

MINUTES

MILWAUKIE CITY COUNCIL SEPTEMBER 7, 2004

CALL TO ORDER

Mayor Bernard called the 1941st meeting of the Milwaukie City Council to order at 6:30 p.m. in the City Hall Council Chambers. The following Councilors were present:

Council President Larry Lancaster
Councilor Joe Loomis

Councilor Deborah Barnes
Councilor Susan Stone

Staff present:

Mike Swanson,
City Manager
Gary Firestone,
City Attorney
Stewart Taylor,
Finance Director

Alice Rouyer,
Community Development and
Public Works Director
Paul Shirey,
Engineering Director

JoAnn Herrigel,
Community Services Director
John Gessner,
Planning Director
Jeff King,
Project Manager
Kelly Somers,
Public Works Operations Director

Brenda Schleining,
Civil Engineer

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Constitution Week Proclamation

Mayor Bernard read a proclamation naming September 17 - 23 as *Constitution Week*.

Mayor's Pinewood Derby

Mayor Bernard recognized Rick Gannon for representing the City of Milwaukie in the recent Mayor's Pinewood Derby.

Advisory Board Interviews

The City Council interviewed **Kathi Schroeder** for a vacant position on the Center/Community Advisory Board, **Terrie Darling** for a vacant position on the Riverfront Board, and **Mike Miller** for a vacant position on the Budget Committee.

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CONSENT AGENDA

It was moved by Councilor Barnes and seconded by Mayor Bernard to consider agenda item 6.B – Agreement with Clackamas Cable Access Board at the October 5, 2004 regular session. Motion passed unanimously.

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

- A. City Council Minutes of August 3, 2004, and
- B. OLCC Application for Roswell Market, 8929 SE 42nd Avenue, Change of Ownership

Motion passed unanimously.

AUDIENCE PARTICIPATION

Roger Cornell, 2708 SE Monroe Street, Milwaukie. He cited an article published in 1983 in *Enterprise Courier* that talked about Kellogg Lake and TriMet's proposal to place a transit center on the Lake. It also talked about the City Council's rejection of the proposal. He read a portion of the article, "Just south of Milwaukie, McLoughlin Boulevard traffic roars toward the City limits in an unrelenting din of grinding engines, running tires, and rattling metal. Surprisingly, there is a perfect escape right next to the busy stretch of McLoughlin Boulevard. Kellogg Lake. Hidden by trees that whisk by the car window in a blur, the lake offers a setting reminiscent of Henry David Thoreau's Walden Pond. From the brush and wooded areas around the lake, a visitor can quietly watch various species of water fowl gliding across the water, herons lurking through the swampy grass, beavers tracing networks of watery canals, and hawks surveying the area from the tree tops. The only sign of McLoughlin Boulevard is a barely detected, muffled hum of traffic on the far side of the trees. Mike Houck of the Portland Audubon Society recently studied the site as part of the review process for the TriMet transit center recently rejected by the Milwaukie City Council. As the lake emerges upon approach, Houck immediately begins identifying urban wildlife -- pied bill grebe, redwing blackbirds, mallards he points out. Later we see a kingfisher, pine siskins, mergansers, flickers, widegeons, and a redtail hawk. Houck, who has a bachelor's degree in zoology and a master's degree in biology, explains that the vegetation along the banks of the lake are crucial to wildlife in the area. He notes the dogwood, alder, cattails and spirea that prevail near the lake. Lots of different kinds of plants provide a combination of food and cover and are more desirable than a monoculture of plants, he explains. It's important for urban people to have a natural setting around them, Houck theorizes while scanning the area for wildlife. He praises the psychological value the natural setting in an urban environment." It goes on and on and talks about this site. Mr. Cornell's comment was that it was suggested that the current Kellogg Lake transit center was a bottom-up, citizen-driven recommendation. However, TriMet has had its eye on this site for over 20 years. They do not give up. He believed the difference now was that TriMet

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has recruited our City staff and a few citizens and simply re-packaged the transit center recommendation. It was a bad idea then, and the City Council rejected it. He still believed it was a bad idea.

Les Poole, Oak Grove resident, 15115 SE Lee, Milwaukie, 97267. He was pleased to see the City Council place the issue with Happy Valley attempting to, for lack of a better description, steal the tax base from the City of Milwaukie and annex the Town Center while leaving the neighborhoods that are somewhat distressed between our City and Clackamas Town Center for Milwaukie to clean up. There are rumors that the Happy Valley Mayor is behind the plan to shut down Scouters Mountain, so the property can be assimilated by Happy Valley. Mr. Poole was very pleased to see that issue on the agenda. Unfortunately, we have spent so much time with the Kellogg Lake fiasco and because we are in an election cycle, we have not been able to focus on what has been happening with our regional partners. When he made his comments about the Kellogg transit center, one of the big issues he made was that we have alleged regional partners. One of our alleged regional partners is dumping all over us right now. He hoped the City Council would focus strongly on that issue. He was very displeased with Happy Valley, and that was the understatement of the evening. For the record, Happy Valley was formed in 1972 – 1974 as a direct attempt to stop high density and stop Portland from dominating the land that borders Multnomah County. Now that things have changed and Metro has forced high density on Happy Valley, the glorious mayor is way out of line. He appreciated any effort the City Council could make to protect the future of Milwaukie. Protecting the future of Milwaukie also involves protecting green and open spaces. Currently, we are talking about trading the open space at Kellogg Lake for park and open space on the riverfront. At the same time, ODOT has other ideas about the boat ramp. At the same time, we hear from the city manager that we have plenty of park space, and the loss of Kellogg Lake as a park site is just a sacrifice we have to make. He would beg to differ. His question was twofold. Number one, part of the mitigation for Kellogg Lake would involve the riverfront. If the riverfront is paved or turns into a boat ramp, and the riverfront project never takes place, where will we get the green space or open space we are allegedly sacrificing at Kellogg Lake? Are we going to get it at North Clackamas Park? He did not think so because we are talking about ballfields at North Clackamas Park. He did not know enough about the issue to debate it or offer any expertise. He closed with a comment and a question. You may have seen recently the Lents community has foregone the idea of building an ugly, oversized eyesore parking structure for its transit center. It has gone with the concept of building a parking structure that also includes retail and probably some housing which eliminates the natural tendency for transients and undesirables to congregate at a parking center particularly the one located at Kellogg Lake. His final question as a former property owner that had an environmental assessment done on the property he sold to the City of Milwaukie, he was beginning to wonder why we have yet to recommend an assessment on the transit center site. He listened to some comments from the North Clackamas Parks last week, and the District has done an environmental assessment for the baseball fields, and yet nothing has been done at Kellogg Lake. He found that unacceptable. He would like the City to get real and do an assessment on that property.

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Ed Zumwalt, 10888 SE 28th Avenue, Milwaukie. Did you hear Roger and Les? Why are they so hooked on nature? Where he came from they used to dynamite the fish, fill them in, machine gun all the wildlife, and then build condos. Let's not waste space with green space. Let's get real. He read a statement into the record. "The Historic Milwaukie NDA is respectfully requesting that Council hire a consultant to evaluate the cost figures and transit routing presented by TriMet in the question of the Kellogg transit center site. At the time of the group vote, TriMet pulled the plug on the ODOT option and pulled it off the table at the last minute leaving only the Kellogg site to vote on. We feel this was patently unfair to the group as a whole and the citizens of Milwaukie in general and should have been objected to vigorously at the time by the City as a matter of ethics to protect the overall interests of the public. In light of the very wide-ranging cost figures presented by TriMet, it is obvious they were confused. Routing, timing, and congestion problems brought up by Roger and Karen Cornell also raise the question of whether the site will even accomplish what TriMet claims. This request is to bring these matters into the open. Anything less will put a shadow on this process that will forever bring its integrity into question. I have been criticized for my remarks to you on 6/21 regarding the process being overly orchestrated and biased. Prominent people have called my remarks inappropriate, and I have been advised to never critique the staff. Why would I deliberately place myself in an adversarial stance with the staff? I wouldn't, but I will not stand idly by and be patronized, patted on the bald head and told 'out of the way old man, we've got this all figured out and you people are just in the way.' And of course I know they have worked hard as they claimed on this whole thing, but what of those of us who have worked so hard for 10 years to keep the bulldozers out of the neighborhoods? And that is what we did. We do not like being patronized. Which begs the question, were Council's instructions to the head of staff focused enough, or have policy liberties been taken permitting a u-turn from Southgate to Kellogg? I don't think those in the general public or many others for that matter expected this development. Everyone's views seem well-represented in this matter – the City, the city manager and staff, Metro, TriMet, ODOT, North Industrial, the Council, but who's missing from this scenario? The 62% of the City's voters who voted light rail down in 1998 and the 56% of the Clackamas County voters who voted it down. That just seems to be the formula, win at the polls and lose in those little deals in the back room. This is not for the people when this is done. And the most important point: it was not about light rail at all, but about livability – keep the trains out of the neighborhoods. Metro knew it; TriMet knew it; they knew there would be trouble by changing the transit site and someone was foolish enough to roll the dice on this one. It ain't cool. It has stirred this town up, and people think it will just blow over. It is not. A deal was broken. If you opt for Kellogg, you are basically disenfranchising all of those voters, and I would think about that very carefully – they put you in those seats. And those voters are still there. Remember the 700-plus petition signers that have been so rudely ignored? Almost every signature was accompanied by the remark "We're with you 100% but it won't do any good, they will put it where they want it." And you consider the apathy? It's because the citizens are treated as nothing, their wishes ignored, until we have this tiny shell of a town ready to crumble away. We want to grow. You have to listen to the folks. In June a couple of you wanted to make this decision right away so Riverfest

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would heal the city. Someone tears the stitches out a gapping wound, and you want to heal it with a Band-aid. It ain't gonna happen. This is major serious stuff, and it didn't need to happen. And neighborhood unity. It was great to have it going for us, but you just knew it couldn't last. He did. People sometimes have the need to let their egos or political ambitions get in the way, which is natural enough. It was sad to hear prominent people rejoicing over splintering the neighborhoods. The people who started this should have known better because one of the two backbones of this town is the neighborhoods unified, and that is now gone for a while. And you want to cater to the North Industrial folks? There are only about three that care, and the rest of them would and will dump you in a minute. That area should be changed now while you have this transit opportunity – find some way to make a true industrial park out of it. Your true tax base lies with the residents: livability equals growth equals prosperity. But here they come: Metro, TriMet and now our own city again, pounding away at us with our own money. Turning us into a Beaverton or a Tigard or a 23rd and Burnside. The city manager will retire; the staff will follow their careers; Metro and TriMet will rumble on, conning small towns with their false visions. And most of us will stay, living sadly with our lost opportunities.”

PUBLIC HEARING

A. Tree Cutting Permit at 40th Avenue and King Road

Mayor Bernard called the public hearing on the appeal of the tree cutting permits to order at 7:10 p.m.

The purpose of the hearing was to consider public comment on the issuance of permits TP-04-05 and TP-04-04 associated with the sidewalk project at 40th Avenue and King Road. The applicable standards to be considered were in Municipal Code Chapter 16.32 – Tree Cutting.

Mayor Bernard reviewed the order of business for the hearing.

Conflicts of Interest or Ex Parte Contacts: No conflicts of interest or ex parte contacts were declared. Each member of the City Council had visited the site

Mayor Bernard received numerous phone calls and e-mails. He gave the e-mails to the city recorder. The general substance of these contacts were against the tree removal, looking for alternatives to cutting down the trees, eliminating the parking strip, eliminating as few trees as possible, or not doing the project at all.

Councilor Barnes believed each councilor received e-mail from at least one neighborhood leader stating his opposition to the tree removal.

All the City Council members received communications primarily against the project along the lines stated by the Mayor.

There were no challenges to any Council member's impartiality or ability to participate in the decision.

There were no jurisdictional issues.

Staff Report: **Mr. Gessner** provided the staff report. The initial recommendation was to approve permits TP-04-05 and TP-04-04. Part of that recommendation stands but not for the four trees on King Road. Mr. Gessner provided background on the process. After hearing concerns, the City employed the services of professional arborists and met with the project design engineer. The result was an alternative that solved the tree removal issue. Tree removal regulations provide that notice should be made within 14 days of the City's sending notice to the neighborhood association so that there is time to request a public hearing. The tree cutting was appeal, and the decision was deferred to the City Council. There are a number of trees that are part of the application upon which the City Council will have to act. There is a 30-foot fir tree on 40th Avenue south of Drake Street and some shrubs at 40th Avenue and King Road. The City Council will have to take action on those. The arborists were present to respond to any questions.

Mr. Shirey described the project that would include sidewalks, curbs, and gutters. The City is the applicant for the tree removal as they are located in the public right-of-way. He discussed the extent of the permit. There are a number of trees and shrubs in the right-of-way posted for removal to accommodate the project between Harvey Street and King Road on 40th Avenue and on King Road between 40th and 42nd Avenues. The four fir trees have received a great deal of attention.

Ms. Schleining mentioned for the record that the City held two open houses with detailed construction drawings and photographs of the sidewalk imposed on the property. She did not believe the connection was made at the time until the trees were actually marked. She came on this project after it had been designed, and staff tried to accommodate saving as many trees as possible. On one corner, the sidewalk was actually moved 4-feet to make a curb-tight configuration to accommodate one of the homeowners. One small oak about 1-foot in diameter and some laurel hedges will need to be removed, so they do not interfere with clear sight distance. She did not believe there were any complaints about the fir tree on 40th Avenue near Harvey Street. It has been cut back so many times by PGE, it will never grow to a nice tree. It is probably 3- to 4-feet in diameter. Staff looked at the feasibility of bulbing out the curb by the 4 mature fir trees on King Road and found the curb line could be moved over. Ms. Schleining described the original cross section with two 16-foot travel lanes. The engineer did find a way to narrow it to a 27-foot cross section with one 12-foot travel lane and one 15-foot travel lane.

As an engineer, Ms. Schleining looked at the pros and cons. It is a balancing act and beyond emotion in some areas. These trees are irreplaceable, healthy, and provide habitat. The trees with the bulb-out will act as a traffic calming. On the con side, the intersection will be offset which is not an ideal configuration. The sidewalk

would have to be curb-tight to accommodate the trees and move pedestrians closer to traffic. The 12-foot lane size would be minimal, and 3 – 4 parking spaces would be lost. The engineer indicated the drainage would work, and water should not puddle. The sidewalk would be accommodated with pavers that would have to be maintained by the homeowners or the City as the trees grow. She was concerned that might be a hazard in the future. One homeowner did suggest planting street trees if the firs needed to be removed. This would provide better traffic calming because they would provide a visual canopy of narrowing. Even though everyone does their best, the trees might accidentally be killed during the construction. Removal in the future could damage the new sidewalk and curb and increase the cost. The cost of changing this and reengineering it was about \$2,000, and there is no extra money in this budget.

Mr. Shirey showed an illustration of what could be done to accommodate the trees. He indicated the original sidewalk location and planting strip. The engineer and arborist looked at the feasibility of the bulb out and pushing the curb line out, bringing the sidewalk tight with the curb, and eliminating the planting strip. The trees would exist behind the impervious strip, and instead of pouring concrete pavers would be used. After some investigation on the shallow roots of this tree, it was determined in all likelihood this tree would survive the construction. The engineer indicated there would be sufficient drop to move the water. This was a significant cost advantage to the City because an underground line would have been costly. Mr. Shirey learned from this experience that the tree removal permit was applied for too late, and the community should have been engaged through the neighborhood associations before the trees were marked. The contractor was not provided sufficient direction to avoid excavation up to the drip line of those trees, and the department violated its own procedure. He apologized for what had taken place. He discussed the tree that had been topped by PGE. There has been a fairly consistent chorus of residents who said all the trees are important, but they also recognized there were tradeoffs. In the case of the four fir trees, it made sense to modify the plan, while in other cases it made sense to remove them. The department is already using all available funds

Mayor Bernard said if the trees die because their roots are damaged, then the pavers could be replaced with cement, but the road cannot be adjusted. One tree is further out than the others, and the roots appear to be close to the surface. He understood the tree could be saved.

Mr. Shirey replied that the back of the sidewalk was about one foot from the base of the tree. The arborists did some surface digging and determined it would likely survive. The four trees protect each other, and to remove one would be damaging to the others. Staff recommended taking the risk the tree might not survive. There may be some heaving because of root growth that could lead to future repairs.

Mayor Bernard said pavers are fairly movable and can be adjusted as time goes by.

Mr. Shirey noted that the property owner is responsible for the sidewalk and making repairs if needed.

Councilor Barnes asked what would happen if the City decided not to do the project.

Mr. Shirey replied the City has a grant from the federal government through the County to cover 80% of the project that includes sidewalks, street improvements, and storm drainage. The City would have to return those funds, and the contractor has already begun work.

Councilor Barnes asked if everything could be done with the exception of the sidewalk.

Mr. Shirey did not recommend abandoning the cross section because the purpose of the project was to provide pedestrian access in accordance with the City's standards for neighborhood streets.

Councilor Stone understood the money was given to this project because there were going to be sidewalks on both sides of the street.

Mr. Shirey replied that was correct. The project was designed in accordance with the City's transportation standards.

Councilor Stone wondered if the sidewalk indeed needed to go there and maybe just have something simple like a curb. The Safeway will be on the other side of the street, and that is where one would want the pedestrian traffic. It would certainly keep people from having to cross from north to south on King Road. They would use the sidewalk already on the south side of King Road to get to the shopping center. She asked if that would be feasible.

Ms. Schleining said the curb would actually do the damage. It is about 16-inches deep with an excavation of an additional 6 inches. Leaving the curb and sidewalk off for 40 – 50 feet would be an option. The money could be put into the west side of King Road.

Councilor Stone understood originally the project was to go farther west on King Road.

Mr. Shirey replied that was correct, but because of the high bid costs, the project had to be scaled back. He pointed out that eliminating the curb eliminates drainage. The issue is the curb, and pavers do not require as much excavation to install. The impact to that tree is really 5-1/2 feet back to the curb where the deepest excavation would occur. The arborist was confident in doing it this way the trees would not be adversely affected.

Councilor Stone spoke with several people in the neighborhood about saving these trees, and she certainly supported that. Overall, in the City of Milwaukie, we really ought to have policies in place to preserve trees for any project. Even the tree on the corner of 40th Avenue and Harvey Street, is there anything that could be done to preserve that? Even though it has been topped, it is still a viable living tree. Looking at the picture, it would look quite bare to have the tree removed.

Mr. Shirey said saving that tree would mean acquiring additional right-of-way for sidewalk continuity. He did not recommend stopping the sidewalk and picking it up on the other side of the tree.

Councilor Stone recalled something similar on the Johnson Creek Boulevard project when we went around a tree. She thought as a community, people have spoken loudly and clearly that they want to see trees preserved. When we have projects that involve possible tree removal, the City needs to design the project to accommodate what is already there.

Councilor Loomis asked who would be liable for the sidewalk and what the homeowner's feeling was.

Ms. Schleining said the homeowner spoke with the previous engineer and did not seem to have strong feelings one way or another.

Councilor Stone understood that was correct.

Councilor Loomis asked if there would be an arborist on site during the excavation. He understood if there was not an arborist on hand that insurance companies will not pay on any claims, and the City and homeowner would be liable for damage and removal.

Mr. Shirey ensured Council that the arborists would be on site during the excavation. There was no discussion of thinning the tree. Keeping all four helps protect all of them from blow down.

Councilor Loomis recommended discussing thinning the trees with the arborists because he was concerned about liability.

Councilor Lancaster asked if there was a drainage problem on the tree side of King Road.

Mr. Shirey believed there was some puddling but that information was anecdotal.

Ms. Schleining added there would be an increase of impervious area because 6 feet are being added on both sides. The curb will channel the water for about a block. Even if there were a minor problem now, it would increase if the curb was not installed.

Councilor Lancaster asked if the drainage condition would change if nothing were done on the north side of King Road.

Ms. Schleining said it would probably be negligible.

Councilor Lancaster asked if no sidewalk improvements were done at all on the north side if there would be funding to do the south side of King Road from 40th Avenue to 37th Avenue.

Ms. Schleining said part of that issue would be the drainage. It would have to be calculated on how much stormwater runoff there would be.

Councilor Lancaster said the City has made a conscious choice to put sidewalks on one side and extend it for another block or so. Would it make more sense to do no sidewalk improvements on the north side and have a single sidewalk between 40th and 37th Avenues? Was that doable?

Mr. Shirey said part of the problem was that King Road slopes downhill to the west. A lot of stormwater could be moving at an accelerated rate, and something would have to be done with it at 37th Avenue. There is no place for the runoff. Drywells are not an option because of the proximity to the City wells. The stormwater would have to be piped. The lower end of 37th Avenue does flood, and there is a known drainage issue that would become worse.

Nich Bilyew, certified arborist for 4 years, and **Jeff Gerhardt**, certified arborist for one year with an associate's degree in forestry practicing for five years in arboriculture were available to respond to City Council's questions.

Councilor Loomis had some general questions about the conditions of the tree during excavation. Can you be there to see that the root system is not damaged and if it is, can you tell if the tree will live?

Mr. Bilyew replied he could look at the size of the root cuts being made when the excavation is being done. He would ensure the cuts are proper and clean without tearing. Being on site would not be an issue, but he did not want to be held liable.

Councilor Loomis's understood that if all necessary means were taken to ensure a tree is healthy, then it is simply an act of nature. He asked the arborists their opinions on thinning the trees.

Mr. Gearhart thought it could help but would have to look at the roots to determine what was being cut. The initial shock of cutting the roots should not be followed up quickly with pruning the canopy. It would put additional stress on the tree. He could make further recommendations after observing the cutting of the roots.

Councilor Loomis would appreciate those recommendations. He asked if homeowners are liable for blow downs.

Mr. Firestone said it typically depends on the policy and particular insurer. Generally speaking, if there is any type of property damage, the insurance pays for removal including the tree.

Councilor Lancaster asked the arborists if they had done an assessment on the 40th Avenue tree, and they said they had not.

Councilor Lancaster asked if significant topping typically impairs the life of a tree.

Mr. Bilyew replied that was true. Fir trees are meant to grow with one stalk to the top, so the multiple tops, or attachments, will not be strong. Those trees are not prepared to make support for another leader. Re-topping a tree is safer structurally but lets decay into the trunk.

Councilor Stone asked the approximate ages of the four fir trees.

Mr. Gerhardt estimated the largest one was about 120 – 140 years old, and the smaller ones 60-80 years old.

Correspondence: No additional correspondence beyond the e-mails noted by the Mayor.

Appellant Testimony: **Carlotta Collette**, Chair of the Ardenwald-Johnson Creek Neighborhood Association, 3905 SE Johnson Creek Boulevard, Milwaukie. She noted she found out these trees were in fact in the Lewelling and Hector Campbell neighborhoods, but the Ardenwald Neighborhood had built up its momentum. The neighborhood was pleased to learn of the planning department's recommendation that the permit be denied. These are not young trees that can be replaced in 5-10-20 years or in our lifetimes. These trees are old, and if one drives by, one can see how gorgeous they are. She provided photos of the trees to support the effort to preserve the trees. In a way, we have lost many big trees. Milwaukie has been careful, and previous Councils have been very careful about defining ways to protect trees. She understood the only trees that can be protected currently are in the rights-of-way, and she urged the City Council to help protect them. She was glad to hear there would be process improvements. She spoke with Mr. Shirey at great length over how the neighborhoods would like to see these efforts undertaken. Before putting anything down on paper, before hiring contractors, and before putting money on the table, she urged the City to speak with the neighborhoods. She understood there were two open houses, but there were different engineers with different messages. It was also clear that drawings do not necessarily convey the true outcome. She endorsed Mr. Shirey's suggestion of marking the trees early in the process, so the community can respond. She also took offense at the concept that the ideal street is straight so traffic can zoom through. From a neighborhood

point of view, the ideal street is a lovely tree-lined area that is a park-like entry into the neighborhood that says, "slow down." An ideal street is one that adapts to the community and is sensitive to the context of the community. It looks like the planning department is trying to do that with the redesign of the street. The neighborhood is excited and appreciative.

Councilor Loomis supported saving every possible tree. All through Milwaukie this issue will come up over and over when sidewalks are constructed. He asked that Ms. Collette, Mary King, and others who are passionate about trees develop an education program for residents and businesses about where trees should be planted. He further suggested a non-profit organization to raise some money so the liability is not on the property owner. He felt uncomfortable putting that burden on the property owner, so he asked Ms. Collette to promote education and cover that liability with a non-profit organization that would step in and help adjust pavers, etc. This is not an isolated incident, and he was happy with this solution.

Ms. Collette commented this was a wonderful problem to have – how to protect the beautiful trees the community does have. She supported the suggestion of a community effort with the schools to create a brochure and let homeowners near these large trees know they have some responsibilities and that there are people who will help them. She believed the neighborhood would happily come out on a weekend to help move pavers.

Councilor Loomis also suggested part of the education be promoting tree planting and describing what trees to plant where. He noted some of the business signs in the downtown are obscured by trees.

Ms. Collette added Metro has some very good publications on green streets that could be distributed locally.

Testimony in support of the appeal: None.

Testimony in opposition to the appeal: None.

Neutral comments on the appeal: None.

Additional staff comments: None.

Appellant Rebuttal: None.

Council questions to staff: None

Close Public Hearing: **Mayor Bernard** closed the public testimony portion of the hearing at 7:55 p.m.

Discussion among Councilmembers: **Mayor Bernard** believed they did a great job with this plan, and the sidewalk and drainage would be a great addition to that area. He discussed undergrounding utilities and tree pruning in the downtown area.

Councilor Lancaster recommended marking trees early in the process to get people's attention. He was in favor of the tree on 40th Avenue coming down because it appears to be a liability. He believed this was a good example of a creative solution and a good compromise. He supported the recommendation fully.

Councilor Loomis and Mayor Bernard agreed.

Mr. Firestone said given what he has heard from the Council comments, the Council is ready to uphold the appeal that some trees on King Road should not be removed and the other trees for which the permit was applied for could be removed. The motion should be specific as to which trees go and which trees stay.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to authorize staff to issue the permit to remove those trees located on 40th Avenue at Harvey Street and that the fir trees located at the corner of 40th Avenue and King Road be preserved as indicated in the drawings and that the pine tree and oak tree at the corner of 40th Avenue and King Road be removed.

Councilor Stone commented on the tree at 40th Avenue and Harvey Street. The fact was that we have not even had the arborist look at that tree, and they are speculating it may be diseased. She was not comfortable taking that tree out without a professional opinion and actual assessment of the tree itself.

Motion passed 4 – 1 with the following vote: Mayor Bernard, Councilor Barnes, Councilor Lancaster, and Councilor Loomis aye; Councilor Stone nay.

B. Garbage Rate Increase -- Resolution

Mayor Bernard called the public hearing on the proposed garbage rate increase to order at 8:00 p.m.

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

Staff Report: **Ms. Herrigel** noted that relative to the discussion on tree planting that the planning and community services departments developed a brochure during the Centennial Dogwood planting that was available to the public.

The City Council was requested to approve a resolution increasing the residential and commercial rates by 2.79%. The City receives annual financial data from the franchised haulers, and the figures are combined into what is called the consolidated composite. The composite is reviewed to determine the health based on the return

of revenues. The City mirrors the County's policy, which is that if the return on revenue is within a range of 8% - 12% typically no rate change is requested or granted.

In 2003, the haulers showed a rate of return of approximately 10.32%. This year, the haulers have requested an increase not on the reported rate for 2003 but on the expected rate of return for 2004. The request is based on the following anticipated or existing cost increases: the Metro tipping fee has increased by \$3.78/ton and the transaction fee has increased by \$1.50; a 5% increase in yard debris disposal is expected; recycling driver wages are increasing by 5.2% and health insurance is increasing by 9.89%; and fuel expenses are anticipated to increase by 8.5%.

The 2.97% increase requested would help the consolidated rate of return be closer to 10%. Without it, it is expected the rate of return for the haulers would be 7.67%. She referred to the proposed rates. The current rate, for example, for a 20-gallon can is currently \$16.40/month. The proposal is to increase that rate to \$16.86/month. The 32-gallon can is currently \$19.90/month and would increase to \$20.45/month. The 90-gallon roller cart would increase from \$29.90/month to \$30.73. Clackamas County has made similar increases in its rates, and those haulers working in Milwaukie are a subset of the County. Several haulers and their representatives were present if the City Council had any questions of them.

Mayor Bernard asked if the commercial rate would also increase.

Ms. Herrigel said the increase would be across the board for commercial and residential. The last rate increase was July 2003 when the yard debris cart was introduced. In 2001, there was a cost of service balancing by increasing residential rates and decreasing commercial rates. In 1998, both residential and commercial rates were decreased. Before that, the last increase was in 1992.

Correspondence: None.

Audience Testimony: None.

Additional Staff Comments: None.

Questions of Clarification: None.

Close Public Hearing: **Mayor Bernard** closed the public testimony portion of the hearing at 8:05 p.m.

Council Discussion and Decision: **Councilor Lancaster** said from a business perspective, 10% is a very reasonable rate of return. In his experience, residents have received exceptional service from these haulers, and he gladly paid more for his yard debris container. This is a matter of maintaining balance to assure quality

service in the future. He feels the service is exceptional and is an issue of maintaining quality service in the future. He supported the rate increase.

Mayor Bernard noted the recent survey indicated both residential and commercial customers are very happy with their service.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to adopt the resolution adopting new rates for garbage service in the City of Milwaukie effective October 1, 2004. Motion passed unanimously.

RESOLUTION NO. 26-2004:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE ADOPTING NEW RATES FOR GARBAGE SERVICE IN THE CITY EFFECTIVE OCTOBER 1, 2004.

OTHER BUSINESS

A. Jefferson Street Boat Ramp -- Resolution

Ms. Herrigel provided the staff report in which the City Council was requested to consider a resolution authorizing staff to pursue emergency maintenance assistance in the amount of approximately \$10,000 from the Oregon Marine Board for repairs to the Jefferson Street Boat Ramp and directing staff to maintain the current operation and signage pending the granting of these funds.

It was moved by Mayor Bernard and seconded by Councilor Barnes to adopt the resolution authorizing staff to pursue emergency maintenance assistance funding of \$10,000 or less, from the Oregon Marine Board for repairs of the Jefferson Street Boat Ramp and directing staff to maintain the current operation and signage pending the granting of these funds.

Councilor Lancaster asked if the current signage was sufficient.

Mr. Firestone said there is no simple answer to that question. The sign, by itself and if there were nothing else, may not establish anything if the City's liability was at issue. The City Council needs to look at two things – What is right? And what can the City do to protect itself from liability? What is right is the Council's decision. He could not offer an opinion as to the adequacy of the current signage. As to liability, the main thing the City can do to reduce the likelihood of a successful lawsuit is to use its discretion in deciding how to approach this. The City is immune from liability for its discretionary acts. As long as the City Council uses its discretion in deciding what is the best approach, the City should be immune from any lawsuits. This resolution would go a fair way in establishing that the Council did use its discretion in making a decision on the best course of action on a policy matter, so the City should be immune.

Mayor Bernard noted the barricades are still up.

Mr. Swanson said there are additional signs that caution boat ramp users about when to use the south side of the ramp.

Mr. Firestone understood there was also a sign warning the distance to the end of the ramp. The sign and striping have been adjusted to ensure accuracy.

Councilor Barnes commented that she called the state representative to discuss the Marine Board's decision making abilities on payments and terms of contract considering it is a state agency. That state representative said she would step forward in negotiations if needed. It is not cut and dried. The City does have some legislative pull that could be brought in if needed. The state agency does not have to set all the conditions.

Councilor Lancaster understood the Marine Board did an assessment of the ramp.

Ms. Herrigel said the Marine Board did an assessment about two weeks after the incidents. If the City closed the ramp today, there would probably be an obligation to repay on the two grants.

Councilor Lancaster understood the City accepted the liability of the ramp by virtue of accepting the grant. Was it the understanding on the City's part that the ramp would be in good working order until the liability was past?

Mr. Swanson said if the City were to do the same thing today with the same knowledge, we in fact would be accepting the responsibility not knowing exactly when it would fail or what conditions would occur over 20-30 years that would change the safety conditions. When you accept grant money, you also accept the liabilities that occur for the life of that project. The government hands you the money, and they are gone. This is similar to the Marine Board. Once we accepted the grants, we took over responsibility because the City essentially operates the ramp. He guessed somewhere in deep dark recesses of Oregon Administrative Rules there were probably provisions that grants shall be conditioned upon payback after a certain period of time. These agencies do operate under some rules developed by the legislature regarding grants and provisions. Staff will research this.

Councilor Lancaster asked the question because he had a problem with need to close the ramp for safety and yet being held financially liable for doing the right thing because it was not constructed well enough to last as long as it should. If we acquire more money, does that add to liability account?

Ms. Herrigel understood the City would be under no obligation to repay the emergency funds. It could be that after the assessment that \$10,000 would not be sufficient to repair the ramp to a better standard. She was requesting the

opportunity to pursue this with the Marine Board without necessarily committing the City. The application fee is for an in-water work permit. The City would pay the fee, but the Board would take care of the paper work. Ms. Herrigel did not know why the fee was not included but would ask.

Councilor Lancaster asked at what level the North Clackamas Parks and Recreation District (NCPRD) was involved.

Ms. Herrigel replied the District was effective in getting the Marine Board for the original assessment the day after the incidents. The District knew how to make it happen quickly because of work done relating to other boat ramps. NCPRD does not have a monetary stake in it, but she could discuss that issue with them. Ms. Herrigel stated she was working on scheduling the work session with the Marine Board.

Motion passed unanimously.

RESOLUTION NO. 27-2004:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING STAFF TO PURSUE MAINTENANCE ASSISTANCE FUNDING OF \$10,000 OR LESS FROM THE OREGON MARINE BOARD FOR THE REPAIR OF THE JEFFERSON STREET BOAT RAMP.

B. Agreement with Clackamas Cable Access Board

This item was continued to October 5, 2004.

C. Authorization and Resolution to Submit a Transportation Enhancement Program Grant Application

Mr. King provided the staff report in which the City Council was requested to authorize staff to proceed with the grant application and adopt a resolution that agrees to providing a 10.27% match if the grant is awarded. This grant would be for streetscape improvements for the public areas that would connect the McLoughlin Boulevard improvements, North Main project, and city hall. The grant is for \$654,500 in fiscal year 2007 – 2008. The application is due September 10, 2004 and the resolution is part of the process that indicates the governing body's support.

It was moved by Councilor Barnes and seconded by Councilor Lancaster to authorize staff to proceed with the grant application and adopt the resolution supporting the application City matching funds. Motion passed unanimously.

RESOLUTION NO. 28-2004:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUPPORTING A REQUEST FOR FUNDS TO THE OREGON DEPARTMENT OF TRANSPORTATION UNDER THE TRANSPORTATION ENHANCEMENT 2007 – 2008 PROGRAM FOR CERTAIN SIDEWALK AND STREETScape IMPROVEMENTS IN THE DOWNTOWN.

D. Special Public Works Fund Loan Application for Right-of-Way Infrastructure Improvements Related to the North Main Redevelopment Project and City Hall

Mr. King provided the staff report in which the City Council was requested to authorize the Mayor to sign a loan application in the amount of \$738,000 for right-of-way, sidewalk, traffic and streetscape improvements to support the North Main Redevelopment Project. The loan could be amortized over 20 years for improvements directly related to the North Main Project, Harrison Street, and City Hall utility undergrounding required by PGE. It would also pick up the streetscape improvements and sidewalks pursuant to the public areas improvement plan. It would include treatments at Main and Harrison Streets and 21st Avenue and Harrison Street. The Oregon Economic and Community Development Department (OECCD) would make the award followed by a contract and public hearing regarding the actual loan obligation. The award could be as early as two months from now. A portion of the award could be used for engineering. The interest would be about \$56,000 - \$58,000 annually. Staff has an idea of the costs based on the work done on Jefferson Street.

Mayor Bernard understood the church paid for part of the Jefferson Street project, and this would be part of the partnership with the private developer.

Councilor Lancaster asked when the payments would begin.

Mr. King said payments would likely begin in 2006 and be amortized over 20 years.

Councilor Lancaster asked where the payments would come from.

Mr. Swanson indicated the payments would likely come out of the general fund.

Mr. King explained the developer was expected to purchase the community incentive loan, so if the timing is right, that one will be gone before this one started.

Councilor Stone asked about the term of the loan. Was there some reason the City went for 20 years?

Mr. King said it could be shorter. Regulations allow for this type of capital infrastructure loan for up to 20 years. Once the award is made, then the

negotiations begin at which time these issues will be discussed. The state does the underwriting, and the City can take advantage of its bond rating.

It was moved by Councilor Barnes and seconded by Councilor Lancaster to authorize the Mayor to sign a \$738,000 loan application to the Oregon Economic Development and Community Development Department to support the North Main Redevelopment Project. Motion passed unanimously.

Annexation

Mr. Swanson discussed the last item on the work session agenda. He clarified this did not appear on the agenda in response to anything that occurred because of the statements made by the Happy Valley Mayor. He has been wrestling for a long time with the issue of annexation. All too often cities propose annexation for one reason, and that is to ensure financial stability of the city as it currently stands. While a noble cause, the effect of annexation is to change the city and to bring in new properties, businesses, and citizens. He always believed there was another aspect to annexation. Those who look at annexation as a financial fix ignore the ability to provide services. If one is not ready or able to provide service, then there is a disservice to those being annexed and the city that is currently being served. Rather than this being a way to fund a fancy new concept of a city hall or office building, this is about this City's ability to provide services.

The Town Center has always been seen as a plum probably because of its status as an economic engine in that area. The value is somewhat suppressed by the tax increment finance district. It is important because of what it means as an institution in this area. He came to the conclusion about a month or two ago that the City is ready from a service provision perspective. He does not have enough police to serve the City and the Town Center. He has 29 sworn officers which is not enough. He does have a police department with the values and operating principles in place because of Chief Kanzler, officers, and staff of that department. They are ready to take on bigger challenges. He has a planning department and building department that are also ready. He cannot ask John Gessner to take on that kind of responsibility, but if he can provide the funding, they are capable of it from a professional point of view. He has professional departments. That is the first piece that needs to be in place. Once that is in place, then it becomes a question of finances. Can it be supported? That is the next step. Are we able, looking at an annexation strategy, to support the level of services we believe professionals provide?

Mr. Swanson asked for authority to move to the next step and begin to truly get a handle on the costs involved. He also believed annexation was not only a game of picking only the good. You have to take the good and the not so rich. There are areas that are not probably as well situated as the Town Center. He wanted to take the next step of looking at the costs and develop a strategy if the costs in fact bear out the ability to provide professional services. He met with the general manager of the Town Center last week who will work with the City of Milwaukie and talk with the people in Chicago.

CITY COUNCIL REGULAR SESSION – SEPTEMBER 7, 2004

Approved Minutes

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He wanted to make sure the general manager had this staff memo in advance, so he would know what the City was doing. Both agreed to keep in touch so no one was blind-sided.

Mayor Bernard commented in November 2002, there was an annexation study with Clackamas County and Portland State University that indicated there was benefit to both parties in Milwaukie's annexing that area. There are also areas along Johnson Creek Boulevard that need to be annexed because of environmental issues, and he is constantly asked which police department to contact. Taking the cream off the top and leaving the hard stuff for Milwaukie is not what should be done. He looked forward to working with others because Milwaukie has many things to offer that the County cannot. The City can offer great customer service.

Councilor Lancaster said annexation is the next step in the progression. He believed local governments have a moral obligation to work together to provide the best possible services and not enter into capricious land grabs. It is easy to see, that area is part of Milwaukie's urban reserves. The City is best positioned not only because of its organizational values and resources but also by any other measure to be the service provider if given cooperation. He felt the City should move forward and not get caught up in overextending overtures by those who have special interests.

Councilor Stone asked when there would be a report available on expenditures and revenues.

Mr. Swanson said it would likely be a couple of months. He knows who the property owners are, but he may want to take it down to the level of tax lots. His general reaction is that there is sufficient value to provide those services. Milwaukie will not realize a net gain but will be able to meet its responsibilities. The Town Center does not need an office with a sworn officer that is in the field elsewhere most of the time. It needs police officers on site and needs a higher level than it is currently receiving. The strategy is the harder part. Town Center ownership is divided between many different parties, so talking to one does not ensure the consent of the others. The strategy is how to get from here to there. If the City uses the existing park property, then it is important to keep Clackamas County as a partner. Milwaukie cannot assume those infrastructure needs on Harmony Road. There is a wealth of issues, and money is probably the easiest.

E. Executive Session

Mayor Bernard announced the City Council would meet in executive session pursuant to ORS 192.660(2)(e) – real property transaction.

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 8:45 p.m.

Pat DuVal

Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL SEPTEMBER 7, 2004

MILWAUKIE CITY HALL
10722 SE Main Street

1941ST MEETING

REGULAR SESSION - 6:30 p.m.

- I. **CALL TO ORDER**
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
 - A. **Constitution Week Proclamation**
 - B. **Advisory Board Interviews – Center/Community Advisory Board and Riverfront Board**
3. **CONSENT AGENDA** *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*
 - A. **City Council Minutes of August 17, 2004**
 - B. **OLCC Application for Roswell Market, 8929 SE 42nd Avenue, Change in Ownership**
4. **AUDIENCE PARTICIPATION** *(The Mayor will call for statements from citizens regarding issues relating to the City. It is the intention that this portion of the agenda shall be limited to items of City business which are properly the object of Council consideration. Persons wishing to speak shall be allowed to do so only after registering on the comment card provided. The Council may limit the time allowed for presentation.)*
5. **PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*
 - A. **Tree Cutting Permit at 40th Avenue and King Road (John Gessner/ Paul Shirey)**
 - B. **Garbage Rate Increase – Resolution (JoAnn Herrigel)**
6. **OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*
 - A. **Jefferson Street Boat Ramp – Resolution (JoAnn Herrigel)**

6. OTHER BUSINESS -- continued

- B. Agreement with Clackamas Cable Access Board (JoAnn Herrigel)**
- C. Authorization and Resolution to Submit a Transportation Enhancement Program Grant Application (Jeff King/Alice Rouyer)**
- D. Special Public Works Fund Loan Application for Public Right-of-Way Infrastructure Improvements Related to the North Main Redevelopment Project and City Hall (Jeff King/Alice Rouyer)**

7. INFORMATION

Center Community Advisory Board Minutes, July 9, 2004

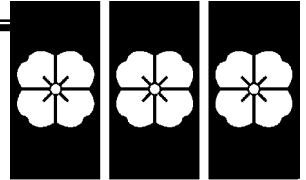
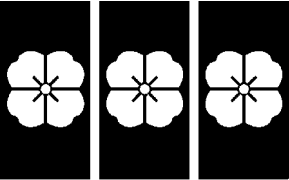
8. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council will go into Executive Session immediately following adjournment at pursuant to ORS 192.660(2)(e) to discuss real property transaction.

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.



PROCLAMATION

WHEREAS, September 17, 2004, marks the two hundred seventeenth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

NOW, THEREFORE, I, James Bernard, by virtue of the authority vested in me as Mayor of the City of Milwaukie in the State of Oregon do hereby proclaim September the week of September 17 through 23 as

Constitution Week

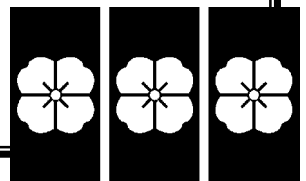
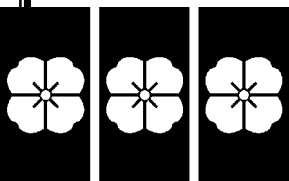
And ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN WITNESS WHEREOF, I hereunto set my hand this
7th day of September 2004.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder



MINUTES

MILWAUKIE CITY COUNCIL WORK SESSION AUGUST 17, 2004

Mayor Bernard called the work session to order at 5:35 p.m. in the City Hall Conference Room.

Councilors present: Barnes, Loomis, and Stone (arrived at 5:45 p.m.).

Staff present: City Attorney Gary Firestone, Finance Director Stewart Taylor, Community Development and Public Works Director Alice Rouyer, Community Services Director JoAnn Herrigel, and Planning Director John Gessner.

Project Impacts to Trees at 40th Avenue and King Road

Mayor Bernard announced interested parties would meet in the Council Chambers with staff on the possible tree removal resulting from the 40th Avenue and King Road sidewalk project.

Convert Design and Landmarks Commission to a Committee

Mr. Gessner discussed the proposed code amendment would convert the Design and Landmarks Commission (DLC) to a committee of the Planning Commission. The Planning Commission and DLC held a joint work session on June 28 and recommended some minor changes. The DLC held a public hearing on July 22 and accepted the revised code amendments. The purpose of this work session was to make a final check with the City Council prior to noticing the adoption hearing on October 5, 2004.

Councilor Barnes referred to page 2.6 commission responsibility section 9.c – “disseminate information to educate the public as to state and federal law...” and asked how that is done.

Mr. Gessner replied this was existing language. He did not believe there was an active program at this time, but there are a number of avenues such as the neighborhood associations and specific outreach programs.

Councilor Barnes thought an outreach program could really help the City in the long run because there have been questions about how the City Council makes its decisions. She believed a public relations segment of the Committee could be very helpful.

Proposed Code Amendments Strengthening Code Compliance

Mr. Gessner explained this amendment addressed the frustration of having to issue a permit even when there is an enforcement case pending. The proposed amendment would grant the City the discretion to either reject applications or refuse approvals until

code violations have been corrected. The policy question is, does the City Council want staff to proceed with implementation of the code that would affect those changes? The building official would be authorized to reject and withhold permits. With Council's direction, the proposed amendment would go to the neighborhood associations for review prior to adoption.

Councilor Stone asked how frequently this type of situation comes up.

Mr. Gessner replied probably a couple of time as year.

Mr. Firestone added regardless of the frequency, this will be a tool for the City when it finds itself in a situation that it struggles with. If there is not a code provision, permits and violations have to be treated separately.

Mayor Bernard understood if, for example, a party cut down all the trees on a property in the public right-of-way and there was a violation pending, then the building project could be held up until the violation was resolved.

Mr. Gessner said there were two situations recently one of which was the Centex subdivision that had violated the tree permit regulations. That issue had to be resolved separate from the land use application.

Councilor Stone asked if there were other cities the size of Milwaukie that had a similar policy.

Mr. Firestone did not know if there were any similar in size, but some larger jurisdictions have these provisions. He knew of a larger jurisdiction where the property was clear cut, and the developer just came in and paid the fine and went on with the project. One of the concerns is that if a City does not have a provision like this, people could say the penalty is so small that it is worth it to get the land use approval.

The City Council directed staff to continue the code amendment process.

Jefferson Street Boat Ramp

Mayor Bernard noted the number of Riverfront Board members in the audience and indicated his support of Board's vision.

Councilor Loomis was not that comfortable with it and requested a work session with the Oregon Marine Board. He understood there was \$1 million for improvements including bathrooms, paths, and docks, and he would like to tie those into the riverfront park improvements. He wanted something the community will use. He felt it would not be prudent to at least have discussions and explore the possibilities.

Mayor Bernard noted Milwaukie is just about out from under a 30-year commitment with the Marine Board, and he did not want to enter another one without having a

riverfront plan. The Board has worked on this project for years. He and Ed Zumwalt are committed to raising funds for the design plan and would like to wait before sitting down with the Marine Board. A number of years ago Bill Hupp approached the Port of Portland for funds, and since we all pay taxes to the Port, it is time to get some of that money back. The plan should include a boat landing and dock, but Mayor Bernard had a problem with expanding the parking lot. When the Marine Board came to the Riverfront Board meeting several years ago, its plan called for taking the Greenspace for a parking lot. He thought Milwaukie should take the riverfront park plan to the Marine Board. Mayor Bernard did not want to sell that property to the Marine Board for 30 years. The City should fix the ramp temporarily if necessary, but he urged giving the Riverfront Board a chance to contact the Port. In the meantime, people will work to raise funds for the riverfront.

Ms. Herrigel said staff would like direction on the issues – whether to pursue funding from the Oregon State Marine Board or do a short-term fix. She proposed the City at least pursue what can be done short-term without any obligations. Staff will research Port of Portland options and schedule a work session with the Marine Board. The Riverfront Board developed a list of criteria for a process to move forward, but it did not go anywhere because one of the criteria was an obligation of no more than 5 years. That was not an option for the Marine Board. She felt it was appropriate for the City Council to make these decisions. One option is a short-term fix for the ramp that can be started immediately. January begins the next Marine Board funding cycle, and Ms. Herrigel recommended the City attend preliminary meetings in order to be prepared to submit a funding request in March 2005.

Councilor Barnes asked the feasibility of charging parking lot users.

Councilor Loomis said boaters already pay through licensing.

Ms. Herrigel said the Marine Board money comes from motorized boat registration and gas sales, but research the idea of additional fees.

Councilor Loomis urged exploring all the possibilities to make the riverfront work for all users before turning down the \$1 million.

Mayor Bernard said a lot of money and time has been spent on acquiring property.

Councilor Loomis did not disagree with that, but the citizens are looking for something tangible.

Mayor Bernard said the drawings the Marine Board brought to the Riverfront Board several years ago showed expansion of the parking lot to the north.

Councilor Loomis wanted to determine if something could be worked out that does not increase the footprint of the asphalt, costs little, and works for everyone. The City could buy out the Marine Board if it has the money.

Mayor Bernard noted there was no depreciation on the improvements. For example, if the Marine Board put in \$1 million, the City would be responsible for that amount for 20 years.

Ms. Herrigel understood the City would be obligated to pay back the entire amount of the grant if the facility were moved or closed.

Councilor Stone understood Ms. Herrigel was working on having emergency repairs done in the amount of about \$10,000.

Ms. Herrigel replied the Marine Board stated it has about \$10,000 in discretionary funds available for emergencies.

Councilor Stone wanted to ensure people were safe but did not want to commit the City to a 20-year contract. She felt other options needed to be explored.

Mayor Bernard said Milwaukie residents do pay taxes to the Port of Portland, and a number of years ago Bill Hupp approached the Port. The city manager at the time said he should be the one to approach the Port, and it was over at that point. He urged pursuing the Port of Portland and getting Milwaukie's fair share.

Councilor Loomis said a lot of people have used the boat ramp for years. He did not support removing the ramp, and the other Council members agreed.

Mayor Bernard added that the Riverfront Board's letter stated that the plan should include a boat ramp.

Councilor Stone wanted to make sure the City looks at the big picture in terms of who would be using the whole area. The Riverfest was a prime example of how well it can be utilized by everyone – not just boaters. She hesitated to jump into something and tie the City up for \$1 million in a contract. The City needs to look at how it wants to implement the plan that will be done in phases. She wanted more assurance that the longer-term vision was being considered.

Ms. Herrigel felt one of the frustrations for the Riverfront Board was there is vision for the riverfront, and the boaters have a vision for the ramp. The issue is who is going to lead and who is going to follow? The adopted Downtown Riverfront Plan says that it is open space that leads the charge, and the boat ramp follows. If the City Council pursues the Marine Board funding and gets it, then the boat ramp and parking lot would drive the issue. This is a decision the City Council should make with input from the public. The outcome of the last riverfront plan was that there was no boat ramp. The Riverfront Board requested that the Council have that happen in the context of a plan with several opportunities for public discussion. If the City Council decides to outright pursue the funding, then the rest of the park will fill in around it.

Mayor Bernard would support a dock and ramp with a nice access road and put parking somewhere else with shuttle service. The City did spend a lot of time on the Downtown Riverfront Plan, and there was a lot of input. The Marine Board has requirements related to parking. Neither he nor the Riverfront Board liked being told that Greenspace had to be given away. He agreed the City Council needed to talk to the Marine Board but should also research other avenues.

Councilor Barnes asked why the Marine Board makes the final decisions. She recommended seeking support from the state legislators for this district. The Marine Board is another state agency that is funded by the legislature, and there may be room to negotiate through the City's legislative partners. We do not have to take the Marine Board's answer as the final answer.

Councilor Loomis thought 20 years might not be a bad deal if all the components work. He would like to be part of the discussion since he was not involved in the earlier ones.

Councilor Stone urged looking at the issue holistically. It is not just about the boat ramp – it is about the whole area and what the City Council plans to do for the community. She did not want the boat ramp to drive the park development. The plan was designed to be friendly to everyone, not just those who use boats. She had concerns about that being the driving force and how the area will be created. She would look forward to the Council's sitting down with the Marine Board and the Riverfront Board. Councilor Stone asked if there were other potential locations for the boat ramp.

Ms. Herrigel responded that research over the past 8 to 10 years has identified no other feasible options on the east side of the Willamette between Portland and Oregon City.

Councilor Stone would like to see some of the big touring boats that are docked at the seawall in Portland be docked in Milwaukie. It will take a lot of money to do that, so the City would have to find funding. She sees a more vital riverfront beyond boats docked for fishing and kayaking – she sees something bigger than that.

Mayor Bernard understood there are no other spots. There is a landing on Oak Grove Boulevard that residents are interested in closing. The other alternatives might be a ramp closer to the creek or at the Kellogg Treatment site when it is decommissioned. The water is deep there, so some larger boats could come in. He would love to see a floating restaurant like the River Queen.

Ms. Herrigel heard general support for short-term safety issues, researching fees that other jurisdictions might have in place, looking at funding from the Port of Portland, and scheduling a work session with the Oregon Marine Board. She provided photos of the ramp area. The south side of the ramp is the shortest, and it is difficult for people to gauge the length. She discussed the signage and barricades.

Councilor Stone supported closing the ramp temporarily to resolve safety concerns.

Mayor Bernard thought the City should begin looking into what it would take to have a dock that can be used whether or not there is a ramp there.

Councilor Stone did not want money spent on something the City might not want in five years. She felt it would be a good idea in terms of liability issues to keep the south lane of the ramp closed until repairs are done.

Mr. Firestone said the City's liability depends on a lot of different factors. If the City Council takes discretionary action, the City arguably would have discretionary immunity unless it posted inaccurate information. As long as the issues are known, there is a possibility for liability. If the City Council says it knows there is a problem and will fix it, that is a discretionary action, and the City would probably have discretionary immunity. Knowing but doing nothing increases the possibility of liability.

Ms. Herrigel reported the north lane is adequately signed, and the south lane is closed. She asked what type of action the City Council would need to take.

Mr. Firestone said the City Council should at least make a motion if not adopt a resolution. The group discussed the language of the motion.

Councilor Stone had some follow up questions on the proposal to convert the Design and Landmarks Commission (DLC) to a Committee. It was unfortunate that staff cutbacks resulted in this action. The minimum requirement is two meetings a year. How can the group really be effective with so few meetings? If issues come up, could the DLC be called in for a concurrent meeting with the Planning Commission?

Mr. Gessner said the minimum requirement is two meetings annually. The number of meetings will depend on the work program, so the DLC could potentially meet more times to complete its tasks. There will be "as-needed" meetings to review land use applications, historic preservation applications, and others for which the DLC has the responsibility for advising the Planning Commission. The purpose for making the change is to manage the workload. The biggest constraint is the planning department's ability to support a functioning commission. The proposal before the City Council was the alternative to decommissioning the DLC and transferring those responsibilities to the Planning Commission.

Councilor Stone understood Brent Carter is a Planning Commission member as well as a DLC member, and he has a background in architecture. She discussed DLC membership and that "at least one committee member shall demonstrate special interest, experience, training, knowledge ... and one shall have special interests in planning, architecture, landscape or design."

Mr. Gessner said Mr. Carter would have to step down from the DLC if the code is amended and was optimistic the committee would have qualified applicants.

The work session adjourned at 6:25 p.m.

Pat DuVal, Recorder

MINUTES

MILWAUKIE CITY COUNCIL AUGUST 17, 2004

CALL TO ORDER

Mayor Bernard called the 1940th 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
Councilor Susan Stone

Staff present:

Gary Firestone,
City Attorney
Stewart Taylor,
Finance Director
Alice Rouyer,
Community Development and
Public Works Director
John Gessner,
Planning Director
JoAnn Herrigel,
Community Services Director

Cynthia Sturgis,
Senior Librarian
Kelly Somers,
Operations Director
Steve Campbell,
Code Compliance Coordinator

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Community Service Recognitions

The City Council recognized **Janet Witter** for 23 years of service to the community on the Center/Community Advisory Board and **Jean Michel** for his service to the community on the Budget Committee and Lewelling Neighborhood Association Leadership.

Advisory Board Interview

The City Council interviewed **Lisa Batey** for a vacant position on the Planning Commission.

Mayor Bernard, with the consensus of the City Council, appointed **Nancy Jamieson** to the Design and Landmarks Commission.

Mayor Bernard wished **Lillie Moore** a speedy recovery.

CONSENT AGENDA

It was moved by **Councilor Stone** and seconded by **Councilor Barnes** to approve the **Consent Agenda**. Motion passed unanimously among the members present.

- A. City Council Minutes of August 3, 2004;**
- B. Resolution 24-2004: A Resolution of the City Council City of Milwaukie, Oregon, Amending Resolution 10-2004; and**
- C. Authorizing the City Manager to Sign a Purchase Order for the Public Works Operations Building Framing.**

Motion passed unanimously among the members present.

AUDIENCE PARTICIPATION

David Aschenbrenner, Budget Committee chair, urged interested persons to apply with the City for the vacant position on the Committee.

Ed Zumwalt, 10888 SE 29th Avenue, Milwaukie. He expressed his appreciation to Jean Michel for his contributions to the community and thanked the volunteers who contributed their time for the 2004 Riverfest.

Bertha Kirk, 3826 SE Washington Street, Milwaukie. She urged the City to consider adopting a cat ordinance. In addition to feral cats in the neighborhood, pet owners are not being responsible and are letting their cats wander the neighborhood or are leaving their cats behind when they move. The Feral Cat Coalition will spay and neuter the animals, but they have to be returned. This did not make sense to Ms. Kirk. She spoke with Code Compliance Coordinator Steve Campbell and understood the City of Gladstone has an ordinance that limits the number of cats a person can have to 10. That does not make much sense either. She asked the City Council if it could help find a solution to the problem.

Councilor Stone asked if there were state laws relating to cat abandonment.

Mr. Firestone said essentially there was nothing relating to cats.

Councilor Stone observed Ms. Kirk seemed to be contending with irresponsible cat owners who allow the cats to procreate and probably become diseased. She certainly did not advocate for that kind of situation with any animal. She asked Ms. Kirk if she or her neighbor had spoken with the Feral Cat Coalition.

Ms. Kirk said her neighbor talked with the Coalition, and it would be up to 30 days before they could assist.

Councilor Stone said the Coalition has monthly clinics for \$20 per cat or reasonable donations.

Ms. Kirk questioned paying the fee and putting the cats back in her yard. It is costing her money to repair holes in her inflatable swimming pool and to get the cat scent out of her boat.

Councilor Stone asked if the neighbor would be willing to work with her.

Ms. Kirk said her neighbor is an elderly lady who wants to get rid of the feral cats.

Councilor Stone noted it was a problem in her neighborhood, and she has taken in some feral cats. Pet owners need to be responsible. There is a woman who lives in Oak Grove who would be a good contact for some suggestions.

Ms. Kirk is not a cat-lover, so keeping them is not an option for her. There are over 20 cats around her house, and about 15 of those are feral. It does not make sense to take a feral cat in for neutering and then taking it back home.

Councilor Stone has seen feral cats become domesticated once they are spayed or neutered. All rights, including animal rights, need to be considered. She suggested Ms. Kirk help her neighbor with the cats.

Ms. Kirk said a lot of the issue is cost. She has to buy the trap to catch them, take them in for the \$20 spay/neuter, and bring them back to her yard.

Mayor Bernard will put her in contact with one of his employees who works with an organization in Forest Grove.

Councilor Stone will follow up with her contact in Oak Grove.

PUBLIC HEARING – None.

OTHER BUSINESS

A. Code Amendment 1.12.010 – General Penalty – Ordinance

Code Compliance Coordinator Steve Campbell provided that staff report in which the City Council was requested to adopt an ordinance amending the Milwaukie Municipal Code Chapter 1.12.010. This issue was discussed in a City Council work session on July 20. Staff recommended these amendments for two reasons. The first was essentially housekeeping to make it clear that the general penalty applies to both civil penalties and fines. The second amendment increases the penalty for repeat offenders. Based on his research in surrounding jurisdictions, Mr. Campbell recommended this amendment to discourage people from repeating the same violation. The maximum

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\$500 fine is amended to a minimum of \$1,000 on the third citation into court. In the past 15 months, for example, 20 properties have had repeat violations. Repeatedly telling someone to mow his or her grass is becoming a babysitting issue. He believed the proposed amendment supported the Council goal of sustaining neighborhood livability.

It was moved by Mayor Bernard and seconded by Councilor Barnes for the first and seconding readings by title only and adoption of an ordinance amending Municipal Code Chapter 1.12.010. Motion passed unanimously among the members present

The city attorney read the ordinance for the first and second times by title only.

The city recorder polled the City Council: Councilors Barnes, Loomis, and Stone and Mayor Bernard aye; no nays. Motion passed unanimously among the members present

ORDINANCE NO. 1935:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 1.12.010 – GENERAL PENALTY – DESIGNATED.

Councilor Stone hoped this would put some teeth in the chronic nuisance properties. She is also concerned about noise and lighting issues, and she would like the City to look at that policy for enforcement. Anything that enhances livability is a good thing.

Mayor Bernard hoped something could be done to regulate motorized scooters.

Mr. Firestone said there are issues with pre-emption by state law.

B. Consider Resolution to the Board of Clackamas County Commissioners to Adopt and Implement the Recommendations of The Libraries for Tomorrow Project as Adopted by the Library Network Intergovernmental Board (LNIB)

Senior Librarian Cynthia Sturgis and **Tom Hogan**, Library Board member, provided the staff report in which the City Council was requested to adopt a resolution encouraging the Clackamas County Board of Commissioners to put the library levy on the November 2004 ballot.

Ms. Sturgis reviewed the model resolution that came out of Library Network Intergovernmental Board (LNIB). The group worked on plans for the network that explored ways to have stable funding for libraries in Clackamas County. The resolution essentially asked that the Board of Commissioners put the levy on the November 2004 ballot. Milwaukie's would use these funds if the levy passes to recoup its lost hours and increase the materials budget.

Mr. Hogan echoed Ms. Sturgis's comments. The Library Board supported the levy and urged the City Council to adopt the resolution.

Councilor Barnes was concerned that people understand the importance of the levy and what it means to libraries if it does not pass. She felt the County should assume more of the burden to educate the public and asked what could be done to ensure the message gets out that this is an important issue.

Mr. Firestone reminded the group that appointed board members and city staff may not take a position on a pending election measure.

Councilor Barnes asked Mr. Hogan, as a resident, if he knew of any public relations regarding this levy.

Mr. Hogan replied the levy has a coordinating group made up of representatives from the member libraries, LNIB staff, and library board members. There was a survey that provided some direction to efforts. In addition to Countywide efforts, each library has been asked for form a local planning group. The central planning group will provide some fact sheets.

Ms. Sturgis said the County will issue information that will be available in the library.

Mayor Bernard supported the library. However, he has seen something at the County Commission that frightens him. When people vote "no" the Commission interprets it that people do not care. If this levy fails because of the economy, it will be like the failed transportation maintenance fee. The County does not talk about the roads falling apart anymore. They will continue to fall apart until the voices are loud enough. He supported the library 100%, but he can see it failing because of the economy. The job market has not turned around. Unemployment in Clackamas County is still huge. People are not interested in paying any more taxes. If this fails, the Commission will look at it that the people do not care about funding libraries. It is the County's responsibility to fund the libraries. The voters said it was. As far as he is concerned, libraries are a core essential service, and the County is responsible. The County needs to find sustainability for the libraries and not shirk it back on the voters at this time. If the levy fails, he can see the funding burden on the cities that are already spending about as much as they can. The levy is only a bandage to long-term sustainability. Libraries are as important as jail cells and youth programs. He did not support adopting the resolution at this time.

Mr. Hogan shared Mayor Bernard's concerns. The member libraries are supportive of this levy. There are efforts to publicize what the levy is about and what the library services increases have been over the past 10 years. All of the boards are hoping their councils will support the levy.

Mayor Bernard discussed Measure 50 and the County's claim that the previous voter-approved levy has expired. He believed the County was still responsible for

funding the libraries and other services in a sustainable manner. There are ways other than constantly going back to the taxpayers. The library is an essential service. He will fight it at the City Council to ensure the library is fully funded and at the County Commission to ensure taxpayers money funds the libraries.

Councilor Loomis believed voters are willing to give up a little money when they feel they get value, and the library is one of those cases. He was optimistic that the levy will pass in November because of the value the library provides.

Councilor Stone said historically speaking, library levies have been successful, and people value the service. The \$0.29 per \$1,000 is small change for a great value. She sees the levy in a more positive light because people do value their libraries, and it is not much when you do the math. She wholeheartedly supported the resolution.

It was moved by Councilor Barnes and seconded by Councilor Loomis to adopt the resolution encouraging the Clackamas County Board of Commissioners to adopt and implement the Recommendations of the Libraries for Tomorrow Project. Motion passed 3 – 1 with the following vote: Councilors Barnes, Loomis, and Stone aye; Mayor Bernard no.

RESOLUTION NO. 25-2004:

A RESOLUTION TO ENCOURAGE THE BOARD OF COUNTY COMMISSIONERS TO ADOPT AND IMPLEMENT THE RECOMMENDATIONS OF THE LIBRARIES FOR TOMORROW PROJECT (PARTS I AND II) AS ADOPTED BY THE LIBRARY NETWORK INTERGOVERNMENTAL BOARD (LNIB).

C. Status Report on Economic Development Grant Projects

Project Manager Jeff King updated the City Council on the increased activity in both the economic development grant and business in the City overall. The outreach program is accelerating to build improved relationships with the business community, and many Milwaukie companies are either expanding or contemplating expansion. Part of the outreach will include a business survey, so the City can get a better understanding of how businesses perceive City services and what their future plans might be.

There was also good news on a 6-acre parcel at International Way and Harmony Road that has been annexed. Mr. King addressed the feasibility study relating to transportation and traffic issues of the Panattoni development. The developer submitted material to the planning department for review, and the application will likely come before the Planning Commission in October. The proposal is to construct about 80,000 square feet of business industrial buildings, and there is already interest in the business community to occupy the space.

Staff is working on an economic development flyer that extols the virtues of the City of Milwaukie. He hoped to have a completed product by the end of the month. The City is seeking participants for a diverse, short-term economic advisory committee to provide oversight of the economic development grant as well as providing input and recommendations to the City Council. Mr. King hoped to start the committee meetings in September. Lastly, there was a request for proposal (RFP) to help develop website content to increase the City's marketability and awareness of attributes of certain sites. The business survey is also part of the RFP along with identifying reuse opportunities for underutilized facilities.

Mr. King noted tenant improvements are underway for the second floor of Electra Credit. There is interest in reuse of the Hanna South building as well. The City is seeing more activity, and as economic development promotion continues, he believed the City of Milwaukie would see still more activity.

Councilor Stone understood printing and mailing of the flyer would be done with grant money.

Mr. King said that was correct, and about \$3,000 would go into this particular piece. It is now serving as a general promotional piece for a variety of uses. Over time and with more participation from the business community, a more comprehensive marketing strategy will be developed. The flyer promotes both the City and specific economic benefits.

Councilor Stone understood there was currently a lot of outreach with existing businesses and asked if there would be a focus on other kinds of businesses people would like to have in Milwaukie such as a Trader Joe's or McMenamins.

Mr. King said that type of business focus would happen with the North Main Development. It will send a message that things are happening because of the City's location, Riverfront Park, and other benefits of the downtown area. Part of that is implementing the downtown plan that sets future design and infrastructure in motion. There will be work with individual developers and property owners to determine interests. Business community sales will increase as residents move into the Main Street project.

Councilor Stone thought if the City was looking at 200 additional residents in the downtown area, it needed to consider a grocery store, restaurants and other services people living in the core area would utilize.

Mr. King said as North Main comes in, the City could promote other amenities and programs that would assist developers.

Councilor Stone was glad to see the RFP was looking at vacancies in the North Industrial area because she understood there were a lot of vacancies.

Mr. King explained a lot of the industrial park was developed for a somewhat different era, so the City and property owners need to work together to get those sites filled efficiently. About \$29,000 is being budgeted for the consultant, and RFP respondents are being asked what the City can get for that amount of money.

Councilor Barnes believed Mr. King had one of the most important jobs in the City right now to ensure it is on the right track for economic development. This will help solve some of the City's budget problems. She felt Mr. King and Mr. Jenks of the County represented the City's efforts extremely well.

D. Advisory Board Appointment

Mayor Bernard, with Council consensus, appointed **Lisa Batey** to the vacant seat on the Planning Commission.

E. Clarification of Work Session Item on the Trees as 40th Avenue and King Road

Councilor Stone asked for information on this issue.

Mr. Firestone explained the item was removed from the work session agenda because there is a possible appeal to the City Council relating to the trees. The City Council would be deciding that appeal as a quasi-judicial matter. For due process considerations, he felt it was advisable for the City Council not have contacts prior to the hearing assuming there will be one. The project is ongoing, but the trees cannot be removed if there is an appeal pending.

Community Development and Public Works Director Alice Rouyer said the appeal period is 14 days after the trees are marked.

F. Jefferson Street Boat Ramp

It was moved by **Mayor Bernard** and seconded by **Councilor Barnes** to keep the south side of the boat launch closed and keep the signage until such time as funds are available for repairs. Motion passed unanimously among the members present.

G. Executive Session

Mayor Bernard announced the City Council would meet in executive session pursuant to ORS 192.660(2)(e) –real property transaction.

ADJOURNMENT

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

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Mayor Bernard adjourned the regular session at 7:50 p.m.

Pat DuVal, Recorder



To: Mayor Bernard and Milwaukie City Council
Through: Mike Swanson, City Manager
From: James M. Colt, Acting Chief of Police
Date: August 11, 2004
Subject: **O.L.C.C. Application – Roswell Market – 8929 S.E. 42nd Avenue**

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Roswell Market – 8929 S.E. 42nd Avenue.

Background:

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



To: Mayor and City Council

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

From: John Gessner, Planning Director

Subject: Tree Removal on King Road and 40th Avenue

Date: August 27, 2004 for the September 7, 2004 Council Meeting

Action Requested

Conduct a public hearing on proposed tree removal associated with the King Road and 40th Avenue sidewalk project and approve permits TP-04-05 and TP-04-04.

Background

On August 6, 2004, several trees and hedges located on King Road and 40th Avenue were posted for removal in association with the sidewalk project presently under way. Sometime thereafter, the City received a number of calls from concerned neighbors about the proposed removal. The sidewalk plans were presented in two neighborhood meetings, but concerns about proposed tree removal were not raised at that time. The location of affected trees conflict with the accepted street design, which includes new curbs and setback sidewalks. At particular issue are four fir trees located on the northeast corner of King and 40th and a fir tree on the east side of 40th south of Harvey.

On August 17, 2004, Project Manager Brenda Schleining and Engineering Director Paul Shirey met with a number of residents concerning the proposed tree removal.¹ Prior to this meeting staff employed an arborist to evaluate the site to determine the

¹ At this meeting Ardenwald resident Charles Wilcox presented a case for removal of the four fir trees at 40th and King.

feasibility of saving the trees at 40th and King.² The arborist advised that with redesign of the street, saving the trees appeared feasible. A redesign of the street at 40th and King to save the four fir trees results in undesirable street design features including offset curb, street tight sidewalk, drainage concerns, and an offset travel lane. Engineering staff reports that is not feasible to save the large fir on 40th south of Harvey.

The municipal code allows residents to request a hearing on any proposed tree removal.³ A request was received on Friday August 20, 2004. Accordingly the staff decision on the permits has been deferred to the City Council.

The municipal code allows removal of street trees when a reason is established for their removal. Street and utility projects constitute such a reason.⁴ Engineering staff has determined that all trees posted for removal should be removed due to lack of reasonable street design alternatives that would ensure long-term survivability of affected trees.

Staff believes the tree removal is consistent with applicable criteria and recommends the City Council approve the tree permits.

Concurrence

The Planning, Engineering, and Community Development and Public Works Director, and City Attorney concur with the staff recommendation.

Fiscal Impact

Approving the tree permit will have no affect on budgeted revenues and expenses. Denial of the permit for the purpose of street redesign would result in additional project costs due to engineering redesign and delay.

Work Load Impacts

Approving the tree permits would have no workload impacts. Denial of the permit for the purpose of street redesign would result in additional project management workload.

² Field meeting with John Gessner, Planning Director and Jeff Gerhardt, Certified Arborist, Bruno Tree Care.

³ Milwaukie Municipal Code (MMC) Chapter 16. 32.020 (B)(7)

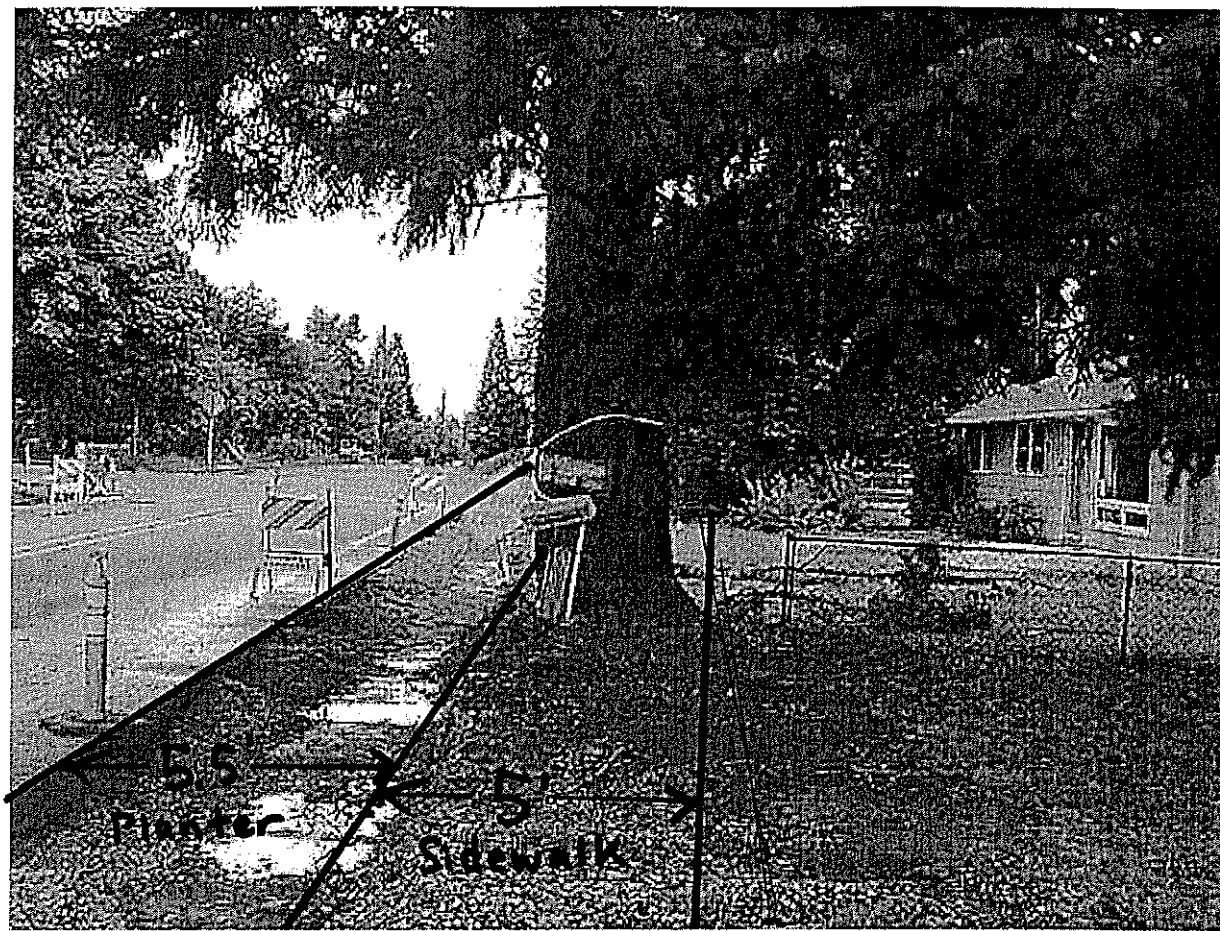
⁴ MMC 16.32.020(C)

Alternatives

1. The Council may approve the tree permits upon a finding applicable criteria have been met.
2. The Council may approve the tree permits but require modifications to the street design to require select tree preservation.
3. The Council may deny the permits upon a finding that approval criteria have not been met.

Attachments

1. Various Photographs and Tree Location Plan
2. Correspondence



Fir tree at 9950 40th looking North to Harvey



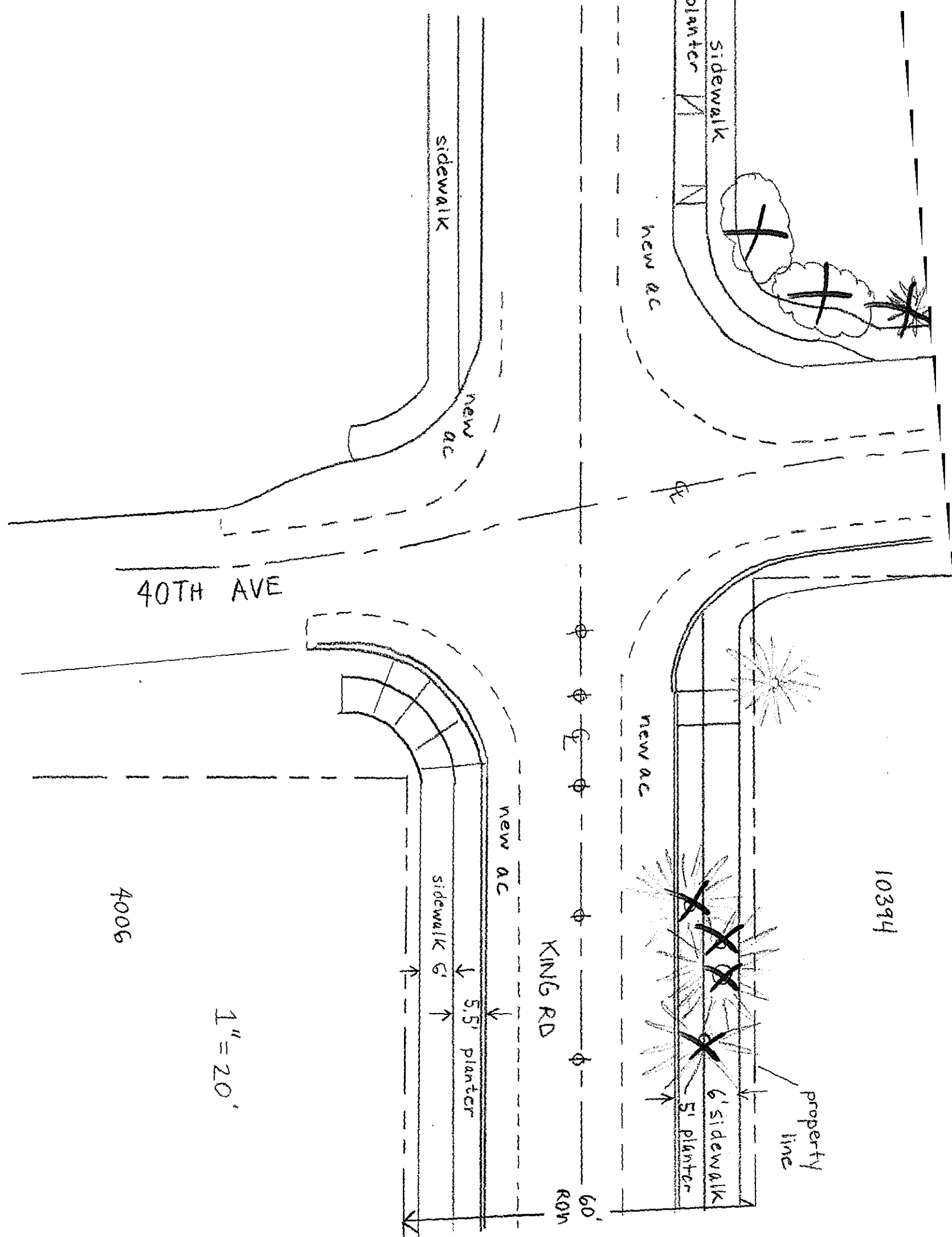
**Looking North on 40th
Tree is topped due to power lines above**



Fir tree at 9950 40th looking North to Harvey



**Looking North on 40th
Tree is topped due to power lines above**



40TH AVE

4006

1" = 20'

KING RD

60' ROW

10394

property line

Paul Shirey
City of Milwaukie
Johnson Creek Facility
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206

August 25, 2004

Dear Paul:

Thank you for the opportunity to review with you the neighborhood's options for saving or removing the very large Douglas fir trees on SE 40th Avenue and King Road. We understand your concerns, particularly regarding the key needs to ensure public safety and protect Milwaukie's remaining old growth trees. We're very conscious of both needs.

However, we believe that, whenever possible, our tree heritage should be preserved. Yes we can grow new trees, but we cannot quickly replace trees that now shade our streets and give our community its "lived in" look. Trees like these take decades to grow and achieve their stature. In our lifetimes, there will be no trees that can replace these.

Consequently, we are asking that you make every effort to protect the four large fir trees and their root systems along King Road. We understand that doing this will require building out the crossing area at the intersection, or even moving King Road a bit to the South.

Adding a slight bend in King Road at this point will actually aid our community by compelling traffic to slow down. Given the redevelopment at the commercial area on 42nd and King Road (the new Safeway site), increasing traffic will be a critical problem on our streets. We support every effort to slow and/or reduce current and future traffic on King Road.

At the same time, we recognize that the large fir tree on 40th Avenue, which has been topped and may have been damaged by the contractor already, may need to be removed. We further understand that it may be too late in the project to acquire the right of way to save the tree. Removal of the tree is our last choice, and we would appreciate any reasonable attempt to save it.

In any case, we have two major questions about the way this issue was handled by the city.

1. Why was the contractor already at work on the project when public comment on it had not yet closed? The damage to the 40th Avenue tree has already been done, but comment on the project did not close until last Friday.
2. How can the process for notifying and engaging the neighbors be reviewed and improved so more people understand what is going to happen in time to respond in a useful way? Whatever caused the disconnect between the neighborhood and the city should be repaired.

In addition, we have an ongoing concern about the part environmental preservation is playing in city development plans. We ask that every effort be made to keep this at the forefront of any future planning process and that council be made aware of our concerns.

We sincerely hope this matter can be resolved before work goes forward. Please keep us up to date on the city's progress.

Carlotta Collette, president of the Ardenwald Johnson Creek NDA
Mary King, former City Councilor

Cc:

Mayor Jim Bernard
Council Member Susan Stone
Council Member Deborah Barnes
Council Member Joe Loomis
City Manager Mike Swanson
Alice Rouyer
John Gessner
David Aschenbrenner

3925 SE King Road, Milwaukie, Oregon 97222 503.659.5509, cell: 503.888.8031

August 16, 2004

Mayor Bernard
City of Milwaukie
6101 SE Johnson-Creek Blvd.
Milwaukie, Oregon 97206

Reference: Four Douglas Firs on 40th Avenue and King Road Dear Mayor Bernard:

Every day when I drive home I see those four beautiful trees at the corner marked for destruction, and a knot grows in my stomach. I feel like I am awaiting the execution of four friends. Their crime is that they have become inconvenient.

I first moved to the Portland area over 30 years ago. The summer my family arrived we stayed with a friend in NE Portland. Each morning at sunrise I was woken by a huge swelling of song - so loud it was overwhelming. The trees around our friends' house were filled with birds! Now, even in a far less urban setting one never hears such a sound. We hear bird song -but nothing like the huge symphony that woke me in the past.

Yes, the trees provide beauty and shade. They soften an otherwise harsh environment. They filter our air and provide oxygen. They also give the birds a place to nest. I worry that, if we continue to remove trees, children of the future won't experience the things I took for granted as a child.

But there is more at stake than the future of the trees, or the creatures that live in them. One Milwaukie resident said that he is afraid to contact the city about problems in his neighborhood - such as street-flooding. He is afraid because the response of the city may be to do what it is doing on King Road: removing many beautiful trees.

With this issue the City of Milwaukie has the opportunity to show local citizens it cares about their opinions and appreciates the beauty of their neighborhoods. The Council's response to this issue will determine whether local voters feel empowered or excluded. Empowered voters are involved residents.

The impact of adding sidewalks *may* be substantial. We do understand sidewalks are important for safety. At the same time, other trees on the corner of 40th, while not scheduled for removal, may die due to disruption of their roots when sidewalks are installed.

My husband, Gale Strong, and I, spoke to Brenda Schleining, Project Manager and Paul Shirey, Engineering Director, last week. We discussed the Douglas Firs on 40th and the trees on the East side of our property (along 40th Avenue). We realize -and appreciate -that Brenda did her

best to minimize tree removal. Even so, we will lose an oak and a few smaller trees as well as shrubs and branches of larger trees. Brenda acknowledges that despite her best efforts to save those trees, sidewalk installation may disrupt the roots of several more trees. Our neighbor, across the street on 4001, has the same concern about an evergreen on the front of his property. So the impact of this project may be considerably greater than it appears.

To gain a fair and balanced view on this issue, my husband and I measured the largest fir's circumference and took a branch to the Master Gardeners at the Milwaukie Farmer's Market. They identified it as a Douglas fir, and said that the largest is well over 100 years old. They did state that Douglas Firs can have shallow roots. It is important not to disrupt these roots.

We would like to propose a few different solutions:

- 1) Narrow the street slightly at the corner so the berm is wider and the sidewalk is further from the trees. This would encourage people to slow down at that corner. People often speed through that intersection.
- 2) Install sidewalks on the South side of the street only and just put a curb on the North side. There is very little foot traffic in the area, so two sidewalks truly are not necessary. Also -this would be safer as it would encourage pedestrians to stay on the same side of the road as the shopping center -they are more visible there -and much more visible crossing into the shopping center from that side.
- 3) The City could plant some trees to replace some of the removed trees. This is probably the least desirable solution. It has been a very hot, dry summer and many well-established trees are struggling to survive. Replanting might not be successful and it would take many years for new trees to have the presence of the trees they are replacing.

We are unable to attend the City Council meeting regarding these trees. Thank you, Mayor Bernard, for being so responsive to our phone calls and for listening to our concerns.

Your truly,

Sarai St. Julien and Gale Charles Strong

DuVal, Pat

From: Gessner, John
Sent: Monday, August 30, 2004 8:14 AM
To: DuVal, Pat
Subject: FW: Trees on 40th to King



Clear Day Bkgrd.JPG

Pat, could you attach this to the 40th & King staff report if its not too late? Thanks.

-----Original Message-----

From: David Aschenbrenner [mailto:diasch@comcast.net]
Sent: Friday, August 27, 2004 7:22 PM
To: John Gessner; Paul Shirey
Subject: Trees on 40th to King

Well here is the bad news. I am in favor of a skinny street alignment that should save the trees. I do not know the size of street that is planned. But if the 42nd and King corner realignment is done, then could not King from 42nd to 37th and beyond be a skinny streets to encourage slower speeds and use of other streets such as Harrison?

David Aschenbrenner
11505 SE Home Ave.
Milwaukie, OR 97222

DuVal, Pat

From: Gessner, John
Sent: Monday, August 30, 2004 8:14 AM
To: DuVal, Pat
Subject: FW: Trees on 40th and King

Here's another. Can this get in the packet?

-----Original Message-----

From: Desnowhill@cs.com [mailto:Desnowhill@cs.com]
Sent: Sunday, August 29, 2004 2:50 PM
To: gessnerj@ci.milwaukie.or.us; shireyp@ci.milwaukie.ci.or;
carlottacollette@comcast.net; carleswilkins@juno.com
Subject: Trees on 40th and King

I agree with the proposed small street alignment on King Road to save the trees, but also to calm the traffic on King Road. Traffic has progressed to the point that many of my neighbors are complaining about it to me. One neighbor has a problem crossing King Road at 36th or 37th on foot and in her auto. Another has had trouble on his bike trying to cross King Road. A number have commented on the increased traffic and the speed along King Road. They fear, and I must agree, that it will worsen when the new Safeway store opens. If traffic can be calmed by the skinny street alignment, or some other method, the citizens will be grateful and future problems may be avoided. Wouldn't that be great.

I can understand that the City does not want the increased liability with leaving the trees in place. Nor does the current landowner. However if improvements can be made without disturbing the root system of the trees too severely, it would be a plus to all concerned. Thanks for your consideration. Dorothy Snowhill A/JC NDA



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: JoAnn Herrigel, Community Services Director

Subject: Garbage Rate Increase

Date: August 18, 2004

Action Requested

Approve a resolution increasing garbage rates for commercial and residential customers by 2.79 percent.

Background

The City receives financial reports from the seven franchised garbage haulers annually. These reports contain information regarding the expenses and revenues of each garbage hauler for the previous year. The information submitted by the individual haulers is consolidated to create a composite 'company'. Costs are adjusted to eliminate those costs allowed for tax purposes but not allowed for determining collection rates. This composite is used to analyze the financial health of the entire system (see composite attached).

The City determines the system's health based on return on revenues. The City mirrors Clackamas County's policy of measuring the health of the solid waste collection system within a range of 8-12% return on revenues. When the system falls within this range, typically, neither an increase nor decrease in rates is deemed necessary. Special circumstances, such as the addition of new programs or anticipated increases in expenses outside the control of the companies may cause exceptions.

For fiscal year 2003, the haulers reported a rate of return of 10.32%. Despite the apparent health of the system in 2003, the haulers are requesting a rate increase. Several circumstances occurring now or in the coming months have caused the haulers to anticipate a rate of return for 2004 of less than 8% (actual estimate of 7.67%). Following is a list of those circumstances:

- The Metro disposal fee increased by \$0.29 per ton on July 1, 2004. Metro's disposal fee is scheduled to increase again on September 1, 2004. The new disposal fee will be \$70.96. The total tip fee change for the two increases totals \$3.78/ton. In addition, the transaction fee (a fee paid each time a truck enters a transfer station) will increase from \$6.00 to \$7.50 on September 1.
- There is an anticipated 5% rise in the cost of disposing of yard debris.
- Recycling driver wages are increasing by 5.2% and health insurance for all employees is increasing by 9.89%.
- Fuel expenses are adjusted upward 8.5% for the coming year. The franchisees experienced increases higher than this over the past year, but this increase is warranted by West Coast fuel indexes for the coming year.
- Over the past year, the haulers have experienced increases in revenues from the sale of recyclables. The sale of recyclables offsets between 13-20% of the costs associated with their collection. Many experts in the field anticipate increases in prices to continue. Some jurisdictions in the region have projected the revenue increases on the high side of the assumed increases. However, because recyclables operate in commodity markets, known to be volatile, a conservative increase in these revenues has been projected by the City.

The 2.79 percent increase requested by the haulers would help them achieve a rate of return of 10% for 2004/05. Without this adjustment, they expect their rate of return to be less than 8%. A summary of the assumptions used to project inflation for the next year are shown in the table below.

Inflation Assumptions for Line Item Expenses			
Driver Wage - Garbage	2.89%	PUC	18.38%
Driver Wage-Recycling	5.21%	Garbage Disposal Fee	5.80%
Health Ins	9.89%	Yard Debris Disposal	5.00%
Fuel	8.50%	All other line items	2.73%
Labor Related Inflatons are based on labor contracts in force			
Fuel Inflaton from US Dept of Transportation (West Coast)			
All other line items from Bureau of Labor Statistics (Portland/Salem)			
Yard Debris Disposal inflator from local processors			
Tip Fee from Metro		PUC inflator is from Oregon DOT	

The following table summarizes the changes in sample residential rates that would occur if the 2.79% increase is adopted. A spreadsheet of all the proposed rate changes is attached.

Service Level	Current	Proposed	Change
20 gal can	\$16.40	\$16.86	\$0.46
32 gal can	\$19.90	\$20.45	\$0.55
60 gal cart	\$26.90	\$27.65	\$0.75

Concurrence

Clackamas County recently adopted this same percentage increase.

Fiscal Impact

An increase in franchise fees to the City from garbage haulers may result.

Work Load Impacts

None.

Alternatives

Deny the haulers' request for a rate increase, leaving rates as they are now.

Direct staff to review the rates further and develop a new proposal for rate changes.

Resolution No. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE
ADOPTING NEW RATES FOR GARBAGE SERVICE IN THE CITY,
EFFECTIVE OCTOBER 1, 2004.**

WHEREAS, Section 13 of Milwaukie Ordinance 1752 provides that the City Council may set rates and implement rate changes.

WHEREAS, there has not been an increase in garbage service rates in the City since 2001, and

WHEREAS the Metro disposal fee increases 5.80% in September 2004, and

WHEREAS, the franchised haulers are currently experiencing additional cost increases, including an 18.38% PUC increase, a 9.89% health insurance increase and an 8.50% fuel price increase, and

WHEREAS the City's franchised haulers project a rate of return for 2004 which is less than 8%,

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

Section 1. Rates for all residential and commercial garbage services are increased by 2.79%, effective October 1, 2004.

Section 2. This resolution is effective October 1, 2004.

Introduced and adopted by the Mayor on _____, 2004.

James Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

City Attorney

City of Milwaukie
Uniform Solid Waste and Recycling Rates

Uniform Monthly Residential Fees - Rates Proposed as of October 1, 2004

SERVICE	MONTHLY RATE	RATE ADJUSTMENT	PROPOSED RATE
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2.79%

20 Gallon Can (Mini-Can)

1 Can (1 time/week).....	\$ 16.40	\$ 0.46	\$ 16.86
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- Weekly collection includes recycling and yard debris service.

32 Gallon Can

1 Can (1 time/weekly).....	19.90 \$	0.56 \$	20.46
2 Cans (1 time/week).....	37.10 \$	1.04 \$	38.14
Each Addt'l Can.....	17.20 \$	0.48 \$	17.68
Extra can of garbage (occasional)*.....	6.00 \$	0.17 \$	6.17
Extra Can of Yard Debris (occasional).....	2.60 \$	0.07 \$	2.67
Court Apartments (1 time/week).....	17.20 \$	0.48 \$	17.68

- Weekly collection includes recycling and yard debris service. Recycling bins and yard debris carts must be placed at the curb.
- Additional stops per week are charged at 100% of the first stop per week rate.
- * This rate is for the first extra can collected, each additional at the stop is \$3.00.

Roller Carts

60 Gallon Cart (1 time/week).....	26.90 \$	0.75 \$	27.65
90 Gallon Cart (1 time/week).....	29.90 \$	0.83 \$	30.73
Extra Can of Yard Debris (occasional).....	2.60 \$	0.07 \$	2.67

- Weekly collection includes recycling and yard debris service. Recycling bins and yard debris carts must be placed at the curb.
- Additional stops per week are charged at 125% of the first stop per week rate.
- A deposit of \$30 may be charged when cart is placed. Refunds will be made after return of cart of after five years (whichever comes first).
- A \$10 redelivery fee may be charged for redelivery within one year, regardless of reason.
- Maximum weight for 60 gal. cart is 100 lbs. and for 90 gal. cart is 120 lbs.

Monthly and On-Call Service

Per can (cash).....	7.75 \$	0.22 \$	7.97
Per can (billed).....	7.75 \$	0.22 \$	7.97

- Monthly service includes recycling but not yard debris service.
- Monthly and on-call customers must subscribe for one year in advance for yard debris service.
- Haulers may provide Monthly and/or On-Call service.
- Customer must provide hauler with 24 hours notice or contact driver on the route (Yoo-Hoo service).

City of Milwaukie
Uniform Solid Waste and Recycling Rates

Uniform Monthly Commercial Fees - Rates Proposed as of October 1, 2004

SERVICE	MONTHLY RATE	\$	RATE ADJUSTMENT	\$	PROPOSED RATE
<u>32 Gallon Can</u>					
1 Can (1 time/weekly).....	19.90	\$	0.56	\$	20.46
2 Cans (1 time/week).....	39.80	\$	1.11	\$	40.91
Each Addt'l Can.....	19.90	\$	0.56	\$	20.46
Extra can (occasional)*.....	6.00	\$	0.17	\$	6.17

- Additional stops per week are charged at 100% of the first stop per week rate.
- This rate is for the first extra can collected, each additional at the stop is \$3.00

Roller Carts

60 Gallon Cart (1 time/week).....	26.90	\$	0.75	\$	27.65
90 Gallon Cart (1 time/week).....	29.90	\$	0.83	\$	30.73

- Additional stops per week are charged at 125% of the first stop per week rate.
- A deposit of \$30 may be charged when cart is placed. Refunds will be made after return of cart of after five years (whichever comes first).
- A \$10 redelivery fee may be charged for redelivery within one year.

Compacted Containers

2.2 times the loose container fee

- Containers weighing in excess of 500 lbs. per cubic yard will be charged this fee plus disposal for the excess weight.
- Compactors furnished by the customers shall be compatible *with* the equipment of the collector.
If the collector agrees to furnish the compactor, the collector may charge a reasonable rental fee based on the value of the compactor and the cost of repair and maintenance.

City of Milwaukie
Uniform Solid Waste and Recycling Rates

Uniform Drop Box Fees - Rates Proposed as of October 1, 2004

SERVICE	MONTHLY RATE	RATE ADJUSTMENT	PROPOSED RATE	
<u>Drop Box Service</u>				
<i>Loose Material - for repeat customers:</i>				
20 Yards.....	79.75	\$ 2.23	\$ 81.98	(plus disposal costs)
30 Yards.....	101.55	\$ 2.83	\$ 104.38	(plus disposal costs)
40 Yards.....	117.35	\$ 3.27	\$ 120.62	(plus disposal costs)
• An additional \$21.55 per drop box may be charged for one-stop service (plus disposal costs).			\$ 22.15	
• Deposits of no more than \$500 may be charged for each drop box.				
<i>Compacted Material:</i>				
Under 18 Cubic Yards.....	96.05	\$ 2.68	\$ 98.73	(plus disposal costs)
18-29 Yards.....	5.95	\$ 0.17	\$ 6.12	/CuYd (plus disposal costs)
30-39 Yards.....	5.25	\$ 0.15	\$ 5.40	/CuYd (plus disposal costs)
40+ Yards.....	4.65	\$ 0.13	\$ 4.78	/CuYd (plus disposal costs)
• Rental fee after 48 hours on location is \$3.40 per day per 10 yards of drop box capacity.			\$ 3.49	
• Mileage charge of \$1.70 per mile (over 18 miles round-trip from shop or Metro South).			\$ 1.75	

City of Milwaukee
Uniform Solid Waste and Recycling Rates

Uniform Fees for Miscellaneous Services - Rates Proposed as of October 1, 2004
Commercial and Residential

SERVICE	MONTHLY RATE	RATE ADJUSTMENT	PROPOSED RATE	
<u>Hourly Fee</u>				
Truck + 1 person.....	73.00 \$	2.04 \$	75.04	
Truck + 2 persons.....	105.00 \$	2.93 \$	107.93	
Recycling Truck + 1 person.....	70.00 \$	1.95 \$	71.95	
<u>Other Miscellaneous</u>				
Furniture and Recyclable Appliance Pick-Up.....	5.45 \$	0.15 \$	5.60	
to	29.15 \$	0.81 \$	29.96	(plus 15.00 freon removal charge)
Tire Pick-Up (Off Rim).....	1.65 \$	0.05 \$	1.70	(plus disposal)
Tire Pick-Up (On Rim).....	5.15 \$	0.14 \$	5.29	(plus disposal)
Over 18 Inches.....				Special Handling Fee
<u>Clean-up Containers</u>				
First Collection	33% of regular container fee, plus \$16.60 handling charge		\$ 17.06	
Each Add'l Collection	33% of regular container fee			
Rent of Box after 5 days:				
1-2 Yards.....	2.25 \$	0.06 \$	2.31	per day
3 Yards.....	3.35 \$	0.09 \$	3.44	per day

- Rent not to exceed \$20 per container in a 30-day period.
- Each additional collection charged at 33% of regular collection fee.

City of Milwaukie
Uniform Solid Waste and Recycling Rates

Non Customer Services - Rates Proposed as of October 1, 2004

(Non-customer includes a regular customer with a less than weekly service frequency.)

SERVICE	MONTHLY RATE	RATE ADJUSTMENT	PROPOSED RATE
<u>Recycling Only</u>			
Weekly curbside collection of recyclable.....	3.25	\$ 0.09	\$ 3.34
<u>Yard Debris Subscription Services</u> Annual fee must be paid in advance			
1-32 Gallon Can; or 4'x18" diameter bundle, or Kraft paper bag..	3.60	\$ 0.10	\$ 3.70
60 Gallon Cart.....	7.00	\$ 0.20	\$ 7.20
Extra can of yard debris.....	2.60	\$ 0.07	\$ 2.67
Permanent second can.....	3.60	\$ 0.10	\$ 3.70

- Monthly rates predicated on weekly service.
- This service is provided only within the Urban Growth Boundary.
- The subscriber is required to pay for one year of service in advance.

ANY OTHER TYPE OF SERVICE

If, due to changes in technology or needs of residents and business people of Milwaukie, additional or other types of services are needed, the charge for the service shall not be discriminatory, shall be reasonable by being commensurate with the rates above, and shall not exceed the rates most generally applicable in the Portland Metropolitan area.

City of Milwaukie
Uniform Solid Waste and Recycling Rates

Bio-Medical Services Fees - Rates as of July 1, 2001

Number of
Receptacles/

<u>Pick-Up</u>	<u>9-Gal</u>	<u>21 Gal Tub*</u>	<u>48 Gal Tub*</u>
1	\$45.21	\$46.40	\$45.75
2	\$29.86	\$31.05	\$32.40
3	\$24.74	\$25.93	\$27.28
4	\$21.63	\$22.82	\$24.18
8	\$19.77	\$20.96	\$22.31
6	\$18.16	\$19.35	\$20.70
7	\$17.01	\$18.20	\$19.50
8	\$15.87	\$17.06	\$18.41
9	\$14.99	\$16.17	\$17.53
11	\$13.70	\$14.89	\$16.24
12	\$13.22	\$14.41	\$15.76
13	\$12.81	\$14.00	\$15.35
14	\$12.46	\$13.65	\$15.00
15	\$12.16	\$13.34	\$14.70
16	\$11.89	\$13.08	\$14.43
17	\$11.89	\$13.08	\$14.43
18	\$11.89	\$13.08	\$14.43
19	\$11.89	\$13.08	\$14.43
20-59	\$11.89	\$13.08	\$14.43
60-74	\$11.89	\$13.08	\$14.12
75-89	\$11.89	\$13.08	\$13.87
90+	\$11.89	\$13.08	\$13.62

*21 Gallon Pathological Waste Box at same rate as 21 Gallon Tub;
35 Gallon Pathological Waste Box at same rate as 48 Gallon Tub.



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: JoAnn Herrigel, Community Services Director

Subject: Jefferson Street Boat Ramp

Date: August 30, 2004

Action Requested

Approve a resolution authorizing staff to pursue Emergency Maintenance Assistance funding, of \$10,000 or less, from the Oregon Marine Board for the repair of the Jefferson Street Boat Ramp.

Background

History

The Jefferson Street Boat is located west of McLoughlin Blvd at the western terminus of Jefferson Street in Milwaukie. The ramp and the parking facility associated with it are owned by the City of Milwaukie and maintained by the North Clackamas Parks and Recreation District under an intergovernmental agreement signed in 1992. The boat ramp property was purchased in 1970 with funds from the State of Oregon. The Boat Ramp has since been the focus of many grants from the Oregon Marine Board, the Oregon Department of Fish and Wildlife, the Oregon Division of State Lands and the Federal Land and Water Conservation Fund. The dates of these grants range from 1972 through 1983.

Construction

The boat ramp itself is an asphalt roadway that goes down toward the river and is extended past the low water line with concrete slabs. These concrete slabs create two "lanes" out into the water. These slabs create a "northern" and a "southern" lane. As the years pass, the gaps between the concrete slabs are widening, often allowing trailer tires to become stuck. Also, the northern and southern edges of the lanes are steep, abrupt and difficult to navigate for those unfamiliar with the ramp conditions.

Recent Incidents/City Actions

In July 2004, the City closed the boat ramp for three days pending investigation of two incidents that occurred at the boat ramp involving vehicles and attached boat trailers that slid into the river. Staff from the City of Milwaukie, the North Clackamas Parks and Recreation District and the Oregon Marine Board investigated the signage at the ramp, the striping of the pavement, the current water levels and the condition of the ramp and the slabs. Based on the results of these investigations the City took several immediate actions:

- Staff closed the southern lane of the ramp until the water level rises. It is felt that although the signage warns the public to use the northern lane during low water conditions, the public's interpretation of low water is not always accurate.
- The signage and pavement striping at the ramp was modified slightly to reflect the distance from the pavement to the end of the ramp.
- A sign was installed stating " Use Ramp at your Own Risk".

All actions taken were reviewed by the City Attorney before implementation.

Oregon Marine Board Assessment

In their report to the city regarding their assessment of the ramp, the Oregon Marine Board staff noted that the ramp "appears to be at or near the end of its useful life expectancy" and suggested that the City begin planning and budgeting for its replacement. They suggest in their letter that there are some things that could be done to extend the life of the existing ramp, including installing riprap at the end of the lanes to keep boats from dropping off the end or removing the concrete panels, rebuilding the panel connections and resetting them. They caution the City that this second option may be costly compared to complete replacement of the ramp.

Pros and Cons of Ramp replacement

The Oregon Marine Board has two types of funding available for use on boating facilities. Neither type requires a match from the City.

One type is Emergency Maintenance Assistance funding that can be used for facility repairs over and above normal maintenance work. City staff is currently working with the Parks District and the Marine Board staff to determine what level of funding and repairs might be completed with these funds. We have requested a permit for work to be completed during the next "in water work window."

The second type of funding is non-emergency funding that is awarded every two years, or, biennially. The sources of these funds are statewide motorboat registration and motorboat gas taxes. This funding can be used to enhance only those facilities used for motorized boats. Applications for the next cycle of funding for this grant program are due in March/April of 2005. The term of the grant agreement for these funds is 20 years during which the facility could not be removed or relocated without repayment to the Marine Board. A rough cost estimate for ramp improvement alone is at least \$100,000.

In 2000, the City adopted the Downtown Riverfront Plan that shows the Riverfront Park as an open space with no boat ramp. Boating advocates would point out that the absence of the boat ramp in this plan was billed as a “temporary” situation pending identification of an alternate location for the facility. Unfortunately, no alternate locations appear available and feasible for a similar facility anywhere near Milwaukie on the east side of the Willamette.

Among the issues presented by the deterioration of the Boat Ramp is the need to resolve the future of the Jefferson Street boat ramp, the associated parking lots, and the effort to create more green open space in the Riverfront Park.

It is clear that the City will, at some point, have to make a decision regarding the future of the boat ramp and its associated parking lot. The Riverfront Board has recommended that this decision be part of the larger public input process for the Riverfront Park plan. Staff has yet to identify a source of funding for completing the final Riverfront plan but is optimistic that when funds are identified the final design can be completed swiftly.

Boating advocates and the Oregon Marine Board encourage the City to take more immediate steps to replace the ramp and enhance parking for boaters and access to the facility. The Marine Board has provided the City with several concept drawings for redesign of the boat ramp area over the years and has offered their technical support toward final engineering designs for the facility. The Marine Board has stated that the replacement of the Jefferson Street boat ramp would be “an ideal candidate” for their biennial grant funding. Replacement of the Boat Ramp with Oregon Marine Board funds commits the City to a boat ramp in its current location for twenty years.

The City has several options and staff would like direction from Council on which course of action to pursue. Following are the options that staff has identified.

- Direct staff to apply for Oregon Marine Board funding in March/April 2005 to replace the Jefferson Street Boat Ramp. This option would obligate the City to keeping the boat ramp in place for twenty years.
- Direct staff to pursue Emergency Maintenance Assistance funding, of \$10,000 or less, from the Oregon Marine Board. No obligation to keep the boat ramp in place is attached to this option.
- Direct staff to take no action regarding repair or replacement of the boat ramp.
- Direct staff to close the boat ramp to remove all liability to the City. This option may incur some financial repayment (estimated at \$30,000 or so) to the Oregon Marine Board due to existing grant agreements.

At the August 17, 2004 work session, Council requested that staff draft a resolution authorizing staff to pursue Emergency Maintenance Assistance funding, of \$10,000 or less, from the Oregon Marine Board. This resolution is attached.

Council also asked that staff arrange for the Oregon Marine Board staff to attend a work session to discuss other funding options available to the City. Staff will contact the Oregon Marine Board to schedule this meeting.

Concurrence

The City Attorney encouraged staff to bring this issue before Council in order that Council might take "discretionary action".

Fiscal Impact

No matching funds would be required of the City if we were to pursue Emergency Maintenance Assistance funding. A payment of an in-water work permit fee will cost the City \$375.00. This permit is required before any construction work can be completed in the river.

Work Load Impacts

City staff from Community Services, Planning and Engineering would be involved in coordinating any ramp upgrades resulting from this resolution.

Alternatives

Do not approve the resolution authorizing staff to pursue Emergency Maintenance Assistance funding.

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE OREGON AUTHORIZING STAFF TO PURSUE EMERGENCY MAINTENANCE ASSISTANCE FUNDING, OF \$10,000 OR LESS, FROM THE OREGON MARINE BOARD FOR THE REPAIR OF THE JEFFERSON STREET BOAT RAMP.

WHEREAS the Jefferson Street boat ramp is at or near the end of its useful life expectancy, and

WHEREAS, the City Council wishes to keep the boat ramp safe for boaters and other water recreation users, and

WHEREAS, City Council has directed staff to keep the south side of the boat launch closed and keep the existing signage in place until such time as funds are available for repairs, and

WHEREAS the City wishes to work with the Oregon Marine Board to repair the existing facility to increase the safety of the facility consistent with available resources without committing the City to a 20 year obligation to maintain the facility in its current form and location,

WHEREAS, the City lacks the resources to fund improvements to the boat ramp and the City Council believes the best option to provide for safe operation of the boat ramp is to maintain current operations with the south side of the ramp closed and to pursue emergency maintenance assistance funding;

NOW, THEREFORE BE IT RESOLVED THAT COUNCIL AUTHORIZES STAFF TO PURSUE EMERGENCY MAINTENANCE ASSISTANCE FUNDING FROM THE OREGON MARINE BOARD FOR THE REPAIR OF THE JEFFERSON STREET BOAT RAMP AND DIRECTS STAFF TO MAINTAIN CURRENT OPERATIONS AND SIGNAGE PENDING THE EMERGENCY MAINTENANCE ASSISTANCE FUNDING.

Introduced and adopted by Council on _____.

This resolution is effective on _____.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:

Pat DuVal, City Recorder

Ramis, Crew, Corrigan & Bachrach, LLP



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: JoAnn Herrigel

Subject: Agreement with Clackamas Cable Access Board

Date: August 20, 2004

Action Requested

Authorize the City Manager to sign a personal services agreement with the Clackamas Cable Access Board (CCAB) to manage and operate Milwaukie's Public and Government Access programs. Provide staff with input as to which Public Access program option, proposed by the CCAB, Council prefers.

Background

The City of Milwaukie has had a Public access program and studio for over twenty years. Public access programming can be produced by anyone who lives or works in Milwaukie and program content is unrestricted except by law. The Milwaukie Public Access station at Lake Rd. has been operated by the CCAB (which does business as Willamette Falls TV) since January 2003. The term of their current contract expires on September 30, 2004.

The Government Access program, or the production and broadcast of City Council and other City meetings, is currently operated by Richard Beck of Videobeck under a City purchase order. In addition to Council meetings, government access programming includes a video bulletin board, maintained by City staff, which posts public notices and other information.

In July 2004 Milwaukie staff advertised a request for proposals (RFP) for an operator (or operators) for both the Public and Government access programs. The RFP allowed respondents to bid on operation of either the public or the

government access programs, or both, if they chose. The RFP stated that the term of these responsibilities would terminate on June 30, 2005 with the possibility of being extended for one-year terms up to five years in succession, ending June 30, 2010.

By the deadline of August 6, three submittals were received. Two proposals bid on operating only the Public access program and the third bid on operating both the Government and Public access programs. These three proposals were reviewed by a group of three staff people and one city resident. This review committee determined that, of the three proposals received, the one which bid on both the public and government access programs was the most complete and provided the best options for the City. This proposal was submitted by the Clackamas Cable Access Board.

Based on the input from the review group, staff is recommending that Council authorize the City Manager to sign a Personal Services Agreement with the CCAB for operation of both the public and government access programs. Under CCAB operation, the Government access program would operate veritably the same way as it does now but would benefit from 24 hour monitoring by CCAB staff at their Oregon City site. (Currently, the Government channel is monitored only by viewers and troubleshooting is done only when viewers call in).

The CCAB proposal provided two options for the operation of the public access program. Following are brief descriptions of each:

- 1) The CCAB would continue to run the Lake Rd facility just as they do now, with CCAB staff placed at the facility 20 hours a week. The Lake Rd facility is owned by the Fire District and is used by the City at no rent in exchange for 30 hours a month of videography support. CCAB staff would continue to provide support to the Fire District staff to meet the City's commitment.
- 2) The City would close the Lake Rd facility and the CCAB would provide services to Milwaukie users at the CCAB's facility in Oregon City. This option also includes an offer to establish "equipment check out" services at one or two sites in Milwaukie (the Library and the Senior Center are suggested).

The CCAB's second option is motivated by the fact that the Lake Rd facility currently gets very little use. Attempts to increase the number of users have been unsuccessful. What the Lake Rd facility needs is a wildly enthusiastic over-achiever with great technical and administrative skills. Unfortunately, the current funding available for a studio operator drastically narrows the pool of suitable respondents to RFPs such as this.

By closing the Lake Rd facility the City would:

- Save \$3,000 a year on utilities at the facility
- Save \$5,000 a year in office supplies
- Save \$3,000 a year paid to the Fire District toward emergency capital expenses, like roof repair
- Be released from its commitment to the Fire District for videography support (note: the District has moved its headquarters to Oregon City and mostly uses that facility now, anyway)

The downside of closing the facility, of course, is that once it's gone, it's gone.

If Council concurs with the recommendation that the city contract with the CCAB for operation of both the Government and Public access programs, staff would request Council's guidance on which option to pursue with respect to Public access program operation.

Concurrence

This agreement has been reviewed by the City attorney and the City Manager. The Budget Committee approved the budget for the Public access studio and forwarded it to Council assuming the CCCAB would operate the facility for up to \$30,000 and that at least \$10,000 would be expended for the Government access program in fiscal year 2004-05.

Fiscal Impact

The current fiscal year budget contains adequate funding to operate the Lake Rd facility for this fiscal year at the proposed hours and to operate the Government Channel at \$10,000 for the year. Option #2 above would save the City at least \$11,000.

Work Load Impacts

None

Alternatives

Deny the City Manager authority to sign an intergovernmental agreement with the CCAB and request that staff reject all proposals for the recent RFP and advertise the RFP again.

Clackamas Cable Access Board
proposal for
Management and Operation of Milwaukie Public
Access Studio Facility and Equipment

Part I - Description of Organization: Clackamas Cable Access Board (CCAB) is an intergovernmental agreement between the cities of West Linn and Oregon City. CCAB was formed in 1984 for the purpose of pooling resources to operate a Public Access television studio serving the three cities. We also provide service to residents of unincorporated Clackamas County under a flat fee service agreement. We have operated the Milwaukie public access program for the last year. Due to some confusion between the Clackamas area and the fact that we served only the member cities, the CCAB does business and operates our studio as Willamette Falls Television (WFTV) Our studio is located at 709 Main Street, Oregon City.

WFTV has a two camera studio, three tape-to-tape cuts only editing suites, an A-B roll tape-to-tape editing suite with a Trinity video system, a dpsVelocity professional grade digital editing machine, and two AVIO digital editing machines. We added a Final Cut Pro editing system in the last year. Our studio control room can also be used as an A-B roll editing suite. All of our tape-to-tape suites are S-VHS or VHS, and are equipped with tape decks that can feed mini-DV, DV, or DVCAM tapes into the editing machines. Free classes are provided on all equipment.

Checkout equipment includes Panasonic AG-450 and AG-456 S-VHS camcorders, Sony DSR-PDX10 mini-DV camcorders, plus various support equipment such as microphones, tripods, camera platforms, lights, and monitors. We also have a portable production switcher with built in monitors, VCR's, an audio preamp, and a Panasonic MX-50 switcher. We originate programming for three channels, with partial control on two others. Programming is controlled by a Leightronix TCD/IP controller via a Knox Chameleon 64x8 routing switcher. We have capacity on this system to originate Milwaukie's programming.

The CCAB consists of two members from each city, plus one member selected by the Board who may live anywhere in Clackamas County. The Board meets on the second Monday of each month at WFTV. Clackamas County has a representative who attends the meetings and can voice

opinions and concerns, but does not have a vote. The Board sets policy, and does much of the direct management of the facility. Paid employees include the Studio Manager, Melody Ashford, a Studio Engineer, an Administrative Assistant, Studio Assistant, and a Production Assistant. The Engineer and Assistants report to the Studio Manager, who reports to the Board via Personnel officer Marvin Fourier. Bookkeeping is contracted to US Bookkeeping, and annual audits are performed in accordance with state law.

Part II - System Concept and Solution: CCAB proposes that Milwaukie Cable Access continue as a sub-studio of Willamette Falls Television, known as WFTV-Milwaukie. We propose operating with the existing equipment. The studio on Lake road is currently open from noon to 8pm Monday and Tuesday, and from 5pm to 9pm Wednesday and Friday. Two employees split the hours. The employees are responsible for keeping the facility clean. The employees who provide this service also work at WFTV Oregon City, allowing for good communication. These employees report to the WFTV Studio Manager. Engineering services are supplied by the WFTV Studio Engineer, with an additional 100 hours per year budgeted over his current hours.

The operating rules are the same as that of the WFTV-Oregon City studio (see attached), with the mission being to provide training and equipment for the users to create their own shows. Milwaukie residents can use the Milwaukie or Oregon City studios, and check out equipment from either facility. WFTV users from either facility are eligible to use the other, so that Clackamas County users who live close to Milwaukie can use that facility instead of Oregon City.

Publicity and outreach for the two studios are partially combined. Information on the Milwaukie studio is on our Web site, and information is included in our newsletter. We do regular items for City newsletters, and do visits to schools, senior centers, and community organizations. An additional 4 hours per week is in the WFTV-Milwaukie budget to allow for Milwaukie specific activity, to be scheduled at the discretion of the City and the WFTV-Milwaukie operator.

Part III – Program: CCAB offers two proposals for the Public Access, both of which are possible with existing funds:

Public Access Alternative 1 (Existing program)

CCAB will provide employees to keep the Lake Road facility open on a half time basis. These employees will assist users, schedule and accomplish playback of programming, clean the facility, and assist the fire department as needed during the open hours of the facility. The employees may, as time allows, teach classes in using the equipment at the facility. The employees have four hours per week that can be scheduled as needed for outreach activities. The employees will schedule use of the facility, and keep detailed records of usage and programming. The employees will notify the Engineer if anything needs repair. The employees will evaluate the needs of the Lake Road facility, and research and propose needed capital expenditures. The employees will attend CCAB meetings on the second Monday of each month to keep the board apprised of the Milwaukie operations. Minutes of all Board meetings, plus quarterly reports of programming, training, programs submitted, and hours of equipment usage will be provided to the City along with the annual audit report.

Milwaukie users, including Fire District 1, have full privileges at WFTV-Oregon City. They may use the facilities during normal hours of operation, which vary, with days and hours reduced during the summer due to lack of demand. The Fire Department has moved its headquarters to Oregon City, and mostly uses that facility.

Public Access Alternative Program 2

Milwaukie's studio is still getting very little use, and probably does not justify the cost of keeping it open. WFTV therefore proposes the following:

1. Close the studio building at Fire District One on Lake Road
2. Set up Avio editing systems at Ledding Library and Milwaukie Senior Center. Regular hours at each site will be established for WFTV personnel to lend assistance.
3. Move equipment checkout functions to WFTV Oregon City. Users may make appointments to pick up the gear at the above sites from our employee.
4. Move playback function to either WFTV Oregon City or Milwaukie City Hall. Our employees would still do programming.
5. Use employee hours to assist producers in the field, do PSA productions, etc. Employees will help producers until they become competent, but will not do the whole program for them.
6. Existing studio equipment may be possibly used to create or enhance a program opportunity at the Middle School. Classes will be scheduled at the Milwaukie locations as needed.

Benefits to Milwaukie:

- ❖ Relieves the City of rent and obligation to FD1.
- ❖ Goes where the people are.
- ❖ Boost utilization of their equipment.
- ❖ Better outreach to population.

Benefits to WFTV:

- ❖ Frees our employees from obligations to FD1.
- ❖ More checkout gear available at WFTV OC.

Elements of both programs can be combined at the discretion of the Milwaukie Cable Access Board as long as the number of employee hours does not exceed 24 hours per week for the operating personnel.

Government Access

CCAB will provide videographers for up to three meetings per month. CCAB employees will coordinate the playback schedule, operate the system, and have a list of employees available to call for dealing with playback errors.

CCAB is planning a major upgrade of our program transmission system to digital fiber optic equipment this year, using capitol funds from Oregon City that have just become available. CCAB has sufficient capacity to originate all Milwaukie programming from our Oregon City facility, should the City so desire. If the City wishes to upgrade its existing gear, our Engineer will assist in the selection and installation of equipment.

Part IV – Program Management Structure: The WFTV Studio Manager will be in overall charge of the operation of both studios. The employee will attend CCAB meetings on the second Monday of each month to keep the board informed about Milwaukie operations.

The Facil management software in use at WFTV will be linked to the Milwaukie studio. All reservations and programming schedules will be done using Facil. This will allow timely reports on usage and programming to be produced. CCAB will provide the software for this system.

Part V – Prior Experience: The CCAB has operated a public access studio in Oregon City for 20 years. Three of the current Board members have been on the board for over 10 years. Melody Ashford has managed WFTV for 8 years, and was in another position with WFTV prior to that for a total of 14 years. She also has an independent video production company. Our Studio Engineer, Steve Johnson, has a degree in Television Technology, and was the engineer for the Clackamas Community College A/V department from the time he graduated until he retired in 2002. He also ran the TCI Cable access system for over 10 years.

The senior person assigned to operate the Milwaukie studio, Studio Assistant Steve Tarantola, has extensive experience in video production, winning awards for some of his work for Clackamas County. The other person assigned, Carl Jacob, is our Production Assistant. His primary duties are janitorial, and he is an Access producer himself. Our Administrative Assistant, Deb Graham, has been with the CCAB for several years, has been to training on the Facit system, and is an excellent Powerpoint slide composer.

Part VI – Authorized Negotiator :

Marvin Fourier, Board Treasurer,
709 Main Street, Oregon City, OR 97045
email: marvfour@comcast.net cell: 503-784-0810

Part VII – Budget:

PROGRAM AREA	MONTHLY AMOUNT	BUDGET AMOUNT
Public Access Operation	\$2,500/mo (\$30K/yr)	\$22,500 for 9 months
Government Access Operation	\$833/mo	\$7,500 for 9 months
Total to operate October 1, 2004 to June 30, 2005		\$30,000

** Office supplies and utilities paid directly by City of Milwaukie

This proposal is valid and binding on Clackamas Cable Access Board for 90 days from the date of submission.

Marvin W. Fourier, authorized negotiator, Clackamas Cable Access Board



To: Mayor and City Council

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

From: Jeffrey King, Project Manager

Subject: Authorization and Resolution to Submit a Transportation Enhancement Program Grant Application

Date: August 23, 2004 for September 7, 2004 meeting

Action Requested

- A) Staff is requesting authorization to proceed with a grant application for the Transportation Enhancement Program to the Oregon Department of Transportation (ODOT) for downtown streetscape and sidewalk improvements on Main St. between Jackson St. and the Electra Credit Union building and Harrison Street from McLouglin Blvd. to 21st Street. Improvements follow standards set out in Milwaukie Downtown and Riverfront Plan-Public Use Requirements.
- B) Council is requested to adopt a resolution in support of Milwaukie's Transportation Enhancement Program grant application and City matching funds.

Background

The Transportation Enhancement program provides federal highway funds for projects that strengthen the "cultural, aesthetic, or environmental value of the transportation system". The program is administered by ODOT. Applications are due September 10, 2004 for projects to be constructed in the 2007-2008 time period.

To be eligible the project must fit into one of twelve “transportation enhancement activities”. The Downtown Pedestrian Enhancement project falls into the “Bicycle and Pedestrian Facilities” category.

The proposed project will result in sidewalk, bike lane, and streetscape enhancements on a portion of the east side of Main St. and both sides of Harrison St. between McLoughlin Blvd. and 21st Street. This grant project provides several benefits to the City. First, it will complete an important link between the McLoughlin Blvd. improvements and the North Main project, which includes new sidewalks and streetscape design around the project and in front of City Hall. Pedestrians and bicyclists will find a safe and attractive route from the Ledding Library and the North Main project to City Hall and the downtown area to McLoughlin Blvd. and onto the Riverfront Park. Secondly, the improvements will improve safety, lighting, and appearance. This will provide more efficient transportation mobility and circulation. Third, the north part of the downtown will be revitalized. Projects like Electra Credit Union, North Main, ODS, Windhorse Coffee, and the linked sidewalk and streetscape improvements will restore appearance leading to increased interest and activity in the area. It will send an important message to other developers and entrepreneurs to further invest and pursue redevelopment in the downtown. Lastly, it will give the City the ability to continue implementing street design standards that were detailed in the Milwaukie Downtown and Riverfront Plan-Public Area Requirements.

The Downtown Pedestrian Enhancement project will consist of new scored sidewalks, curb extensions/bump-outs, highlighted intersection crossings, handicap ramps, planting beds, bike lanes, ornamental lighting fixtures, canopy trees, and street furniture. The grant application is for \$650,000.

Concurrence

Community Development, Planning, and Engineering Departments support proceeding with the application for the Downtown Pedestrian Enhancement project.

Fiscal Impact

Total cost for the Downtown Pedestrian Enhancement Project is estimated at \$650,000. Federal Funds can provide up to approximately ninety-percent (89.73%) of the project, while the City is required to provide a local match of approximately ten percent (10.27%). Based on this, staff estimates that the total city match for the Main Street Enhancement project will be approximately \$67,000. If approved, the City must provide this match. City match funds do not need to be set-aside until the project begins in 2007. The likely funding source is from the State Gas Tax Fund. The Traffic Enhancement Grant Program works on a reimbursement process for payment of the federal share. It is possible that the grant match could be provided over a two fiscal-year period.

Work Load Impacts

A staff team from the Engineering and Community Development Departments will complete the application and participate in the public involvement process. The project is part of the work program for both departments.

Alternatives

The Council has the following alternatives:

- Endorse this project.
- Endorse this project with changes.
- Do not proceed with the application for Downtown Pedestrian Enhancement.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, SUPPORTING A REQUEST FOR FUNDS TO THE OREGON DEPARTMENT OF TRANSPORTATION UNDER THE TRANSPORTATION ENHANCEMENT 2007-2008 PROGRAM FOR CERTAIN SIDEWALK AND STREETScape IMPROVEMENTS IN THE DOWNTOWN.

WHEREAS, The project will improve and enhance pedestrian and bicycle transportation access and circulation; and

WHEREAS, The project supports the on-going redevelopment and revitalization of the downtown and is part of the Milwaukie Downtown and Riverfront Pla; and

WHEREAS, The project enhances community pride, attractiveness, safety and livability;

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

Endorses the Downtown Pedestrian Enhancement Project application for 2007-2008 Transportation Enhancement Funds, authorizing staff to submit the application and provide a City match of 10.27% to the project if awarded.

Introduced and adopted by the City Council on September 7, 2004.

This resolution is effective on September 8, 2004.

James Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

City Attorney



To: Mayor and City Council

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

From: Jeffrey King, Project Manager

Subject: Approval of Special Public Works Fund Loan Application for public right-of-way infrastructure improvements related to the North Main Redevelopment Project and City Hall

Date: August 23, 2004 for September 7, 2004 meeting

Action Requested

Authorize the Mayor to sign a \$738,000 loan application for public right-of-way sidewalk, traffic and streetscape improvements to support the North Main Redevelopment Project. The application will be made to the Oregon Economic and Community Development Department under the Special Public Works Fund (SPWF).

Background

City staff is working in partnership with Main St. Partners, LLC to develop a mixed-use project on the former Safeway site. Current plans for the North Main Redevelopment Project call for 97 residential units and 9,500 square feet of retail/commercial space. Thirty-three of the residential units will be "for sale" units. Design, site and code amendment issues are now being refined. The project team is progressing with the design. The overall project is expected to be considered by the Planning Commission in late fall. .

Private costs for the project are approximately \$13.5 million. Rents and home sale prices realized are lower in Milwaukie than much of the Portland metro area and the costs for mixed-use design are higher than standard projects. Because of this situation, the project continues to have a financial shortfall or "gap". In

order to see the project built and ensure a quality design, the City has been asked to participate in the project financially. One method that is commonly used in many similar projects is to pay for street infrastructure improvements. Staff is proposing that the City participate by paying for sidewalk and streetscape improvements, and the new 21st Street extension. The boundary of the sidewalk and streetscape improvements would include Main St. from the north property line of the North Main Redevelopment Project to the front of City Hall, ending at Jackson Street, and on the north side of Harrison Street from Main Street to the new 21st Street extension. Improvements include new scored concrete sidewalk, curbs, handicap ramps, curb bump-outs, canopy trees, period lighting, crosswalk highlighting treatments, bus pads, planting beds and furniture such as bike racks, benches, and trash barrels. Safety improvements such as a roundabout, median islands or teardrop islands would be installed at the intersection of 21st Street and Harrison to slow traffic and assist pedestrian crossing for library patrons and new residents of the project. The improvements would follow the public area requirements design that is part of the Milwaukie Downtown and Riverfront Plan.

Funds for the construction of the 21st Street extension would be paid by transportation SDCs. Staff is proposing that the funds for the sidewalk and streetscape improvements come from a Special Public Works Fund (SPWF) loan from the Oregon Economic and Community Development (OECDD) Department. Elements of the loan include:

- 20-year term
- 4.5 –5.5% interest rate
- Payments will be approximately \$56,000-\$58,000 a year.
-

If approved, a loan award would be made in approximately two months. At that time, the City can incur some expenses such as engineering costs. Three to four months later in the spring of 2005, a contract would be forwarded to the City. At that time a public hearing would be held and the City would be obligated for the loan. Funds would then be available for the anticipated project construction period beginning June 2005. Funds would then be available to coincide with the North Main groundbreaking in June 2005.

Concurrence

Community Development, Planning, Engineering and the City Manager have been consulted and concur with the infrastructure improvements project and funding application.

Fiscal Impact

The SPWF loan will be repayable over a 20-year term with an interest rate between 4.75% and 5.5%. Annual payments will be between \$56,000 and \$58,000. The City is not yet committing to these payments but would obligate funding for this project at a later time if the loan application is approved.

Work Load Impacts

Existing staff in the Community Development, Engineering and Finance Departments will manage this project. Staff will contract for engineering and design and construction.

Alternatives

The Council has the following alternatives:

- Approve the loan application.
- Approve the loan application for a different amount.
- Decide not to proceed with the loan application.

**North Clackamas Parks and Recreation District
Milwaukie Center/Community Advisory Board
Minutes of July 9, 2004**

Members present: Kim Buchholz, Jim McCready, Sharon Phillips, Eleanor Johnson, Joan Newman, Jane Hanno, Joan Staley, Katie Rudfelt, Ben Tabler, Chuck Petersen, Abi Croisant, Molly Hanthorn

Guest Present: Kathi Schroeder submitted her application to join the Board. She currently volunteers for Meals on Wheels and wants to be more involved.

Staff Present: Joan Young, Cheryl Nally and Charlie Ciecko

Call to Order: Kim called the meeting to order at 10:01 am. Jim moved and Sharon seconded a motion to approve the minutes as printed.

Correspondence: None.

Special Topic/Discussion: Joan Young presented Fee and Cost of services study and a breakdown of indirect program costs. She answered questions and led a discussion of how this study was done and how it will be used. The Center is unique because we receive Older Americans Act funds and cannot assess fees for certain services and only request donations. Our classes are 97% under contract with Clackamas Community College with their board setting the fees and the College paying ½ the wages for instructors. Jane mentioned the feeling among some clients that cuts in programs and services were punitive. We have an ongoing need to educate people about the costs or providing services. Chuck commented that communication is vital. The Board thanked Joan Young for her hard work on this project. Charlie mentioned that this type of study could have been done by a consultant but that Joan and Jason developed this, saved the district a lot of money and provided a useful tool for future planning.

Board/Committee Reports

Executive Committee: Did not meet.

NCPRD Board: Eleanor shared a flyer on summer walks on the Trolley Trail. Charlie has been named Parks District Director (he is no longer “interim”). An extension of Sunnybrook Road near the Aquatic Park was discussed. The third quarter Financial report showed everything on track. There will be a public meeting on the development of North Clackamas Park on August 12 at Milwaukie Center at 6 pm. Board members are urged to attend.

Aquatic Park Task Force: Molly reported that the group was brainstorming and gathering information in preparation for the public meeting on July 21 at 6:30 pm at the Milwaukie Center.

Budget & Finance: Did not meet.

Programs and Services: No meeting.

Nutrition & Transportation: Did not meet.

Building Review: Jim reported we have refinished outdoor benches courtesy of an Eagle Scout project.

Friends of the Milwaukie Center: Eleanor reported on the upcoming Golf Tournament on August 6. This is the Children's course and is co-sponsored by Riverbend Youth. Guardians have been found for most of the rose beds. Concerts will be Sundays in September.

Center Report: Joan Y reported that the Pietro's coupons had a good response. We need more Board members from Milwaukie. The state restored some Oregon Project Independence funds for Meals on Wheels which will be helpful. The Center's Diabetes "self help" group, "Healthy Changes", had a site visit from the National Council on Aging. This is one of six models nationwide and was well received by the visiting group.

Sharon Phillips shared information on the upcoming Milwaukie Riverfest, July 24-26.

Agenda for next meeting: Discussion of the plan for North Clackamas Park development.

Meeting adjourned at 11:20 am.

m. hanthorn, secretary