1,000 Population.
4. The area to be annexed lies within the Clackamas County Service District (CSD) for Enhanced Law Enforcement, which provides additional police protection to the area. The combination of the countywide service and the service provided through the Enhanced Law Enforcement CSD results in a total level of service of approximately 1 officer per 1000 population. According to ORS 222.120 (5) the City may provide in its approval ordinance for the automatic withdrawal of the territory from the District upon annexation to the City. If the territory is withdrawn from the District, the District's levy would no longer apply to the property. The City should withdraw the territory from the District so that all property in the City is being served uniformly by City police.
5. The site is within Clackamas County Service District # 5 for Street Lights. In that District only some areas are lighted and if lighted the property owners in the lighted area pay a yearly assessment of \$32.50 for lights on existing wood poles or \$45 on metal poles. ORS 222.120 (5) would allow the Council to specify in its approval ordinance that the territory be withdrawn from that District. The City of Milwaukie provides street lighting service at no extra charge to City residents. Therefore the property should be withdrawn from the County Service District as allowed by statute.

6. Planning, neighborhood associations, nuisance abatement and other municipal services are also provided by the City and will be available to the territory from the City upon annexation.

Attachment 5

**ORDINANCE NO. _____
MILWAUKIE OREGON**

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A CERTAIN TRACT OF LAND INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM TERRITORY OF CLACKAMAS COUNTY R.F.P.D. # 1, CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT, CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS, AND CLACKAMAS RIVER WATER AND ASSIGNING COMPREHENSIVE PLAN AND ZONING DESIGNATIONS FOR THE ANNEXED PROPERTY.

WHEREAS, the City received written consent from a majority of the electors in the territory proposed to be annexed and all the owners of land in the territory proposed to be annexed, as required by ORS 222.125; and

WHEREAS, the tract of land is contiguous to the City and can be served by city services; and

WHEREAS, the City Council dispenses with submitting the question of the proposed annexation to the electors of the City for their approval or rejection as provided for in ORS 222.125; and

WHEREAS, the City Planning Commission and City Council have held a public hearing in accordance with ORS 222.120, Metro Code 3.09.045 and Milwaukie Municipal Code Sections 1502 & 1011.4; and

WHEREAS, the tract of land lies within the territory of Clackamas R.F.P.D. # 1; and

WHEREAS, the tract of land lies within the territory of Clackamas County Service District for Enhanced Law Enforcement; and

WHEREAS, the tract of land lies within the territory of Clackamas County Service District No. 5 For Street Lights; and

WHEREAS, the tract of land lies within the territory of Clackamas River Water (CRW); and

WHEREAS, the City conducted public meetings and mailed notice of the public meetings as required by law; and

WHEREAS, a report was prepared as required by law, and the City Council having considered the report, does hereby favor the annexation of the subject tract of land and withdrawal from the districts based on findings and conclusions attached hereto as Exhibit A; and

WHEREAS, the annexation and withdrawals are not contested by any necessary party;

WHEREAS, the City considered a Plan Change from county Light Industrial to city Industrial and a zone change from county I-2 to city Business Industrial as a part of the proceeding as provided for in Milwaukie Municipal Code 19.1502.1; and

WHEREAS, the site contains Metro Functional Plan Title 3 water quality resources requiring protections by designation as a city water quality resource site under Milwaukie Municipal Code 19.322.

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

- Section 1: The tract of land, described in Exhibit B and depicted on the Exhibit C Annexation Area Map, is annexed to the City of Milwaukie.
- Section 2: The tract of land annexed by this ordinance and described in Section 1 is withdrawn from Clackamas R.F.P.D. # 1, Clackamas County Enhanced Sheriff's Patrol District, Clackamas County Service District No. 5 For Street Lights, and Clackamas River Water.
- Section 3: Upon annexation the tract of land is hereby assigned a City Comprehensive Plan designation of Industrial and zoning designations of Business Industrial and Water Quality Resource thereby amending the City's Water Quality Resource Map.
- Section 4: The findings and conclusions attached as Exhibit A are adopted. The City shall immediately file a certified copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.050 (g) and ORS 222.005. Except as provided in Section 3 above, the annexation and withdrawals shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on _____, 2004, and moved to second reading by
_____ vote of the City Council.

Read the second time and adopted by the City Council on _____, 2004.

Signed by the Mayor on _____, 2004.

James Bernard, Mayor

ATTEST:

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

Pat Duval, City Recorder

City Attorney

Exhibit A

Findings of Fact and Conclusions in Support of Annexation

1. A petition to annex the site to the City of Milwaukie was submitted by one hundred percent of owners and a majority of registered voters in accordance with Milwaukie Municipal Code 19.1502.2.
2. Through this annexation the City is seeking withdrawing the site from the territory of Clackamas County and the following jurisdictions and service providers:
 - a. Clackamas County Rural Fire Protection District # 1
 - b. Clackamas County Service District for Enhanced Law Enforcement,
 - c. Clackamas County Service District No. 5 for Streetlights
 - d. Clackamas River Water
3. Approval of this annexation and associated Comprehensive Plan and Zoning Map amendments include the Map 7 Land Use designation of "Industrial" and "Business Industrial" and "Water Quality Resource" zoning designations. The existing land use pattern in the area and adjoining city lands support these designations.
4. The applicant is proposing to annex the 6.58-acre site that includes tax lots 12E31D lots 1500 and 1590 located at the northeast corner of Harmony Road and International Way. The territory to be annexed contains one single family dwelling and is valued at \$297,630.
5. The annexation application has been processed and notice provided in accordance with Milwaukie Municipal Code 1500, Metro Code, and the Oregon Revised Statutes.
6. The request for Comprehensive Plan and Zoning Map amendments were processed in accordance with Milwaukie Comprehensive Plan Chapter 2 and Municipal Code Title 19.900 and 19.1011.4.
7. The Planning Commission conducted a public hearing on June 9, 2004 and passed a motion recommending the City Council approve the annexation. The City Council held a public hearing on July 20, 2004.
8. Annexations are governed by the Urban Growth Management Boundary Agreement between the City and Clackamas County. It is not in the City's best interest to assume jurisdiction of Harmony Road along the annexation area due to fragmentation of maintenance services and capital project planning.
9. The annexation is in the public interest as follows:
 - a. It is consistent with the city urban service agreement with the County.

- b. It will lead to industrial development consistent with city land use and economic development policies of the Comprehensive Plan.
 - c. It will contribute to the City's tax base and contribute to general fund expenses.
 - d. Fees collected at the time of permitting will contribute to funds that cover the cost of providing street, sewer, and stormwater improvements.
 - e. The annexation facilitates the efficient use of land and utilities by taking advantage of existing investments in street, sewer, and water service.
10. The proposed rezoning will not result in a significant effect on state highway facilities as detailed in the June 9, 2004, letter of Sonya Kazen, ODOT Region 1.
11. The annexation is consistent with the following applicable plan and code provisions:
- a. Metro Code 3.0 Local Government Boundary Changes.
 - b. Milwaukie Comprehensive Plan Chapter 2 Plan Review and Amendment Process.
 - c. Milwaukie Comprehensive Plan Chapter 5 Public Facility Element.
 - d. Milwaukie Municipal Code 19.900 Amendments.
 - e. Milwaukie Municipal Code 19.1500 Boundary Changes.

Harmony Road Annexation Ordinance

Exhibit B

Legal Description

A tract of land in the Southeast one quarter of Section 31, Township 1 South, Range 2 East, of the Willamette Meridian, in the John D. Garret DLC #38, Clackamas County, Oregon, bounded as follows:

Beginning at a 1 inch iron pipe which marks the Northeast corner of that property described in Book 252, Page 390 Deed Records; thence along the East line of said property South 0°00'00" West, 742.65 feet to a 5/8 inch iron rod on the North line of Harmony Road as established by the State of Oregon D.O.T; thence along said line on a spiral curve right whose chord bears South 64°50'09" West, 32.92 feet to a 5/8 inch iron rod on the East line of the Hocken property as described in Book 456, Page 621; thence along said East line North 0°00'00" East, 154.57 feet to a 5/8 inch iron rod; thence along the North line of said property South 90°00'00" West, 126.34 feet to a 5/8 inch iron rod; thence along the West line of said property South 00°00'00" West, 212.37 feet to a 5/8 inch iron rod on the North line of said Harmony Road; thence along said North line on a spiral right to a point whose chord bears South 66°14'45" West, 43.87 feet; thence along said North line South 78°20'23" West, 50.37 feet to a iron rod with aluminum cap; thence along said North line North 88°45'05" West, 29.83 feet to a 5/8 inch iron rod with aluminum cap on the Northeasterly line of International Way; thence along said Northeasterly line North 21°24'45" West, 17.23 feet to a 5/8 inch iron rod with aluminum cap; thence along said Northeasterly line 91.62 feet to a 117.00 feet radius curve left whose chord bears North 43°44'53" West, 89.31 feet, to a 5/8 inch iron rod on the West line of the property described in Book 449, Page 37; thence along said West line North 0°00'00" East, 928.66 feet to a 1 inch iron pipe at the Northwest corner of said property and at the Southern right of way line of the Southern Pacific Railroad; thence along said line South 63°59'41" East, 382.18 feet to the point of beginning.

Proposal No. AN-04-02

1S2E31D

Annexation to the City of Milwaukie

Clackamas Co.



REGIONAL LAND INFORMATION SYSTEM



600 NE Grand Ave.
 Portland, OR 97232-2736
 Voice 503 797-1742
 FAX 503 797-1909
 Email drc@metro-region.org

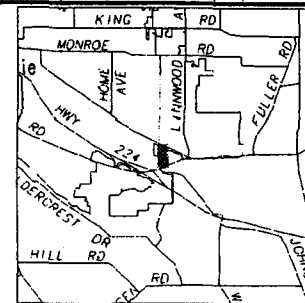
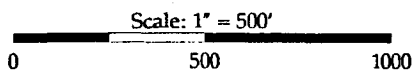
METRO

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

- County lines
- City
- Annexation boundary

Urban Growth Boundary

Proposal No. AN-04-02
 CITY OF MILWAUKIE
 Figure 1





TO: Mayor and City Council

FROM: Mike Swanson, City Manager

DATE: July 7, 2004

**RE: Proposed Resolution Calling for an Election to Authorize
Annexation to Clackamas County Fire District No. 1**

ACTION REQUESTED

The action requested is Council adoption of the proposed resolution calling for a September 21, 2004 election authorizing annexation to Clackamas County Fire District No. 1 (CCFD1).

BACKGROUND

At the May 4, 2004 regular meeting of the Council, Resolution 7-2004 was passed.¹ It proposed "annexation of the territory within the City by the Clackamas County Fire District No. 1 for the purpose of providing fire and emergency medical services." Pursuant to State law the proposal was certified to the CCFD1 Board of Directors for its consideration.

On June 21, 2004 the CCFD1 Board passed its Resolution 04-03 (copy attached). It "approves the proposal by the City Council of the City of Milwaukie that the District annex all of the territory within the City," and it "calls an election [on September 21, 2004] within the City of Milwaukie upon a measure which, if approved by the electors of the City, would authorize the District to annex all of the territory within the City of Milwaukie, Oregon."²

¹ A copy of the staff memo dated April 21, 2004 and presented in support of the proposal is attached for information.

² The CCFD1 Board Resolution also calls a September 21, 2004 election within the District on the same issue, provided "that the call for an election within the District shall only be effective if a timely petition containing the signatures of the requisite number of electors of Clackamas County Fire District No. 1 is filed petitioning for an election within the District concerning the proposed annexation." If an election within the District is required, a majority of those voting in both the District and City elections is required to authorize the annexation.

In order to complete the process leading to a vote, the Council must approve the proposed Resolution, and it must be certified to the County Elections Official no later than July 21, 2004.

The September 21, 2004 election will be by mail. Ballots will be sent to registered voters on September 3 - 7, 2004.

FISCAL IMPACTS

The fiscal impact will be to relieve the City of the obligation to pay the District for services pursuant to the 1998 contract between CCFD1 and the City. The amount budgeted for FY 2004-2005 is \$3,111,130, which includes \$2,891,000 payable to the District for services and \$220,130 for facilities occupancy charges, which is a transfer to the City's Facilities Management Fund for maintenance of the facility.³ Thus, the annexation will relieve the General Fund of \$3,111,130 in expenditures. This has the effect of "freeing up" over \$3 million in funds generated by the City's permanent rate property tax levy of 6.5379.

Annexation of the City to the District does bring with it significant public safety benefits. It provides CCFD1 with the ability to plan for the long-term provision of fire suppression and emergency medical services within the City's boundaries. In addition, it provides City residents with the power to fully participate in District matters such as Board elections and future tax measures. These benefits are significant, and annexation of the City to the District is the only way to accomplish them. If the measure is burdened with an increase in taxes, valuable goals like those stated above will be lost. Thus, the property tax impact of a successful annexation should be a net zero. While this Council should not permanently tie the hands of future Councils, I recommend that the City should pledge to ensure that the annexation result in no net increase in the combined City/CCFD1 levy of their permanent rate as long as a majority of present Council members continue to serve in their positions.

Attachments:

- A. Staff memo dated April 21, 2004 to Mayor and City Council from City Manager Mike Swanson.
- B. Milwaukie City Council Resolution 7-2004 Dated May, 4,2004.
- C. Clackamas County Fire District #1 Resolution No. 04-03 Dated June 21, 2004.

³ If the annexation is successful, the City will lease the facility to CCFD1. Negotiations on lease terms will be underway shortly.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, CALLING FOR AN ELECTION ON SEPTEMBER 21, 2004, TO AUTHORIZE CLACKAMAS COUNTY FIRE DISTRICT NO. 1 TO ANNEX ALL OF THE TERRITORY WITHIN THE CITY FOR THE PURPOSES OF PROVIDING FIRE AND EMERGENCY MEDICAL SERVICES.

WHEREAS, the City Council adopted Resolution No. 7-2004 proposing annexation by the Clackamas County Fire District No. 1 of all of the territory within the City of Milwaukie; and

WHEREAS, the Board of Directors of the Clackamas County Fire District No. 1, by Resolution 04-03, has approved the City's proposal that the District annex all of the territory within the City; and

WHEREAS, the Board of Directors of the Clackamas County Fire District No. 1 has called an election within the City of Milwaukie, to be held on September 21, 2004, upon a measure which, if approved by the electors of the City, would authorize the District to annex all of the territory within the City of Milwaukie;

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

Section 1: An election conducted by the Clackamas County Elections Division shall be held September 21, 2004, on the question: "Shall Clackamas County Fire District No. 1 annex all of the territory of the City of Milwaukie? "

Section 2: The Ballot Caption, Question and Summary of the Measure for the election measure shall be as shown in the attached Exhibit A.

Section 3: The Council approves the Explanatory Statement in the form of the attached Exhibit B.

Section 4: The City Recorder is directed to take the steps required by applicable law to provide notice of the election and to place the measure on the ballot.

Section 5: This resolution takes effect upon adoption.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon on _____, 2004.

James Bernard, Mayor

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

ATTEST:

By: _____
City Attorney

Pat DuVal, City Recorder

EXHIBIT A

Caption: Measure Approving Annexation of City of Milwaukie Property to District

Question: Shall Clackamas County Fire District No.1 annex all of the territory of the City of Milwaukie?

Summary of Measure: If annexation is approved by both District and City of Milwaukie electors, territory within the City would become part of the fire district. Clackamas County Fire District No. 1 has provided fire and emergency medical services to the City since 1988 under a contract between the City and the District. All former City fire personnel are now District employees. The Milwaukie City Council has proposed that the District annex all of the property within the City for the purpose of providing fire and emergency services to the City. Territory within the City would be subject to District property taxes at District tax rates to pay for fire and emergency medical services. City property would be subject to tax to pay any District bonds and other liabilities on the same basis as other property in the District. City electors would be eligible to vote in District elections. The City would no longer provide fire and emergency medical services. The District Board has approved the annexation, subject to approval of the electors of the City of Milwaukie and in the event of the filing of a valid petition, the approval of the electors of Clackamas County Fire District No.1.

G:\muni\Milwaukie\Fire district election res.doc

ATTACHMENT A

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

ACTION REQUESTED

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

BACKGROUND

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

On December 15, 1997 the City and District entered into an agreement providing that the City purchase fire suppression and emergency medical services from the District.² The agreement provided, among other things, for the transfer of City Fire Department personnel to the District "effective January 1, 1998," an annual payment for services

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

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

	FY 1997 Actual	FY 1999 Actual	FY 2000 Actual	FY 2001 Actual	FY 2002 Actual	FY 2003 Actual
Personnel	\$1,730,051	0	0	0	0	0
Materials & Services	\$323,009	\$201	\$68	\$42	\$40	0
Admin	\$331,251	0	0	0	0	0
Facility	\$163,108	\$261,120	\$161,926	\$168,218	\$157,689	\$175,692
Vehicle	\$185,364	\$57,510	\$70,753	\$35,918	\$5,314	0
Dispatch	0	\$35,000	0	0	0	0
Capital	\$14,173	0	0	0	0	0
Contract	0	\$2,365,000	\$2,436,370	\$2,484,720	\$2,620,262	\$2,759,869
Total Cost	\$2,746,956	\$2,718,831	\$2,669,117	\$2,688,898	\$2,783,305	\$2,935,561
Projected Cost if City-operated Department	N/A	\$2,914,246	\$3,001,673	\$3,091,723	\$3,184,475	\$3,280,009
Difference Between City-Owned Department and Contract	N/A	\$195,415	\$332,556	\$402,825	\$401,170	\$344,448

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

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

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

The process for annexation is relatively simple. First, the Council forwards a proposal to annex to the District Board. That is the action being requested at this time. The District Board considers the request, and, if approved, it notifies the City.⁵ The City then orders an election within the City on the date specified by the District Board. The question will appear on a September 21, 2004 ballot. In addition, the City of Oregon City has requested annexation to the District, and that question will be before Oregon City voters on September 21, 2004. If the annexation is approved it will become effective July 1, 2005.

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

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

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

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

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

FISCAL IMPACT

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

ccfd1annexationstaffmemo2004

RESOLUTION NO. 7-2004

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

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

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

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

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

WHEREAS, the City paid \$2,759,869 to the District for services in FY 2002-2003 and \$2,820,869 in FY 2003-2004; and

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

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

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


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

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

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

This resolution is effective immediately upon adoption.

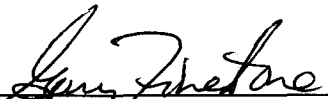
Introduced and adopted by the City Council on May 4 2004.


James Bernard, Mayor

ATTEST:

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


Pat Duval, City Recorder


City Attorney

Clackamas County Fire District #1



CLACKAMAS COUNTY FIRE DISTRICT #1 RESOLUTION 04-03

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED:

1. The Board of Directors of the Clackamas County Fire District #1 approves the proposal by the City Council of the City of Milwaukie that the District annex all of the territory within the City;
2. The Board calls an election within City of Milwaukie upon a measure which, if approved by the electors of the City, would authorize the District to annex all of the territory within the City of Milwaukie, Oregon. The election shall be held on September 21, 2004, and shall be conducted by the Clackamas County Elections Division.
3. The Board further calls an election within the District upon a measure which, if approved by the electors of the District would authorize the annexation. The election shall be held on the same date as the election within the City of Milwaukie, namely September 21, 2004. Provided, however, that the call for an election within the District shall only be effective if a timely petition containing the signatures of the requisite number of electors of Clackamas County Fire District No. 1 is filed petitioning for an election within the District concerning the proposed annexation. Any such election shall be conducted by the Clackamas County Elections Division. The Chief of the District and the Elections Division shall give such notice of the election as is provided for by law.
3. In the event that a petition for an election within the District is filed as provided by law, the Board approves the notice of election and ballot title attached to and made a part of this Resolution, and authorizes the preparation and filing of an explanatory statement to accompany the ballot measure. Upon approval of the measure by the electors of the City of Milwaukie and if required, approval of the measure by the electors of the District, and approval of a similar annexation measure by the electors of the City of Milwaukie, and upon presentation of the appropriate documentation to the Board of Commissioners of Clackamas County, the annexation shall be approved effective July 1, 2005.
4. The Board further authorizes the Chief of the District to make such inquiry of City officials, receive such certificates and execute such agreements with the City as may be desirable to provide for an orderly transition if the measure is approved by the electors of both the City and the District.

Adopted this 21st day of June, 2004.

Chairman, Board of Directors

**Notice of Election
Clackamas County Fire District No. 1
September 21, 2004**

There having been filed with the Board a petition containing the signatures of the requisite number of electors requesting an election within the District concerning the proposed annexation by Clackamas County Fire District No. 1 of the City of Milwaukie, Oregon, the Board of Directors of Clackamas County Fire District No. 1 hereby gives notice of an election to be held within the District on September 21, 2004, on the following measure:

Caption: Measure Approving Annexation of City of Milwaukie Property to District

Question: Shall Clackamas County Fire District No. 1 annex all of the territory of the City of Milwaukie?

Summary of Measure: If annexation is approved by both District and City of Milwaukie electors, territory within the City would become part of the fire district. Clackamas County Fire District No. 1 has provided fire and emergency medical services to the City since 1998 under a contract between the City and the District. All former City fire personnel are now District employees. The Milwaukie City Council has proposed that the District annex all of the property within the City for the purpose of providing fire and emergency services to the City. Territory within the City would be subject to District property taxes at District tax rates to pay for fire and emergency medical services. City property would be subject to tax to pay any District bonds and other liabilities on the same basis as other property in the District. City electors would be eligible to vote in District elections. The City would no longer provide fire and emergency medical services. The District Board has approved the annexation, subject to approval of the electors of the City of Milwaukie and in the event of the filing of a valid petition, the approval of the electors of Clackamas County Fire District No. 1.



To: Mayor and City Council
Through: Mike Swanson, City Manager
From: JoAnn Herrigel, Program Administrator
Subject: Park Rules Ordinance
Date: July 7, 2004

Action Requested

Approve the attached ordinance adopting park rules for parks in the City of Milwaukie.

Background

The City of Milwaukie and the North Clackamas Parks and Recreation District (the District) have never had park rules for parks in the District and City. In June of 2004, the Board of County Commissioners approved the attached park rules. These rules will give the District authority to post and enforce park rules in all parks owned, operated and maintained by the District. Since the District maintains most of our City parks under an intergovernmental agreement, these rules would apply to those parks covered by that agreement. By adopting the rules into our City code, the City will also be able to post and enforce these rules in City-owned parks not covered by this agreement with the District.

City staff is proposing to adopt these same rules into City code with the following modifications:

- In order to increase enforcement potential, our ordinance will allow the code compliance personnel to enforce the park rules in our City-owned parks.
- In order to allow City police and code staff to use a consistent citation process, our ordinance will allow them to cite violators into municipal court using our existing civil infraction procedures.

- Civil penalties collected in the municipal court from violators of these park rules will be placed in a park fund and be used for the maintenance and operation of parks within the City of Milwaukie.

Concurrence

The city attorney has reviewed this ordinance and finds it complete.

Fiscal Impact

Some revenue may be generated from civil penalties related to these park rules.

Work Load Impacts

Code and law enforcement staff will now be able to enforce the park rules in city parks.

Alternatives

Do not approve the park rule ordinance.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE OREGON,
ADOPTING THE NORTH CLACKAMAS PARKS AND RECREATION DISTRICT PARK
RULES AND ADDING SPECIFIC RULES FOR ENFORCEMENT IN MILWAUKIE-OWNED
PARKS.**

WHEREAS: The North Clackamas Parks and Recreation District (NCPRD) has adopted park rules for use in all District owned, operated and managed parks and recreational areas;

WHEREAS: The City of Milwaukie would like to assist with the implementation of these rules wherever possible;

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

Section 1. The District Park rules as they appear in Exhibit 1 shall be adopted into Chapter 9 as Section 9.28 of the Milwaukie Municipal Code in their entirety and shall be called "Milwaukie Park Rules".

Section 2. In addition to the District, County and law enforcement personnel authorized to enforce these rules, Milwaukie Code Enforcement personnel are authorized to enforce the park rules in parks owned by the City.

Section 3. City law and code enforcement personnel may cite violators of these park rules into municipal court using the guidelines provided in Chapter 1.04 of the Milwaukie municipal code. Fees collected in the municipal court from violators of these park rules shall be placed in a park fund and be used for the maintenance and operation of parks within the City of Milwaukie.

Read the first time on July 20, 2004, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on July 20, 2004.

Signed by the Mayor on _____.

James Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

City Attorney

NORTH CLACKAMAS PARKS AND RECREATION DISTRICT

PARK RULES ORDINANCE

An ordinance providing rules for the use of all District owned, operated or managed parks and recreational areas.

The North Clackamas Parks and Recreation District (NCPRD) Board of Directors ordains as follows:

I. TITLE AND AREA OF APPLICATION

This ordinance shall be known as the North Clackamas Parks and Recreation District Park Rules Ordinance, may be so pleaded and referred to, and shall apply to all properties which are owned, operated, or managed by the District.

II. POLICY AND PURPOSE

The purpose of this ordinance is to establish rules adopted for the District and provide for legal remedies for violation of said rules, in order to protect District park, forest, and recreational areas, protect the health, safety, and welfare of the public using such areas, and insure the best use of and benefits from such areas.

III. DEFINITIONS

- A. "Board" means the Board of County Commissioners serving as the NCPRD Board of Directors.
- B. "District" means North Clackamas Parks and Recreation District and its employees.
- C. "Horse" means horses, mules, donkeys and other rideable animals.
- D. "Park area" means any District park, forest, or recreational area under the jurisdiction or management of the Board.
- E. "District employee" means an individual employed by the Clackamas County and assigned to the District.
- F. "Director" means the person designated by the County Administrator to administer the District's programs and policies for District parks, forests, and recreation areas.
- G. "Law Enforcement Officer" means a sworn sheriff, deputy sheriff, municipal police officer, Oregon State police officer, and such other persons as may be designated by law.

- H. "Person" as used in this Ordinance does not include a district employee as defined above.
- I. "Reservation" includes, but is not limited to, calling or writing in advance to obtain a picnic area or day use area permit, or secure, for private use, any District facility.

IV. GENERAL RULES

- A. The Director is hereby authorized to close to public use any District owned and/or maintained park or portion thereof, restrict the times when any District park owned or maintained area shall be open to such use, and limit or prohibit a recreation use whenever such action is necessary to protect the health or safety of the public or the safety of the park area or its facilities. Cause for park area closure or limitation on use may include sanitary conditions, protection of the watershed, park area construction or repairs, conservation of fish and wildlife, excessive traffic, unsafe or overcrowded shoreline, ramp, parking or road conditions, the prevention of damage to the park or any of its facilities, or any dangerous, unsafe or unhealthful conditions.
- B. The Director or any law enforcement officer may revoke any permit that has been issued erroneously or when a law enforcement officer has probable cause to believe the permit holder or any person in his or her custody, control, or family under that permit, has violated any of the provisions of these rules or any state, county, or federal law. Any person whose permit has been revoked and all other persons in his or her custody, control, and family under that permit shall immediately leave the park.
- C. Authorized District employees and law enforcement officers shall have the authority to cite or eject from a District park any person who violates any of the rules herein or an exclusion order.
- D. No person who has been ordered to leave a District park area by a law enforcement officer or District employee shall remain therein.
- E. No person, other than law enforcement officers or authorized District employees, shall enter or remain in any park area, or leave a vehicle parked there, after the daily closing time and before the daily opening time as established by the Director and posted at the entrance to any park area without permission of the Director. Vehicles in violation of this regulation are subject to tow in accordance with Clackamas County Code Chapter 7.01.

- F. Hours: Parks are open half an hour before sunrise and close half an hour after sunset unless otherwise established by the Director and indicated on park signs.

V. FIRES

- A. No person shall build a fire in any park area, except in:
 - 1. Park barbeques provided for such purpose.
 - 2. Fire pits provided by the District for such purpose.
 - 3. Personal barbeques.
- B. No person shall leave any fire unattended, and every fire user shall extinguish the fire before leaving the park area.
- C. No person shall build, light or maintain any fire so as to constitute a hazard by its proximity to any pile of wood, grass, tree, underbrush, park improvement or other flammable material.

VI. HUNTING, FIREWORKS AND WEAPONS

No person shall within any park:

- A. Hunt, pursue, trap, kill, injure, or molest any bird or animal, or have in possession any wild animal, bird, fish or reptile or the eggs or nest of any bird or reptile except for county, state or federal officers enlisted to remove dangerous or threatening wildlife. However, sport angling is permitted in compliance with rules and regulations promulgated by the Oregon Department of Fish and Wildlife. From time to time the Director may permit the collection of fish or wildlife specimens for the purpose of scientific study when such collection has been authorized by the Oregon Department of Fish and Wildlife.
- B. Discharge, for any reason, any firearm, pellet gun, paint ball gun, bow and arrow, slingshot, or other weapon, except for a law enforcement officer in the discharge of his/her official duties;
- C. Possess any loaded firearm, except for a law enforcement officer in the discharge of his/her official duties ; or
- D. Possess or use fireworks or other explosives. The Director, however, may issue a special fireworks permit in accordance with state laws.

- E. Remove any weapon from the owner's vehicle while in a park except for a law enforcement officer. All weapons that are stored in a vehicle, in a park, shall be completely unloaded at all times except for a law enforcement officer.

VII. CONSUMPTION OF ALCOHOLIC BEVERAGES LIMITED

No person shall in any park area:

- A. Possess or consume alcoholic beverages in any park except as provided in subsections B and C.
- B. The Director may, from time to time, designate certain parks or park areas where alcohol may be brought for use in meal preparation or consumption by issuing a permit for this purpose. Said permit will be in addition to any permit required by the Oregon Liquor Control Commission.
- C. The Director may, by issuance of a permit, allow the sale of alcoholic beverages on the premises of designated facilities when duly licensed by the Oregon Liquor Control Commission. For parks located within the City of Milwaukie, such permits shall be administered and issued by the City.

VIII. PARK PROPERTY

No person shall within any park:

- A. Mutilate, deface, damage, move or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, traffic recorder, or other structure or facility of any kind.
- B. Dig up, deface, or remove any dirt, stones, rock, or other substance whatever, make any excavation, quarry any stone, lay or set off any blast, roll any stones or other objects, or cause or assist in any of the foregoing activities.
- C. Plant any tree or shrub in any park area without written permission of the Director.
- D. Except in designated areas, erect temporary signs, markers, or inscriptions of any type without permission from a District park employee.
- E. Set up or use a public address system without having secured a special use permit from the District Director.
- F. Throw, discharge, or otherwise place or cause to be placed in the soils of any park or the waters of any fountain, pond, lake, stream or other body of

water any matter or thing which will or may result in the pollution of those waters or soils.

- G. Use abusive or threatening language or gestures, create any public disturbance, panhandle, or engage in riotous behavior.
- H. Operate or use any noise-producing machine, vehicle, device, or instrument in a manner that is disturbing to other park area visitors.
- I. Pick, cut, mutilate, or remove any flowers, shrubs, foliage, trees, or plant life or products of any type. However, from time to time the Director may authorize the removal of non-native species or issue a special use permit for the collection of plant material for the purpose of scientific study.

IX. CONCESSIONS AND SOLICITATIONS

No person shall in any park area:

- A. Operate a concession, either fixed or mobile, without having obtained a permit or contract from the Director;
- B. Solicit, sell or offer for sale, peddle, hawk, or vend any goods, wares, merchandise, food, liquids or services without having obtained a permit or contract from the Director;
- C. Advertise any goods or services, except signs painted or mounted on vehicles in personal use, without having obtained a permit from the Director;

X. ANIMALS

No person in any park area shall:

- A. Ride, drive, lead, or keep a horse or other livestock in any park area except in areas specifically designated for that purpose, except when used for official business by a law enforcement officer.
- B. Bring into or keep in any park area a dog, cat, or other animal of any kind unless confined or controlled on a maximum 6-foot long leash except in those areas that have been specifically designated and posted as “off-leash areas.” A District park employee or law enforcement officer may require a person keeping an animal to undertake any necessary measure, including removal of the animal from the park area, to prevent interference by the animal with the safety, comfort, and well-being of park users, or the creation of unsightly or unsanitary conditions.

- C. Bring any animal, other than seeing-eye dog or hearing-ear dog into any park area building except as may be permitted by the Director for special events.
- D. Allow any animal in his or her custody or control to annoy, molest, bark continuously, attack, or injure any person or animal in the park area.
- E. Tie up any animal in his or her custody or control and leave such animal unattended.
- F. Leave their animal's waste within a park unless it is placed in a bag or container and left in a designated waste receptacle.

XI. MOTOR VEHICLES

No person shall in any park area:

- A. Operate any motor vehicle in violation of the State Motor Vehicle Code and other laws.
- B. Operate any motor vehicle at a speed in excess of 10 miles per hour unless otherwise designated.
- C. Park a motor vehicle any place other than in designated parking areas.
- D. Operate a motor vehicle or bicycle on any area or trail that is not specifically designated for motor vehicle or bicycle use, that is posted as closed to the public, or on which signs have been placed by authority of the Director prohibiting the operation of motor vehicles or bicycles.
- E. Leave any vehicle in any park after hours or overnight without having obtained written permission from the Director.

XII. WASTE DISPOSAL

- A. All bottles, cans, ashes, waste, paper, garbage, sewage, fish entrails and other rubbish or refuse shall be left only in receptacles designated for that purpose.
- B. No person shall bring into a park area any trash, refuse, garbage, litter, waste material or vehicles for the purpose of leaving them there.

XIII. CAMPING PROHIBITIONS

No person, unless permitted by the Director, shall camp overnight or longer in any park except in those areas that have been specifically developed and designated for that purpose.

XIV. PROHIBITED GAMES

No person shall, within the boundaries of any park, take a part in or abet the playing of any game involving thrown or otherwise propelled objects such as stones, arrows, sharp objects, vehicles, javelins or power model airplanes, rockets, or boats except in areas set apart for those forms of recreation.

XV. PRODUCTION OF PERMITS REQUIRED

No person shall:

- A. Fail to produce and exhibit, upon the request of any law enforcement officer or District employee, any required permit from the Director the person claims to have.
- B. Fail to produce, upon request of any law enforcement officer or District employee, while within the boundaries of any park, any required proof of entrance and/or fee payment.

XVI. INTERFERENCE WITH PERMITTEE PROHIBITED

No person shall disturb or interfere unreasonably with any person or party occupying any park area or participating in any activity in a park under the authority of a permit.

XVII. SPECIAL USE PERMIT

A special use permit shall be obtained prior to pursuing the following activities in any park:

- A. Movie, commercial or television filming, photography, and production.
- B. Organized sporting events, except those specifically hosted by the District or those hosted by the City of Milwaukie when such events are held in City owned parks.
- C. Special educational events or festivals, except those specifically hosted by the District or those hosted by the City of Milwaukie when such events are held in City owned parks.

- D. Amplified sound, pony rides, dunk tanks, or use of alcohol with a reservation permit, except those specifically hosted by the District or those hosted by the City of Milwaukie when such events are held in City owned parks.

XVIII. ENFORCEMENT PERSONNEL

- A. The Director, District employees, and law enforcement officers, in connection with their duties imposed by law, shall diligently enforce the provisions of this ordinance.
- B. No person shall harass, obstruct, interfere with or disobey the direction of any law enforcement officer or District employee carrying out the enforcement of this ordinance or rules adopted under this ordinance.

XIX. OTHER LAWS APPLICABLE

This ordinance shall in no way be substitute for or eliminate the necessity of conforming with any and all state laws and rules and other ordinances which are now or may be in the future in effect which relate to the activities regulated in this ordinance.

XX. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, that portion shall be considered a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portion of this ordinance.

XXI. ENFORCEMENT AND PENALTIES

- A. Any employee designated by the Director and any law enforcement officer may enforce these rules, order any person violating these rules to leave the park area, and issue citations for violations of these rules. Only a person expressly authorized under Clackamas County Code Chapter 7.01 may enforce the towing or booting provisions of that chapter. Camp hosts and caretakers who are appointed by the District may notify persons of the requirement of these rules, seek voluntary compliance, and order any person violating the rules to leave the park area.
- B. Violation of any of the foregoing rules is punishable by a fine as set by the Board.
- C. The form for the citation to be issued under this ordinance shall contain:
 - 1. Description of the specific violation alleged;

2. The date, time, and location of its occurrence;
 3. The maximum amount of the fine for the violation alleged;
 4. A statement that the fine must be paid or a hearing requested within 20 days, and that upon failure to do so within 20 days the opportunity for a hearing is forfeited and the fine doubles;
 5. A form for either admitting the violations alleged and paying the fine, or denying the violation alleged, paying the equivalent bail, and requesting a hearing;
 6. The address to which the form should be sent;
 7. The telephone number of the person or facility which may be contacted for information;
 8. The name and address of the violator, or in the case of a parking violation where the operator of the vehicle is not present, the license plate and vehicle number of the vehicle (if visible).
- D. Upon receiving a citation under this ordinance, a person may:
1. Within 20 days, deliver to the Sheriff the form provided with the citation, admitting the violation(s) and forfeiting and paying the amount of the fine(s) indicated on the citation; or
 2. Within 20 days, deliver to the Sheriff the form provided with the citation, denying all or part of the violation(s), and posting bail by paying a refundable deposit equivalent to the amount of fine(s) indicated on the citation. If a maximum fine and minimum fine are indicated, the maximum fine shall be posted as bail.
 3. Either response may be made by mail but must be actually received by the Sheriff within 20 days from the date of the citation.
 4. Failure to respond within 20 days shall be deemed an admission of the violation(s) cited, the fine(s) for the violation(s) shall be doubled, and there shall be no further hearing or appeal.
- E. Upon receipt of a denial, the Sheriff's Department shall inform the Hearings Officer, who shall set a hearing for a date within 30 days of the Sheriff's receipt of the denial and bail, and shall notify the person who requested the hearing. Notifications of the hearing date, time, and place shall be mailed by regular first class mail within 15 days of the Sheriff's receipt of the denial and bail.

- F. The Board shall appoint a quasi-judicial hearings officer or officers to hear and determine cases of alleged violations of this ordinance where the allegations have been denied under Section XXI(D).
- G. A vehicle registered to a person who has failed to respond or pay fines as required by this ordinance on three or more vehicle parking citations, may be towed from any park area or booted, without prior notice, in accordance with Clackamas County Code Chapter 7.01, and held until the amounts owed have been paid.

XXII. HEARINGS

- A. Every hearing to determine whether this ordinance has been violated shall be held before a hearings officer. The hearings officer may prescribe procedures for the conduct of such hearings.
- B. Evidence, including rebuttal evidence, may be presented at the hearing and shall be limited to that which is relevant to the violation alleged.
- C. The hearings officer has the authority to administer oaths and take the testimony of witnesses. The hearings officer may issue subpoenas in accordance with Oregon Rule of Civil Procedure 55, provided that if the person who receives a citation desires that witnesses be ordered to appear by subpoena, he must so request in writing either at the time response is made to the citation or subsequently by mail at any time more than five (5) days before the scheduled hearing. A deposit for each witness, in an amount set by the Board, shall accompany the request. The deposit, or appropriate portion thereof, shall be refunded if no fine is assessed or if the total witness cost is less than the amount deposited. Witnesses appearing by subpoena shall be allowed the same fees and mileage as allowed in civil cases in circuit court. If a fine is ordered, the person ordered to pay the fine shall also be ordered to pay all witness fees.
- D. The parties shall have the right to cross-examine witnesses who testify.
- E. After due consideration of the evidence and arguments, the hearings officer shall issue a decision at the hearing or within three business days of the conclusion thereof as to whether the violation as alleged in the complaint has been established. If the violation has been established, the hearings officer shall issue a decision including a brief statement of the findings of facts necessary to establish a violation and ordering the person to pay an appropriate fine and witness costs to be paid into the District General Fund. The fine ordered by the hearings officer shall not be greater than the maximum nor less than the minimum set by the Board. If the violation has not been established, the hearings officer shall order that

any bail which has been posted be refunded within three business days. Bail shall be refunded by regular first class mail, or if requested at the hearing may be picked up at the District offices not later than the third business day after the hearing.

- F. The hearings officer may enter an order for payment of bail or fines to the District and/or issue an exclusion order for a period of up to one year. The District may file and record the order for payment in the County Clerk Lien Record if bail or fines are not paid within 60 days after payment is ordered.

XXIII. FINES

All fines shall be set by resolution of the Board.

XXIV. EFFECTIVE DATE

The Board of Directors hereby finds and declares that an emergency exists inasmuch as the immediate effect of this Ordinance is necessary for the peace, health and welfare of the residents of the District. Accordingly, this Ordinance shall be effective upon adoption.

ADOPTED: _____, 2004

BOARD OF DIRECTORS OF THE
NORTH CLACKAMAS PARKS AND RECREATION DISTRICT

Bill Kennemer, Chair

Attest: _____
Recording Secretary



To: Mayor and City Council

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

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

Subject: Hill Street Reimbursement District

Date: July 6, 2004 for July 20, 2004 City Council Meeting

Action Requested

Approve a resolution forming a reimbursement district for sanitary sewer and approve the City Engineer's Report.

Background

The City of Milwaukie proposes to form a reimbursement district for sanitary sewer improvements. Per MMC 13.30, formation of a reimbursement district is allowed to fund the cost of public improvements to serve one or more properties. The reimbursement district would consist of lots fronting Hill Street between Stanley Avenue and Hollywood Street (See Attachment 1).

The reimbursement district proposes to construct 491 feet of 8" sanitary sewer mainline from an existing manhole at the intersection of Stanley Avenue and Hill Street to Hollywood Street. The district would not be an assessment against property nor would a lien be placed upon these properties. A reimbursement district provides a process to fund public improvements with the cost being deferred to the time the property owner is prepared to develop their property or, in this case, connect to sewer. Staff will return to City Council upon completion of the improvements to provide an update.

Concurrence

Engineering staff has coordinated with the Finance Department.

Fiscal Impact

The estimated total cost of this project is \$94,421.54 (see Attachment 1). This includes the cost of engineering and estimated cost of construction. The developer would be responsible for \$37,708.52 and the utility would be responsible for \$56,713.02. A majority of the cost (\$38,219.82) to the utility would be recovered when the properties in the district connect to sewer. However, a majority of the engineering fees and some of the construction costs are not reimbursable (\$18,493.20). All of these numbers were estimated with a 20% contingency included.

Work Load Impacts

This project is included in the work plan for Engineering for this fiscal year.

Alternatives

1. Authorize the formation of the reimbursement district.
2. Elect to defer the project to a later date.
3. Take no action.

Attachments

1. City Engineer's Report
2. Resolution

**Engineering Director's Report
Reimbursement District for Sanitary Sewer Improvements for SE Hill Street.
July 8, 2004**

The City of Milwaukie wishes to form a reimbursement district for Sanitary Sewer improvements. The district is comprised of eleven lots on Hill Street from Stanley Avenue East to Hollywood Street. Per MMC 13.30, formation of a reimbursement district is allowed to fund the cost of public improvements to serve one or more properties. All eleven lots are currently in Clackamas County. Eight lots are owned by a development company and are the subject of an annexation proposal that will be considered by Milwaukie City Council concurrently with the proposed reimbursement district.

The reimbursement district proposes to construct 491 feet of 8" Sanitary Sewer Mainline from an existing manhole at the intersection of Stanley Avenue and Hill Street to Hollywood Street. These improvements would provide sanitary sewer services to three existing tax lots (see Attachment A) subject to the concurrent annexation action by the City of Milwaukie. The three tax lots have been divided to form a total of eight development parcels subject to R-7 zoning regulations.

The total frontage of the reimbursement district is 717.5 feet. Six of the lots have a total of 368.75 feet of frontage. The sanitary sewer utility will be responsible for the remaining five lots with 348.75 feet of frontage. The balance of the cost of the sewer extension on Hill Street will be recovered by the sewer utility when the remaining five properties connect to sewer. See attached map that illustrates which lots are planned to connect to sewer as building permits are issued and those that will connect at some point in the future.

The Engineers Estimate for these improvements is \$88,193.61, including a contingency of 20%. Under this estimate, the developer will be responsible for \$37,708.52. The developer will be required to make payments on a per lot basis as building permits are issued. The balance of \$50,485.09 will be collected as the remaining five lots, currently on septic systems, have a need to connect to the sewer. This cost estimate was derived by taking the total cost of construction for the pipe fronting the district and then dividing that cost by the total lot frontage.

Attachments

Map of area of improvements
Estimate of cost of Improvements (Engineers Estimate)

Item No.	Quantity	Unit	Item Description	Hill Street Estimate	
				Unit Price	Item Total
1	1	LS	Mobilization	\$ 3,000.00	\$ 3,000.00
2	1	LS	Temporary Traffic Control	\$ 1,000.00	\$ 1,000.00
5	478.5	LF	8" PVC Pipe, 3/4"-0, Class B, 10'-15' Exc.	\$ 75.00	\$ 35,887.50
6	20	LF	8" PVC Pipe, 3/4"-0, Class E, 10'-15' Exc.	\$ 165.50	\$ 3,310.00
7	20	CY	Trench Foundation	\$ 53.65	\$ 1,073.00
8	11	EA	8" x 4" Tees	\$ 66.65	\$ 733.15
9	2	EA	Install Manhole	\$ 4,000.00	\$ 8,000.00
11	11	EA	4" Service Lines	\$ 1,000.00	\$ 11,000.00
14	95	SY	Trench Resurfacing	\$ 38.00	\$ 3,610.00

TOTAL BID \$ 67,613.65

Adjusted 7.5% for inflation construction was done in end 2002 \$ 72,684.67

+ 13.5% of \$6,000 Engineering Costs \$ 810.00

Total Cost \$ **73,494.67**

20% Contingency \$ **88,193.61**

* Class E (CDF) is for r-o-w of Stanley Avenue only if CDF is required for whole project then total LF would be in item 6

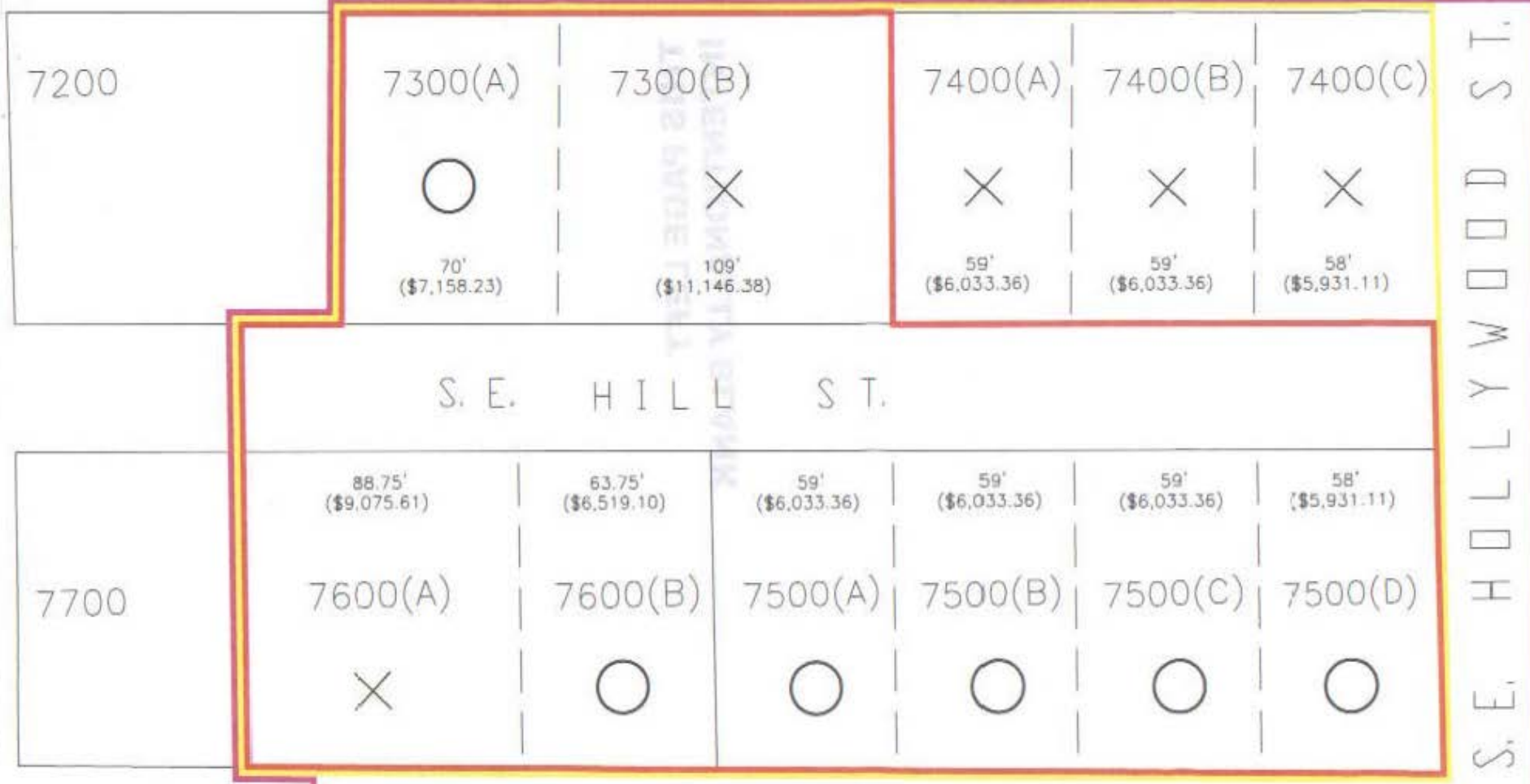
* Number based upon average bid tab from the 2001-02 Sewer Replacement. Number were, in some cases, rounded-up to reflect this being a smaller project.

* Estimate limit from the middle of Stanley Avenue to Hollywood

S.E. STANLEY AVE. VI.C. 5

HILL STREET REIMBURSEMENT DISTRICT

TAXLOT ID - 1S 2E 30DA



O = Developer Contribution X = Utility Contribution

Yellow line = Reimbursement District Red line = Annexation District Purple line = City Limits

S.E. HOLLYWOOD ST.

ATTACHMENT 2

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
FORMING A REIMBURSEMENT DISTRICT FOR THE EXTENSION OF THE
SANITARY SEWER SYSTEM ON SOUTHEAST HILL STREET.**

WHEREAS, the City wishes to form a reimbursement district for sanitary sewer improvements on SE Hill Street from Stanley Avenue east to Hollywood Street; and

WHEREAS, Milwaukie Municipal Code Chapter 13.30 allows the formation of a reimbursement district to fund the cost of public improvements to serve one or more properties; and

WHEREAS, the area to be served by the district is currently located outside of city limits in Clackamas County, but the majority of the area is being considered for annexation concurrently with this proposed reimbursement district; and

WHEREAS, the specific properties, improvements costs and assessments of proposed reimbursement district are included in the City Engineer's Report; and

WHEREAS, notice of a public hearing was sent to the affected property owners pursuant to MMC 13.30.060, and the City Council held an informational public hearing concerning the proposed reimbursement district on July 20, 2004;

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

Section 1: The City Engineer's Report (Attachment A) is approved and adopted.

Section 2: A reimbursement district is hereby formed -as recommended in the Engineer's Report.

Section 3: The reimbursement fee designated for each parcel in Attachment A shall be paid prior to receiving city permits applicable to development of that parcel, pursuant to MMC 13.30.110.

Section 4: This resolution may be amended after the improvements to the sanitary sewer system are accepted by the City so that the amount of the fee reflects actual costs.

Section 5: The resolution takes effect upon adoption.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon on _____, 2004.

James Bernard, Mayor

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

ATTEST:

By: _____
City Attorney

Pat DuVal, City Recorder

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To: Mayor, City Council and Planning Commission

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

From: Paul Shirey, Director of Engineering
Brenda Schleining, Civil Engineer

Subject: Update on 40th and King Road Community Development Block Grant
(information only)

Date: July 6, 2004 for the July 20th work session

Action Requested

Update on project scope, budget and schedule

Background

The City is the recipient of a federal block grant from Clackamas County Community Development for design and construction of curb, sidewalk and storm drainage improvements on King Road, 40th Avenue, and 37th Avenue within the Ardenwald neighborhood. In addition, the project includes sidewalk construction and frontage improvements around Llewellyn Park and railroad crossing sidewalk improvements at 37th Avenue and Oak Street.

The project was bid in four schedules in order of priority:

- Schedule A included King and 40th
- Schedule B Lewelling Park sidewalk improvements
- Schedule C two railroad crossings, one at Oak St and one at 37th Avenue,
- Schedule D 37th Avenue.

The project was advertised for three weeks in May and the bids were opened May 27th. The low bidder was Parker Northwest Paving but the bid exceeded available project funding by over \$300,000. Project funding, including local match of 20%, is

limited to a total of \$586,000 for construction. Staff concluded that a portion of schedule A and all of schedule B should be constructed. \$136,505 was cut from schedule A by stopping King Road improvements at 40th and deferring the section west to 37th until more funds can be obtained. The modified project limits are now King Rd., from 42nd to 40th, 40th Avenue from King north to Harvey and Lewelling Park frontage and sidewalk improvements (schedule B).

Section and Schedule	Cost estimate	Actual bid amount	Award Amount
A) 40 th Avenue (King to Harvey) King Road (42 nd to 37 th)	\$508,415	\$637,889	\$501,384
B) Lewelling Park	\$64,107	\$66,758	\$66,758
C) Railroad crossing (37 th & Oak Street)	\$57,863	\$86,700	Not awarded
C) 37 th Avenue (street & storm)	\$376,276	\$374,099	Not awarded
Total	1,006,661	\$1,165,446	\$568,142
Contingency			\$17,858
Total construction amount			\$586,000

The two railroad pedestrian crossings (schedule C), 37th Avenue (schedule D) and King Road from 40th, west to 37th (the balance of schedule A) will be deferred until a future date. Construction plans and specifications have been completed and will be shelved until funding from CDBG and/or other sources can be obtained. The next round of CDBG funding will be in 2006.

An informational letter explaining the decision was mailed on July 6th to the residents affected by these changes. The decision is based on a couple of things, including a \$12,000 match payment from the neighborhood association for Schedule B and the high cost (over \$120,000) for storm drainage improvements on the western end of King between 40th and 37th Avenues.

Fiscal Impact

The total project funds available are \$715,000. The engineering costs are expected to be \$129,000 with a balance of \$586,000 for construction. Local match is equal to 20% of the grant, or about \$120,000 and includes storm water improvements valued at \$ 59,000. City match funds are included in the 2004/05 budget for streets and storm.

Work Load Impacts

Clackamas County is the lead on this project. Staff will provide technical support and coordinate as necessary with Clackamas County and local Milwaukie residents. Staff will also monitor construction activities. Construction will start mid July and continue through September 2004.

Alternatives

1. Endorse staff recommendations
2. Suggest project revisions.