

MINUTES

MILWAUKIE CITY COUNCIL DECEMBER 21, 2004

CALL TO ORDER

Mayor Bernard called the 1948th meeting of the Milwaukie City Council to order at 6:35 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
Dom Colletta,
City Attorney
Alice Rouyer,
Community Development/
Public Works Director

Larry Kanzler,
Police Chief
Grady Wheeler,
Information Specialist
Paul Shirey,
Engineering Director

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Centers Implementation Program

Metro Councilor Brian Newman began by expressing his appreciation to Councilor Lancaster for his term on the Milwaukie City Council. Mr. Newman noted that during his term on the Milwaukie City Council, the group worked on two related issues: jump-starting private development in the downtown and balancing the books annually to do more with less. When he was elected to the Metro Council, he was excited to discover there was a transit-oriented development program that provided financial assistance to catalyst projects to encourage private develop through public investment. The problem was that the program was limited to development around light rail stations, so only a limited number of communities qualified. Mr. Newman discussed the Centers Implementation Program that broadened Metro's financial involvement in places like downtown Milwaukie.

Metro received \$1 million in flexible transportation funds to distribute, and Milwaukie's North Main Project was the first to qualify for what he hoped would be the downtown catalyst project. Metro referred to this as the Milwaukie Model because the organization had learned a lot about creating development where there was no market. This project stood out because the City owned the site and could negotiate directly with the private developer and partner with Metro to get the project built. Milwaukie used all development tools at its disposal including state and affordable housing funds. Thomas Kemper was an enlightened developer who was willing to take a risk. Milwaukie had a

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first-rate staff, and the City Council stood by its vision to get the project implemented. All of those pieces came together in the North Main Project.

Mr. Newman delivered a check in the amount of \$455,000 from the Centers Implementation Program of which about \$430,000 was for the actual development project and \$25,000 for the rain garden which was an on-site green development practice that would be a model for treating surface runoff. Metro wanted Milwaukie to succeed and that was one reason it spent \$4 million on the Springwater Bridge Project that would link the Ardenwald and Sellwood Neighborhoods and close the gap in the trail. Metro invested \$4 million in state funds on the McLoughlin Boulevard Redevelopment Project to reconnect the downtown to its riverfront. Metro was also working with Mr. Swanson and Congressman Blumenauer to get a federal appropriation for the Lake Road Reconstruction Project. Metro was doing everything it could to be a true partner with Milwaukie.

Councilor Lancaster expressed his appreciation to Mr. Newman for his hard work in bringing this to the City of Milwaukie. This was a huge first step.

Service Award to Councilor Lancaster

Mayor Bernard presented Councilor Lancaster with a plaque expressing the City's appreciation for his six years of service on the Milwaukie City Council. He hoped that Councilor Lancaster's legacy would live on as the City Council continued its work.

Advisory Board Interviews

The City Council interviewed **Dick Newman** for the Planning Commission, **Cheryl Ausmann-Moreno** for the Public Safety Advisory Committee Ardenwald representative, and **Randall Welch** for the Planning Commission and Design and Landmarks Committee.

CONSENT AGENDA

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

- A. The City Council Minutes of December 7, 2004;
- B. Modify Consulting Contract for Stormwater Master Plan and Rate Study;
and
- C. Resolution No. 39-2004: A Resolution Requesting the Transfer of Jurisdiction by the Clackamas County Board of Commissioners of a Portion of Johnson Creek Boulevard, (L.W. Derry Road #964) to the City of Milwaukie.

Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION – None.

PUBLIC HEARING

Sale of Surplus Property -- Resolution

Mayor Bernard called the public hearing on the proposed sale of surplus property to order at 7:03 p.m.

The purpose of the hearing was to consider public comment on declaring the property located at 12125 SE 21ST Avenue surplus, selling it as two separate lots, and setting minimum terms for the sale.

No members of Council declared any conflicts of interest or ex parte contacts. There were no jurisdictional issues or challenges.

Staff Report: **Mr. Somers** requested that the City Council approve the resolution declaring this property surplus and briefly reviewed its history.

Councilor Lancaster stated there was discussion in the past about demolishing the structure and asked the estimated cost.

Mr. Somers recalled the cost was between \$6,000 and \$8,000.

Correspondence: None.

Public Testimony: None.

Questions from Council: **Councilor Lancaster** asked how the value of the property would be impacted if the structure was demolished.

Mr. Somers responded when the property was first up for sale about one year ago, the lots were appraised at approximately \$50,000 each. The property with the house was appraised at less because of the demolition. The current appraisal valued the lot with the house at \$150,000 and the empty lot at \$60,000. Many people in the Neighborhood saw something good with keeping the house, and there were numerous conversations with the Island Station Neighborhood Association.

Mayor Bernard closed the public testimony portion of the hearing at 7:08 pm.

Council Discussion: **Councilor Lancaster** asked those questions because there were many discussions around the history of that property and elements of the litigation that created the discussion about the demolition. This was the first time he had heard the Neighborhood desired to keep the structure. The dollar amount of the diminished value was fairly significant. He understood from earlier discussions that demolition would bring closure to the history of the property, and he was leaning that way.

Mayor Bernard was also leaning in that direction because of past discussions. He did not know how the new owner would be made aware of potential issues that might arise in the future.

Mr. Swanson said the last time the property was declared surplus and offered up for sale, demolition was one of the terms of the sale. At that time, staff had talked with the Neighborhood Association, and with the events fresh in their minds, the people at the meeting were very interested in having the house demolished and starting anew. In the last effort, once the successful bidder entered into discussions with the City, he decided

he did not want to demolish the house although it was an explicit requirement of the sale. Because of that and a number of other reasons, the sale did not go through. Mr. Somers recently met with the Neighborhood Association, and Island Station Chair Lisa Batey was present if the City Council wanted a better idea of how the residents were feeling.

Lisa Batey, 11912 SE 19th Avenue, Island Station Neighborhood District Association Chair, responded to Council questions.

Councilor Lancaster asked if she and the Neighborhood felt they had a full understanding of the history of the property.

Ms. Batey had moved to the Neighborhood after the time the City took possession of the property. She has been active in the Neighborhood Association for 2-1/2 years and has heard this issue discussed several times since the first sale about 2 years ago. At the time of the previous events, there was concern about residue of drug activity and other things in the house. Since then, the Neighborhood was told that it was cleared up and environmental issues were resolved. Although the house was somewhat dilapidated, some people interested in the property were considering renovation. The Neighborhood revisited that question a couple of times over the past year, and there was no one in the Association actively pushing for demolition of the house at this point.

Councilor Lancaster directed his remarks to the city manager and counsel. He asked, given the other elements that were part of the litigation but not subject to public involvement, to what degree would the City have the ability to make those elements known.

Mr. Colletta was not directly involved in those discussions. He was involved in the original negotiations for the acquisition of the property and assisted the City with most of its property transactions. He could probably answer specific questions, but he was not present at the City Council discussions.

Mr. Swanson responded to a couple of issues. One was that he did not think the presence or non-presence of the house would make any difference in terms of the former residents. The first time he felt good about recommending demolition because there was a great deal of emotion in the Neighborhood about that property. The City just wanted to do what the Neighborhood Association wanted it to do. Initially, the City had some concerns about the possibility of more meth lab paraphernalia, but that did not bear out. There was a lot of oil and trash but not the kind of things that would make the City recommend demolition for safety or health reasons. Someone would certainly have a big cleanup job, however. At this point, he was comfortable in recommending that the house stand if that was the Neighborhood's desire. The City always tried to be sensitive because of the difficult times the Neighborhood went through. There was always the concern that the folks would come back, but he did not think the house or its non-presence would motivate them.

Mr. Colletta was familiar with the litigation that was filed with regard to the matter. Certainly the presence or absence of the house would not have affected it. It was strictly litigation based on allegations of acquisition of title that were, candidly, entirely without merit. The courts ultimately decided. An appeal was filed from that, but it was

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also determined in the City's favor. The City clearly had ownership of the property. One of the City's charges was to obtain the highest and best value for surplus property. Based on Mr. Somers' report, it would appear that now the property would have a higher valuation with the house present than without. That was a factor mitigating in favor of selling it in that manner. During the original round of negotiations, the one bidder on the house, despite the fact that the bid specifications were quite clear that the successful bidder would have to demolish the property, did not want to do it. He felt there was value in the property. There were a number of reasons why the City Council might wish to sell the property with the house in place. The City would have to make appropriate disclaimers and give people the opportunity to inspect the property and sell it on an unequivocal "as-is" basis. If the City did that and someone was interested in rehabilitating the property, then the City may actually gain more value.

Mr. Swanson added the party who filed the lawsuits was not the original owner. The owner, by quitclaim deed, deeded the property to Mr. Wiedner who filed a lot of litigation. The original owner was longer removed than the recent lawsuits. The chance was there, but the Milwaukie Police Department was well aware of the earlier problems and would respond if anything happened. He felt comfortable now in recommending the City let the house remain, and a great part of that had to do with the wishes of the Neighborhood.

Councilor Stone said certainly if the surplus value were significantly more with the house, she would like to see the City recoup that. If demolishing the house was the reason the deal fell through in the first place, did the original potential buyer have any legal recourse?

Mr. Colletta said the bidder had absolutely no recourse. He failed to perform the contract, which was very explicit that demolition was required. There were also performance timelines that were not met. There was no possibility that person could claim he had contracts or rights.

Mr. Somers reported that staff recently completed a lot line adjustment. The house extended 5 feet into the next lot, so the lot line was adjusted 10 feet to the north. Now it met setback requirements, so there were two legal lots. One had a house on it, and one did not. Both were 6,000 – 6,500 square feet and complied with zoning designations in that area.

Councilor Loomis supported the staff recommendation. The City would realize more money, the Neighborhood was in support, and there seemed to be no legal recourse for the earlier bidder.

It was moved by Councilor Barnes and seconded by Councilor Loomis to approve the resolution declaring the property located at 12125 SE 21st Avenue as surplus, authorizing the sale of the property as two separate lots, and setting minimum terms for the sale. Motion passed unanimously. [5:0]

RESOLUTION NO. 40-2004:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DELCARING PROPERTY LOCATED AT 12125 SE 21ST AVENUE TO BE SURPLUS, DIRECTING THE SALE OF THE PROPERTY, AND DETERMINING MINIMUM ACCEPTABLE TERMS.

OTHER BUSINESS**A. Agreement between City and Milwaukie Pioneer Cemetery Association Regarding the Leona Knutson Trust Fund**

Mr. Swanson cited two important facts. The Pioneer Cemetery was now under the control of the trustees as desired by the original grantors in 1864. The Cemetery was not being managed by either the Parks District or the District but rather by the Board of Trustees. The Board consisted of Dolly Macken-Hambright, Mark Neubauer, Madalaine Bohl, and Jim Wiley. There was one minor complicating matter after going through the steps necessary to get the Cemetery back under the grantor's original intent. In 1995, the City was left a bequest of \$36,795 from the Estate of Leona Knutson specifically for the care and upkeep of the Milwaukie Pioneer Cemetery. The City had administered that fund continuously since 1995, and tried to maintain the principal and distributed what it could above that amount to the City or Parks District. A lot of work was done to bring the Pioneer Cemetery under the control of the trustees, but the City still had the trust. He asked the city attorney if it could be assigned to the trustees, but there was a risk of opening the trust and losing it. The City chose instead to develop an agreement that would give the trustees a great deal of power in influencing the City's administration of the trust. The only use of the money would be direct costs for care and upkeep. Expenditures of the trust funds would only be by a majority of the vote of the duly appointed trustees, and the City would pay them. The Association had sole discretion to determine on what projects the funds would be spent. The City retained, because it was the trustee, the right to refuse payment if the requested expenditure was not for, as Ms. Knutson required, the care and upkeep of the Milwaukie Pioneer Cemetery. This was an attempt to put the trustees in the driver's seat, but the City was still in the role of trustee vis-à-vis the Knutson Trust.

It was moved by Councilor Stone and seconded by Councilor Loomis to authorize the Mayor to sign an agreement between the City and the Milwaukie Pioneer Cemetery Association regarding the Leona Knutson Trust Fund. Motion passed unanimously. [5:0]

B. Predevelopment Loan for North Main Redevelopment Project -- Resolution

Ms. Rouyer sought authorization for the city manager to execute documents on behalf of the City to enter into a predevelopment loan on the North Main Street Project. Secondly, she requested the City Council approve a resolution authorizing the City to receive and spend predevelopment loan proceeds. Mr. Kemper, the North Main Project developer, was looking to receive favorable terms from the state as part of a predevelopment loan program. He would receive approximately \$500,000 to cover

predevelopment costs such as those associated with design. This loan would be paid off not later than July 2005 at which time Mr. Kemper would take out the construction loan.

Mr. Colletta explained the City would be taking the second trust deed against an office building in Vancouver that was offered as collateral along with an assignment of rights to the developer fees payable under the agreement the developer had with the Housing Authority of Vancouver. The total value of the collateral was significantly in excess of \$500,000. The developer fees were payable over years, and even at a 20% of reduction for present value, Mr. Colletta thought it would be more than ample. This was a very short-term loan. The City had some assurances from the state that led him to the conclusion that there was little likelihood of the City's suffering an actual loss in this situation. From legal and business standpoints, there was minimal risk for the City. There was substantial benefit to the developer that would allow the project to proceed. The loan was being structured so that it would be paid off as soon as the developer look out his construction loan. Based on the agreed upon milestones, the construction loan should take place not later than July 2005.

It was moved by Councilor Loomis and seconded by Councilor Barnes to the authorize the city manager to sign a predevelopment loan agreement with Main Street Partners, LLC for the North Main Redevelopment Project. Motion passed unanimously. [5:0]

It was moved by Councilor Loomis and seconded by Councilor Lancaster to approve the resolution that authorized budgeting for a predevelopment loan for the North Main Redevelopment Project. Motion passed unanimously. [5:0]

RESOLUTION NO. 41-2004:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, FOR THE PURPOSES OF BUDGETING FOR A PREDEVELOPMENT LOAN FOR THE NORTH MAIN REDEVELOPMENT PROJECT.

Other

Councilor Lancaster said over the years he threatened to offer up a resolution of some controversy that spoke to his proclivity for a limited government and increased efficiency. For a variety of reasons, he had never done that, and it occurred to him this was his last opportunity.

It was moved by Councilor Lancaster and seconded by Councilor Stone to pass no future ordinance without taking one off the books first.

Councilor Stone often thought that government had too many ordinances and laws. She wished to consider that.

Councilor Lancaster thought the city manager had done a lot of clean up work, but he was certain there was a long list of things that could come off the books.

Mr. Colletta understood the reasoning behind the motion, but it might not always be possible to do that. If in fact, the Council and staff continue their efforts to clean up the ordinances, the City might reach a point where the removal of an ordinance might be detrimental.

Mayor Bernard would accept that as a goal but doubted he would make it a law.

Mr. Colletta suggested adopting it as a policy goal to make the City ordinances clean, readable, and as forthright and minimal as possible. He believed that would be an excellent policy. He thought staff had gone a long way in achieving that goal.

Councilor Lancaster accepted that amendment as a going away present, and **Councilor Stone** as the seconder accepted it as a noble goal and something the City should strive for.

Motion passed unanimously. [5:0]

EXECUTIVE SESSION

Mayor Bernard announced the City Council would meet in executive session immediately following adjournment pursuant to ORS 192.660(2)(i) – performance evaluation of public officers and employees.

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 7:40 p.m.



Pat DuVal, Recorder

AGENDA

MILWAUKIE CITY COUNCIL DECEMBER 21, 2004

MILWAUKIE CITY HALL
10722 SE Main Street

1948TH MEETING

REGULAR SESSION - 6:30 p.m.

- I. **CALL TO ORDER**
Pledge of Allegiance
2. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
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 December 7, 2004**
 - B. **Modify Consulting Contract for Stormwater Master Plan and Rate Study**
 - C. **Transfer of Jurisdiction for a portion of Johnson Creek Blvd. between S.E. 36th and S.E. 45th Avenues -- Resolution**
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.)*
Sale of Surplus Property -- Resolution
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. **Agreement Between City and Milwaukie Pioneer Cemetery Association Regarding the Leona Knutson Trust Fund (Mike Swanson)**

OTHER BUSINESS, continued

B. Predevelopment Loan for North Main Redevelopment Project (Jeff King)

7. INFORMATION

8. ADJOURNMENT

Public Information

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

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

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

**MILWAUKIE CITY COUNCIL WORK SESSION
DECEMBER 7, 2004**

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

Present: Councilors Barnes, Lancaster, Loomis and Stone.

Staff Present: City Manager Mike Swanson, Finance Director Stewart Taylor, City Attorney Gary Firestone, Community Development/Public Works Director Alice Rouyer, and Engineering Director Paul Shirey.

Sewer Extension Strategy

Ms. Rouyer indicated Milwaukie's Urban Growth Boundary (UGB) and discussed the Urban Growth Management Agreement (UGMA) with Clackamas County. The agreement designated dual interest areas A and B that were identified as first priority annexations. Clackamas County made it clear that it had nothing in its capital improvement plan (CIP) to extend service into the Linwood area where some properties were still on septic. As those systems fail, there will be mounting pressure to extend service into that area. The question was what would Milwaukie do to bring that area in. Not a lot has been done in terms of planning to serve that area since the early 1990's because, she understood, things blew up politically.

This would be a difficult area to annex because of socio-economic and sewer basin issues. The first strategy was to make a political commitment by annexing the right-of-way with future plans for an island annexation. The City Council may wish to make an agreement with those property owners that they would not be annexed until such time as sewer service was provided. This would send a message of commitment to the County and the property owners. She noted that Councilor Barnes had concerns about educating residents in that area. There would be little incentive to annex to Milwaukie if the County provided the service.

Councilor Barnes was interested in a public relations effort to help people understand the City's intention.

Councilor Stone asked if the County intended to annex into that area.

Ms. Rouyer said the political pressure would come in 5 to 10 years as those septic systems failed, and someone would have to respond. It would either be Milwaukie or the County Commissioners. There will also be environmental pressures because Johnson Creek flows through the area.

Councilor Stone asked if staff knew the number of properties. Staff did not have the information at this meeting but would provide Council with the number of equivalent dwelling units (EDU).

Councilor Barnes asked what the timeframe was if the City Council wanted to move forward.

Ms. Rouyer indicated at this time she was just offering ideas to incorporate into the larger annexation discussion. She recommended the City Council strongly consider annexing the right-of-way and making a commitment to that area. The City could adopt a CIP that would phase in the improvements, and staff could continue to seek Community Development Block Grants (CDBG) to help bring service to those areas.

Mr. Shirey added the County policy was to not permit any development that was on septic. County staff was telling people interested in partitioning and infill that those properties could not be developed until they were annexed into Milwaukie and provided with sewer service. He does get calls from interested parties, but basically development was on hold in that area.

Ms. Rouyer added when the County did not approve new septic, houses were just boarded up.

Mayor Bernard commented the amount of space needed for a new septic system was quite large. He felt the City should proceed with the discussions on Linwood Avenue.

Ms. Rouyer stated that was a bold move and needed to be followed up with a policy that said properties would not be annexed until service was provided.

Councilor Stone asked how many years it would take to complete annexation in this area if it was done in phases.

Ms. Rouyer replied it was largely dependent on the budget. The next step would be to develop a financing strategy in the master plan update.

Mr. Shirey said the master plan looked at all of the unsewered area that included a large area east of Linwood Avenue and commented on the challenging topography. If this was the direction the City Council wished to go, it would not take a great deal of time to put together a package and cost estimates.

Ms. Rouyer added there was the workload issue and how much could realistically be done in a fiscal year.

Councilor Lancaster thought it was a no-brainer. People in that area will need service from someone, and the City should step forward and take that responsibility. He felt to keep them in an area of uncertainty was irresponsible.

Councilor Loomis requested information on costs and the effect on the current ratepayers.

Ms. Rouyer said this would be provided once there was a blueprint. Strategy #2 was similar in that it included annexing the right-of-way and enclosing the properties. It would position the City to say to the County that when the farm on Lake Road came in for development that it would be annexed to Milwaukie. She recommended the City position itself for future development in the dual interest area. The road was in good condition, and the City would take over jurisdiction. Casa del Rey was to the south of Lake Road, but it would be a struggle to bring those people in. They were not currently hooked up to City sewer, and Ms. Rouyer did not know what would motivate them to annex to Milwaukie.

By consensus, the City Council supported strategy #2.

Ms. Rouyer reviewed strategy #3 that addressed properties currently receiving City sewer outside the City limits on Chelsea, Freeman and Bowman. The streets were in bad condition once one crossed the City limit. This would be controversial, but there could be a way to do it by annexing the right-of-way. The City could offer a street overlay at some time in the future as an incentive.

By consensus, the City Council supported strategy #3

Councilor Loomis discussed the area on Van Water in the Ardenwald neighborhood.

Ms. Rouyer responded that the City of Portland had annexed that area, so it would have to be de-annexed.

Councilor Lancaster said that was a political decision way back when that needed to be cleaned up. Milwaukie could offer a lower tax rate.

Mayor Bernard walked the area above the City shops and a lot of people asked when Milwaukie was going to annex.

Mr. Shirey said staff looked at that area, and it would be a difficult to provide sewer service.

Mr. Swanson said that would be the second phase of the annexation. The group discussed Happy Valley's annexation proposals and its tax rate. If one used the value he saw in the *Oregonian*, Milwaukie would generate \$1.4 million and Happy Valley would generate \$140,000.

Library Levy

Mr. Swanson reviewed several spreadsheets. The impact of the loss was about \$132,000 to the Ledding Library, which was a substantial hit. The actual loss would depend on a number of things, and the Library Network Intergovernmental Board (LNIB) members were going to discuss what might be done to save some revenues to use for direct services. There would likely be no decisions until January. The other spreadsheets analyzed the vote counts. One of the more interesting statistics was that the levy only passed 52% to 48% in Lake Oswego. He thought that indicated the difficulty of the measure.

Councilor Barnes saw from these numbers that Milwaukie residents felt strongly about their library.

Revenue from Sale of Surplus Property

Mr. Swanson provided letters from the Park and Recreation Board (PARB) requesting that the City Council consider dedicating the net proceeds from the sale of real property to maintain those parks that were not under the responsibility of the Parks District. The Island Station Neighborhood submitted a similar letter. He concluded that in normal times that would be a good idea as the City developed a number of individual parks without any provisions for maintenance. He recommended that the City respond to the PARB that it did not have the money to do that right now, and in any event it was not budgeted as a revenue in the current fiscal year. He would ask Ms. Herrigel to put money in the proposed budget and let it go through the process. Even though this was an important issue, it was difficult for him to say the City should take on this new responsibility when there was a program that was going to lose \$132,000. Mr. Swanson thought the City needed to look at all of its commitments and requirements as a whole. He would prepare a letter for the Mayor's signature saying City Council appreciated the idea, but that staff would build a parks maintenance proposal in the budget. He supposed these would be revenues to the general fund.

Councilor Loomis thought the issue was worth looking at and was okay with considering it during the budget process. He did not believe all funds should be allocated to only those two neighborhoods.

Measure 37

Mr. Swanson said the question was raised whether or not the City could establish a claims process for property that was devalued because a waiver was granted. That could be done by ordinance, and he would prepare it for a future meeting agenda if the City Council directed.

Mayor Bernard commented there was a discussion after the Clackamas County Coordinating Committee (C4) meeting about his issue, and a lot of cities were concerned. What, for example, would happen if the Cereghino Farm zoning had to be waived, and someone put in a used car lot?

Mr. Swanson said one possibility was to put this discussion on a work session agenda. The City had to meet the December 2, 2004 deadline, so Ordinance 1940 will likely be amended several times.

Councilor Stone understood that would only be in relationship to Measure 37. She thought that was a good idea but perhaps should be expanded. It happened all the time when development went in. She did not think it was fair when property values were lowered. She saw it at the coast. People had wonderful views of the ocean, and someone else bought property in front of them and built a two or three story house. Their view was gone, and there went their property value.

Mayor Bernard commented that Lake Oswego had ordinance that required that whatever was built would be similar to the existing neighborhood.

Councilor Stone said there was infill all through the City of Milwaukie with something like a mobile home that did not go with the rest of the properties and was totally out of character. That did not do anything positive for property values.

Councilor Lancaster commented that even something similar could devalue property, and there needed to be an avenue of redress.

Mr. Swanson would put that issue on the next work session agenda.

The city manager announced that the City Council would go into executive session pursuant to ORS 192.660(2)(h) consulting with legal counsel regarding legal rights and duties regarding current litigation or litigation likely to be filed.

Mayor Bernard adjourned the work session at 6:15 p.m.

Pat DuVal, City Recorder

MINUTES

MILWAUKIE CITY COUNCIL DECEMBER 7, 2004

CALL TO ORDER

Mayor Bernard called the 1947th 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,
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Alice Rouyer,
Community Development/
Public Works Director

Larry Kanzler,
Police Chief
Grady Wheeler,
Information Specialist
Jeff King,
Project Manager

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mayor Bernard remembered former Mayor Bill Hupp and neighborhood activist and Budget Committee member Jean Michel.

Mayor Bernard welcomed Jeff Rouyer and Eric and Anna Marie.

Mayor Bernard announced a reception for Councilor Lancaster on December 21, 2004. He served on City Council for over six years, and that would be the final meeting of his term.

CONSENT AGENDA

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

- A. City Council Minutes of November 16, 2004;
 - B. Printing Contract for City Newsletter;
 - C. O.L.C.C. Application – Stargazer Gift Baskets, 9423 SE 32nd Avenue;
 - D. Letter of Support for 2007 – 2008 Transportation Enhancement Projects;
- and

E. Resolution 38-2004: A Resolution of the City Council of the City of Milwaukie, Oregon Recording the Certified Election Results for the November 2, 2004 General Election.

Motion passed unanimously. [5:0]

AUDIENCE PARTICIPATION

Ed Zumwalt, 10888 SE 29th Avenue, Milwaukie, Oregon. He read from a compilation of notes. This would be the last confrontational thing from them because they were going to try to be nice for two or three weeks. For ten years, the citizens from all the neighborhoods and walks of life fought against light rail and intrusions into the neighborhoods. It came crashing through the neighborhoods like Monroe Street. Fast forward to April Fools Day of last year. The city manager praised the Neighborhood District Association (NDA) leadership in helping to form the Locally Preferred Alternative (LPA). The Council praised the LPA and the 14 Points identifying as the main point that light rail stay out of residential neighborhoods and have as low impact as possible in neighborhoods. The latest decision on Kellogg wiped out ten years of work to protect the neighborhoods. You handed us over to Metro and TriMet with a big red ribbon. Merry Christmas. This was disturbing the entire neighborhood. Two weeks ago Councilor Barnes stated she talked to a local businessman who said if you listened to the citizens, you would never have any businesses in town. What gave that businessman the right to put down the citizenry of Milwaukie? Furthermore, why did the Councilperson buy that statement hook, line, and sinker? It's insulting. At the beginning of this latest working group, Mr. Roger Cornell and he greeted the North Industrial business people with open arms assuring them he would work closely with them to overcome their problem. Sort of a joke on us in retrospect. A little history, which Mr. Zumwalt was sure Mayor Bernard would remember. He used to attend meetings of the local downtown business group, and most of them did not give a hoot about the neighborhoods particularly Historic Milwaukie. Remember – running light rail right up Monroe. They said, oh, they will be well taken care of – you were going to wipe out the whole neighborhood. One hundred twenty-five feet south; one hundred twenty-five feet north of Monroe was going to be wiped out by mixed use. That sort of took care of the neighborhood. When the downtown plan was okayed in 2000 and when possible traffic problems in the neighborhood were mentioned, the statement was made by that organization, “who cares – just so we get the density we want.” Remember that, Mayor. Our NDA and I'm sure all of the neighborhoods want and will work for a vibrant, alive busy town. We have said it many times and have proven it many times. We are not anti-business. It is some of the business people who want to go on without caring about the City as a whole. The latest push to rid them of the transit center was just another case in point. He would be the businessman who made that comment did not live anywhere near Milwaukie. It was very disheartening to have a Councilperson blindly side with a business against the citizens. It was very disconcerting to have a warehouse full of Tootsie Rolls be more worthy than the neighborhood. This was a sure sign the residents were going to take a beating from this Council.

Another point regarding the work session two weeks ago. In defending staff against lack of service complaints against them by business, the comment was that the staff had given 100% effort to make sure the transit center was moved from North Industrial to Kellogg Lake to retain the viability of the industrial area. What about the viability of the neighborhood? He was shocked, shocked to hear that. All the time, he was told this was a fair and biased group working for the best possible solution. Every time he asked a member of staff for their opinion, he was told he had to make his own decision. This was to come from the bottom up. Now he found there was a bias on the part of staff – who would have guessed? To answer charges from some Councilmembers and others, it has been – he was asked by two Councilmembers and some other people – why Roger Cornell and he went along with the whole working group and did not say a word and did not bring up anything against the transit center going to Kellogg Lake. That was not true. They did not meekly go along with that Working Group. From the time the matrix was brought forth until the end, he disagreed. He constantly asked staff to revisit the Downtown Plan in order to find the best and most efficient siting of the center but to no avail. He was thinking specifically about economic development because he did not think there would be any economic development at Kellogg Lake. We needed it further toward where the businesses and people were. Where would you build? In the Lake? He just did not understand and wished someone would explain it to him. Roger Cornell finally did revisit the Downtown Plan, and he made an excellent presentation to the Working Group. It was promptly ignored. He phoned the city manager to tell him the process was being orchestrated – also to no avail. He was asked to respect the process and go along with it. Roger and he were shouted down by two of Milwaukie’s most honored citizens prompting Roger to say, “I’m going to shut up – this train has left the station.” It was all so obvious. Why should we sit there and be insulted because they were outnumbered 35 to 3 because they were against the transit center going down to Kellogg Lake. In addition, he contacted each Councilperson by phone or in person and informed them of the stacked process. To no avail, obviously to three of you, roughly twice as many people testified against the center as for it. Didn’t that tell us something? Seven hundred and forty signatures on petitions against. Didn’t that tell us something? We now realized you would not pay attention to the citizens and made it easy for us to just pursue other avenues for our answers. The general feeling of the group was that our NDA was insulted, laughed at, and vilified. Pariahs in our own town. We do not feel as if we were part of the City or even being listened to by it. We were made the bad guy in this scenario just because we had guts enough to stick up for our rights. That was the feeling of the neighborhood. We don’t like it – Merry Christmas. We don’t feel we want that down at Kellogg Lake. If we can stop it in any way we can, we will.

Councilor Barnes asked what it would take to have a working relationship with Mr. Zumwalt in particular and with the neighborhood association in the future because this decision was made, and it was time to move on. She was not going to re-hash the transit center decision with Mr. Zumwalt tonight. That was over. She wanted to know what it would take as a leader for the neighborhood to take the decision that was made and go forward to work on things that could be done to make the City better.

Mr. Zumwalt said he always strived to make the City better. The neighborhood stood second to no one in doing things for the City. We worked hard for 21 months with Metro and TriMet.

Councilor Barnes wanted to know what could be done for the future. Let's not re-hash the transit center tonight. What can we do to bridge the problem that was obviously there, so that City staff, Council, Mr. Zumwalt, and the neighborhood association can have a working relationship again?

Mr. Zumwalt said with this hanging over us right now, and all the feedback he got from his neighbors, it was going to take something out of the ordinary. How can you sit and say that one businessman said if you listen to the citizens you wouldn't have any businesses? He would do anything to make this a viable, vibrant town.

Councilor Barnes suggested setting up a time to determine what was equally happy for both sides. Would you be willing to do that?

Mr. Zumwalt said he was. But he sat down with Ms. Barnes, and he thought there would be a good chance of working out a situation for the transit center. He was asked to completely betray his neighbors and friends. He did not have the authority to do that. How can you work out something that was a pig in the poke? He was told that Metro would sign this. TriMet would sign this. ODOT would sign this. Everything would be hunky-dory. What?

Councilor Barnes did not wish to re-hash the transit center. She asked if representatives could sit down and come up with something in order to move forward.

Mr. Zumwalt said if Councilor Barnes thought he enjoyed this, she was sadly mistaken.

Councilor Barnes understood that. Can we – whomever Mr. Zumwalt wished to bring from his neighborhood association, City staff, and she and any other Councilmembers – sit down and see if we can come up with something.

Mr. Zumwalt said the last Working Group with Metro and TriMet – he did not want another dog and pony show. He thought they should be treated with respect. He thought someone kicked the football and went around end this last time. Okay, you don't want to re-hash it. He did not just parachute in here from Mars. He had been in on things like this before, and Milwaukie was known for a long, long time as the City of the done deal. We overcame that, but now we were back to it.

Councilor Barnes asked Mr. Zumwalt to let her know when he was available, and a time would be set up.

Mr. Zumwalt said he was not just being meeting with her. He wanted some other people involved.

Councilor Barnes said the meeting would include Council, staff, and NDA representatives. Let us know.

Mr. Zumwalt told her to set it up, and they would be there.

Councilor Barnes asked for some dates he would be available.

Mr. Zumwalt wanted everyone to remember no dog and pony show. Everyone lays it out.

PUBLIC HEARING

Clackamas Education Service District Conditions of Approval for Meetings, File CS0-00-06

Mayor Bernard called the public hearing on Clackamas Education Service District's request to amend the conditions of approval to order at 6:50 p.m.

The purpose of the hearing was to consider public comment on the proposed amendment of CSO-99-08 to allow increased meetings on a permanent basis

The applicant had the burden of proving that the amendment was consistent with the Zoning Ordinance Section 321 – Community Service Overlay, Section 1011.3 – Minor Quasi-Judicial Review, and applicable Municipal Code provision.

Testimony and evidence was directed toward the applicable substantive criteria just described or other criteria in the plan or land use regulation which one believed to apply to the decision. Failure to raise an issue accompanied by statements or evidence sufficient to afford the City Council an adequate opportunity to respond to each issue would preclude appeal to LUBA based on that issue. Failure to raise constitutional or other issues related to the proposed conditions of approval with sufficient specificity to allow a response would preclude action for damages in circuit court.

Mayor Bernard reviewed the conduct of the hearing.

Conflicts of Interest and Site Visits: **Mayor Bernard** and **Councilors Barnes** and **Loomis** had visited the site.

Councilor Barnes announced she was paid by the Education Service District as a teacher in the North Clackamas School District.

Mr. Firestone said a conflict would only arise if Councilor Barnes's vote on the matter would result in a financial benefit to her. He understood she would be paid regardless of her vote on this matter so would not constitute a conflict.

Mayor Bernard said the property was adjacent to his backyard, and a member of the public raised that as an issue at the last hearing. He did not believe extended hours of the parking lot adjacent to his back yard would represent a financial detriment or benefit. He believed he could decide this issue fairly based on the facts presented.

Jurisdictional Issues: None.

Staff Report: **Mr. Firestone** provided the staff report. Some time ago the Clackamas Education Service District (ESD) sought an approval for a community service overlay, and a condition of approval was imposed limiting the times, hours, and numbers of meetings. There was a public demand for additional meetings at the facility, and some came from outside organization such as the Lake Road Neighborhood Association. Based on that, Clackamas ESD sought a modification of the original condition of approval on a temporary basis to allow additional meetings, hours, and numbers. That approval was granted, so there was a temporary condition. During the time the temporary condition was in effect, there were no complaints made, concerns raised, or comments received about the expanded meetings and hours. ESD sought to make the temporary provision permanent to allow the additional meetings, hours of operation, and numbers of people. Based on the lack of adverse comments, staff recommended approval of the application.

Correspondence: None.

Public Testimony: None.

Mayor Bernard closed the public testimony portion of the hearing at 6:55 pm.

Mayor Bernard found that ESD had done a very thorough job of maintenance and security. The lights were off at the designated times, and he felt the operation was very safe and beneficial to his neighborhood. He noted there were neighbor concerns expressed at the last hearing, but that person was not at this meeting. He was comfortable that this was a good recommendation.

It was moved by Councilor Barnes and seconded by Councilor Loomis to approve Clackamas Education Service District's request to allow increased meetings on a permanent basis. Motion passed unanimously. [5:0]

OTHER BUSINESS

A. Agreement between City and Milwaukie Pioneer Cemetery Association Regarding the Leona Knutson Trust Fund

Mayor Bernard announced this item was postponed to December 21, 2004.

B. Status Report on Economic Development Grant Projects and Regional Partners

Mr. King provided an update on the economic development grant program and the Regional Partners. There was an initial feasibility study on the 6-acre parcel at International Way and Harmony Road to look at access issues, and solutions were being hammered out for that intersection. This was approximately an 80,000 square foot project that would create about 100-plus jobs in a combination of small industrial and service operations. Several businesses had already signed letters of intent with the developer Pannatoni. The enterprise zone marketing flyer was being distributed, and the City was launching a website that focused on economic opportunities in Milwaukie. The other areas of focus were business outreach and visitation. A number of businesses were looking at growing or expanding, and the Committee was offering to follow up on their needs. He discussed current efforts that included discussions with OLCC.

At its January meeting, the Advisory Committee would consider Milwaukie's strengths and weaknesses, oversight of the development grant, increased dialogue, and recommendations to the Council. Mr. King discussed a business questionnaire and the building re-use assessment.

Mayor Bernard believed there was a lot of potential.

Mr. King provided an update on Regional Partners. The organization was beginning to gain some visibility and brought together a lot of partners. There were about 12 city members in the Metro area and Regional Partners was a centralized source for information. The group was trying to build visibility, and leaders and champions were a critical piece. He recommended maintaining the annual \$3,000 membership.

Councilor Barnes thought it was a good investment, and that Milwaukie should continue for another year.

Mr. King served as the Milwaukie representative, and the City Council may wish to select an alternate.

Mr. Swanson added the membership amount was in the adopted budget.

Mayor Bernard volunteered to serve as the alternate. He discussed the feasibility of renaming streets in the North Industrial area.

C. Notification of Private Vehicle Tows 10.54.020

Mayor Bernard commented that a business in Milwaukie was concerned that its employees were getting a lot of tickets and asked Chief Kanzler to discuss the issue.

Chief Kanzler said the system would be to abide by the law and not get tickets. The police department was obligated to follow the laws as identified by the legislature and intervened at certain times. In following up on neighborhood complaints about

speeding, officers found that most of the people being stopped lived in the neighborhood. Most of the complaints he got were about speed and traffic congestion in the City. The department was doing everything it could to make the streets safe. He asked that residents demonstrate responsibility in their driving habits.

Chief Kanzler provided the staff report. The proposed ordinance would require that tow companies notify the Milwaukie Police Department prior to towing vehicles from private properties. Over a number of years, it has come to the point that people think their cars have been stolen, and report it to the police. Without knowing that a car was towed, the department treated it as a theft and spent time and resources on looking for it. He discussed several incidents that occurred recently. There was no compliance by the tow companies, and unless there was an ordinance the police department could not apply any sanctions. Adopting this ordinance would circumvent wasting officer time looking for a stolen vehicle when it was actually a private impound or repossession. The tow companies charged a storage fee even though a vehicle was hooked up to a tow truck. He recommended the City Council adopt a penalty clause so the department could cite the tow company up to \$50 per occurrence.

Councilor Barnes asked why not charge the companies more?

Chief Kanzler thought the majority of the tow companies like Olson Bros. abided by the laws and were reputable. He suggested it might be difficult to collect from those companies that were not reputable.

Councilor Stone suggested charging \$500. This would get people's attention. She recommended putting some meat in it, and charge the tow companies. She asked if state statute required tow companies to call within an hour.

Chief Kanzler said current statute was that tow companies were required to notify the law enforcement agency prior to towing a vehicle.

Councilor Stone thought raising the fee would get compliance. She added there should be some notification to the tow companies.

Chief Kanzler noted a sample letter in the staff report that would go to all tow companies explaining what would happen if they did not notify the police department. He asked the city attorney to comment on a higher fee.

Mr. Firestone said the ordinance could be amended. The ordinance did not go into effect for 30-days, so there was a grace period.

Councilor Lancaster said for some unscrupulous person towing anything he can get his hook on, \$50 was nothing based on the number of cars they could tow. He asked the city attorney what range was reasonable while getting their attention.

Mr. Firestone thought a Class A violation was \$500.

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Mayor Bernard added that most drivers were on commission, and one penalty of \$100 would send the message.

The consensus of Council was to charge \$500. **Mr. Firestone** said the reading of the ordinance could include that amendment in section 10.54.030.

It was moved by Councilor Lancaster and seconded by Councilor Barnes for the first and second readings by title only and the adoption of an ordinance adding Municipal Code Chapter 10.54 – Towing of Vehicles from Private Property with the amendment to 10.54.030 (A) making the penalty \$500. Motion passed unanimously. [5:0]

The city manager read the ordinance for the first and second times with the amendment to subsection.

The city recorder polled the Council: Councilors Barnes, Lancaster, Loomis, and Stone and Mayor Bernard ‘aye’; no nays. [5:0]

ORDINANCE NO. 1942:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADDING CHAPTER 10.52, TOWING OF VEHICLES FROM PRIVATE PROPERTY.

D. Designation of Acting City Manager by Adding Municipal Code Chapter 2.07

Mr. Swanson provided the staff report. It was his practice over the past four years to appoint an acting city manager when he was out of town or unavailable. A couple of weeks ago, the City had a simulated emergency exercise, and it occurred to him that there might be a situation where he could not be at the emergency operations center (EOC). One of the powers of the city manager assumed was police power and the ability to establish a curfew. He began to question whether or not his designation of an acting city manager carried anything more than his good wishes. It did not carry the authority that appeared in the code in various places. He believed it was best for him to provide for the appointment of an acting city manager and delegate the city manager’s powers to the designee. Mr. Swanson noted Milwaukie Charter Section 27(e) provided that the City Council would appoint a city manager pro-tem; however, he felt that was burdensome for short vacations or days out of the office. The proposed ordinance allowed the city manager to appoint an acting city manager and permitted that person to assume the powers of the city manager. The City Council’s appointment of a pro tem would trump this action. The proposed ordinance was a housekeeping action, but he was concerned about it based on the recent emergency exercise.

It was moved by Mayor Bernard and seconded by Councilor Barnes for the first and second readings by title only and the adoption of an ordinance adding

Municipal Code Chapter 2.07 – Acting City Manager. Motion passed unanimously. [5:0]

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

The city recorder polled the Council: Councilors Barnes, Lancaster, Loomis, and Stone and Mayor Bernard ‘aye’; no nays. [5:0]

ORDINANCE NO. 1943:

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO APPOINT AN ACTING CITY MANAGER AND DELEGATING NECESSARY AUTHORITY TO THE ACTING CITY MANAGER AND ADDING A NEW CHAPTER 2.07 TO THE MUNICIPAL CODE.

E. Amend Municipal Code Chapter 1.20 – Compensation for Reduction in Property Value

Mr. Firestone provided the staff report. Ordinance 1940 contained a provision that said if a claimant filed an invalid claim, he would pay the City’s costs. If that was not paid, then the City could file a lien. The city attorney determined there was precedent that creating that lien would make the obligation to pay that cost a property tax subject to compression. Therefore, it would be better to collect the costs through a judgment. If it were a property tax, there was a risk that the City could not collect at all.

It was moved by Mayor Bernard and seconded by Councilor Loomis for the first and second readings by title only and the adoption of an ordinance amending Ordinance No. 1940 relating to procedures for Measure 37 claims. Motion passed unanimously. [5:0]

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

The city recorder polled the Council: Councilors Barnes, Lancaster, Loomis, and Stone and Mayor Bernard ‘aye’; no nays. [5:0]

ORDINANCE NO. 1944:

AN ORDINANCE AMENDING ORDINANCE NO. 1940 RELATING TO PROCEDURES FOR MEASURE 37 CLAIMS.

OTHER

Mayor Bernard commented on Bob’s Red Mill and the statement that the project would not have happened if the contractor had not come to the Mayor. That was not necessarily accurate. The project would never have happened if it were not for staff and the city manager. Being the Mayor with a business in downtown Milwaukie, people had an opportunity to talk to him and get his direction on whom to speak with in the City departments. He knew the gentleman who worked on the Bob’s Red Mill project so it

was a chance for this person to ask for help. Mayor Bernard directed him to the appropriate staff. He firmly believed that everyone shared in the success of the project.

Mayor Bernard addressed Mr. Zumwalt's comments. He considered Mr. Zumwalt a good friend, but he also totally disagreed with his comments. Mayor Bernard attended many of the meetings as well the 14-Point meetings. He saw neighborhoods working together. Staff stood back and let the community drive it. It looked like it was going well, but then suddenly at the end, comments were made that blew it all apart. He thought that was totally wrong and disagreed with Mr. Zumwalt's vision of what happened at those meetings. He thought the City did a great job as did all of those who participated. If there was a problem at the beginning, people needed to make their comments right away. The decision would be flexible as things developed. There needed to be a change of direction in this community, or the wonderful things the City had like the library would no longer exist. That can only be done by change. Change was difficult and painful, but it had to happen. There were lots of great things happening in Milwaukie. There were annexations, new jobs, and industrial lands coming into the city. There was finally some growth. The City was sitting down with the North Industrial area businesses to discuss reinvestment in the community. He totally disagreed with Mr. Zumwalt's comments. He assured the public that no comments that were made at the meeting were disregarded. No testimony was disregarded. He struggled with every comment including Mr. Cornell's. He was truly offended by his friend Mr. Zumwalt's comments. There was no conspiracy. This community needed to change, and change hurts. Mr. Zumwalt walked into his office almost daily, and he was still welcome. Someday they may come to an understanding that if there were no change, the library and planning department would be gone. Someday, it may only be the City Council sitting here waiting for someone to come along and do something for Milwaukie. He refused to be the Mayor that let nothing happen and let the community go away. He was also very offended by the comments made at Bill Hupp's funeral regarding this subject. He was very angry about that and did not know if the damage to the relationship would be repaired. Things have to change, and the City Council needed to take the pressure. He thanked Mr. Swanson and staff for putting up with what had been going on.

Councilor Loomis agreed with most of Mayor Bernard's comments. He disagreed that things needed to change -- things are going to change. What the Council was trying to do was direct change to the greatest benefit of the community. Change will happen. The process involved the citizens. He asked if he could be involved in the Working Group, and Mr. Swanson told him it was not a good idea. Mr. Zumwalt thought it was better if he stayed away and let the citizens work it out. He thought there were some positive things coming out of the process including contact with the North Industrial group. The only way the City would grow and prosper was for the businesses, neighborhoods, staff, and City Council to all work together. The only thing holding this up was Mr. Zumwalt. He needed to sit down and talk with his neighborhood and friends. Mr. Zumwalt has done a lot of great things for the City. Is this benefiting the City, or was it time to accept it and move on and make it work the best for everyone? Councilor Loomis thought it was that time. It was time to move forward.

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Mayor Bernard was proud of the support the City gave him in his election efforts. He carried all Milwaukie precincts as well as a majority of those surrounding Milwaukie. To him that said people thought he was doing a good job, and they supported him.

Councilor Stone addressed Mr. Zumwalt's and Mayor Bernard's comments. She did not think it was that people did not want to see change happen in this town. We do need some changes, and the City needed to be revitalized. She believed Mr. Zumwalt's issue along with what the City Council heard loud and clear in testimony by Historic Milwaukie was about livability and what this would do and how it would negatively impact livability. She did not believe anyone was opposed to change that would help Milwaukie grow. That was their main concern. The April 2003 decision by this City Council was to put the locally preferred option (LPA) at Southgate. The Historic Milwaukie Neighborhood was fine with that because the traffic pattern would not directly impact that neighborhood. It was not about not wanting change. It was about where it was occurring and how it would impact livability.

EXECUTIVE SESSION

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

ADJOURNMENT

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

Mayor Bernard adjourned the regular session at 7:40 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

**Through: Mike Swanson, City Manager
Alice Rouyer, Community Development Director**

From: Paul Shirey, Engineering Director

**Subject: Modify Consulting Contract for Stormwater Master Plan and
Rate Study**

Date: December 6 for December 21, 2004 City Council

Action Requested

Approve an increase of \$5,000 and extend the term of the contract for six months for consulting services with URS Corporation in order to complete the storm water master plan and rate recommendations.

Background

The City of Milwaukie entered into a contract with URS Corporation on July 2003 to update its storm water master plan and review storm water rates. The original amount of the contract was \$74,105 plus a contingency of \$7,500. In June 2004 the contract was increased by \$18,258 or 20%, to cover additional costs due to a series of unanticipated items. Much of that work included recalibration of the model due to incorrect elevation and pipe size data originally provided to the consultant by the city. The current contract term expires on December 31, 2004.

The master plan and rate study recommendations were completed by the consultant in September and presented to Council at a work session in October. A decision was reached at that time to defer adoption of the plan and rate increase recommendation until December.

Since October a number of things have occurred that have or will require a small amount of additional consulting assistance for a total cost of about \$4,200. The

rate study needs to be adjusted to factor in a proposed rate increase on July 1 2005, instead of January 2005 as originally envisioned. A number of issues surrounding the regulatory requirement to decommission some of Milwaukee's dry wells needed to be addressed. Additional project management cost is also associated with these project delays.

Staff recommends that the contract be increased by \$5,000, or a total of \$104,774. This small increase, when added to the increase from June 2004, exceeds the original contract by 20% and therefore requires Council approval. Since the contract was awarded through a competitive process and the consultant has done excellent work without delays on their part, a new selection process is not warranted. There is funding in the storm budget to cover this increase.

Concurrence

Engineering has worked with the Storm Department very closely on managing the storm water master plan and rate study effort and is in concurrence with the recommended increase.

Fiscal Impact

The proposed \$5,000 increase for contact services to complete the storm water master plan and rate study is available in the 04/05 Storm Water budget. Funding for the increase will come from savings on two budgeted items that will not be expended this fiscal year.

Work Load Impacts

Additional staff work will be required to finalize the master plan and rate increase in the Engineering Department. The rate increase notification will trigger additional work for the Finance Department.

Alternatives

1. Approve the contract amendment
2. Approve another alternative to the increase and term
3. Do not approve the increase and term extension



To: Mayor and City Council

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

From: Paul Shirey, Engineering Director

Subject: Transfer of Jurisdiction for a portion of Johnson Creek Blvd.
between S.E. 36th and S.E. 45th Avenues

Date: December 6 for December 21, 2004 City Council

Action Requested

Approve the attached Resolution requesting Clackamas County Board of Commissioners to transfer jurisdiction of a portion of Johnson Creek Blvd. to the City of Milwaukie.

Background

The City of Milwaukie entered into an intergovernmental agreement with Clackamas County in September 2001 addressing a portion of Johnson Creek Blvd. between S.E. 36th and S.E. 45th (See Attachment B). This portion of roadway, although within City of Milwaukie limits, is under the jurisdiction of the County.

The IGA addresses, among other things, the role of the City of Milwaukie during the anticipated reconstruction of the roadway and the role of the County to help address right of way issues for the project. The reconstruction project was completed about one year ago. The IGA stipulates, among other things, that the parties agree to vacate excess right of way at the conclusion of the reconstruction project. Council approved vacation of the excess right of way on July 20, 2004.

Item 3(d) of the IGA further stipulates that the City agree to request and accept full jurisdictional responsibility for all the County portion of Johnson Creek Blvd located within the city limits. (See Attachment B). The roadway in question was reconstructed

in 2003 using federal funds plus a local match with full participation of the City of Milwaukie and in accordance with all city requirements. Maintenance responsibilities for this part of Johnson Creek Blvd. are anticipated in the Street Fund and the cost to maintain should remain relatively low in the next five to seven years.

Concurrence

The Engineering and Streets Departments have worked closely on the Johnson Creek Blvd project and this item is the last step in implementing the IGA with Clackamas County.

Fiscal Impact

By this action, the City of Milwaukie is adding to its inventory of public streets and assuming additional maintenance responsibility. This responsibility was anticipated and planned when the project was originally initiated. The addition of about one-half mile of street to its inventory will result in receipt by the city of very little additional gas tax revenue.

Work Load Impacts

Addition of street inventory for maintenance purposes

Alternatives

1. Approve the Resolution as recommended.
2. Modify the Resolution.
3. Do not approve the Resolution.

Attachment

Resolution
Location Map

RESOLUTION NO. _____

A RESOLUTION REQUESTING THE TRANSFER OF JURISDICTION BY THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS OF A PORTION OF JOHNSON CREEK BOULEVARD, (L. W. DERRY ROAD # 964)_TO THE CITY OF MILWAUKIE

WHEREAS, Oregon Revised Statue 373.270 provides a means for Cities to request the transfer of jurisdiction of County Roads within Cities; and

WHEREAS, The City of Milwaukie has been coordinating with Clackamas County to facilitate the transfer of the following named road:

That portion of Johnson Creek Boulevard, County Road Number(s) 872 964, an that portion within the “Derry Acres Plat No.1”, Plat No. 477, from the Multnomah-Clackamas County line in the NW ¼ of Section 30, T.1S., R.2E., W.M., (mile post 0.00) southerly and westerly to the Clackamas-Multnomah County line in the NE ¼ of Section 25, T.1S., R.1E., W.M., (mile post 0.48) approximately 2,535 feet in length

WHEREAS, the City and County have completed the terms and conditions as described in that Intergovernmental Agreement (Recording No. 2001-4393 and Commission Journal Bk. 157, Pgs. 347-351) between Clackamas County and the City of Milwaukie; and

WHEREAS, the above named County road lies within the City Limits; and

WHEREAS, it is in the public interest for this transfer to take place;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Milwaukie, to accept jurisdiction of said mentioned County road and request the County to take Board action to execute the jurisdictional transfer of said road.

THIS RESOLUTION adopted, by the Common Council of the City of Milwaukie and approved by the Mayor this day of , 2004.

Mayor

Commissioner

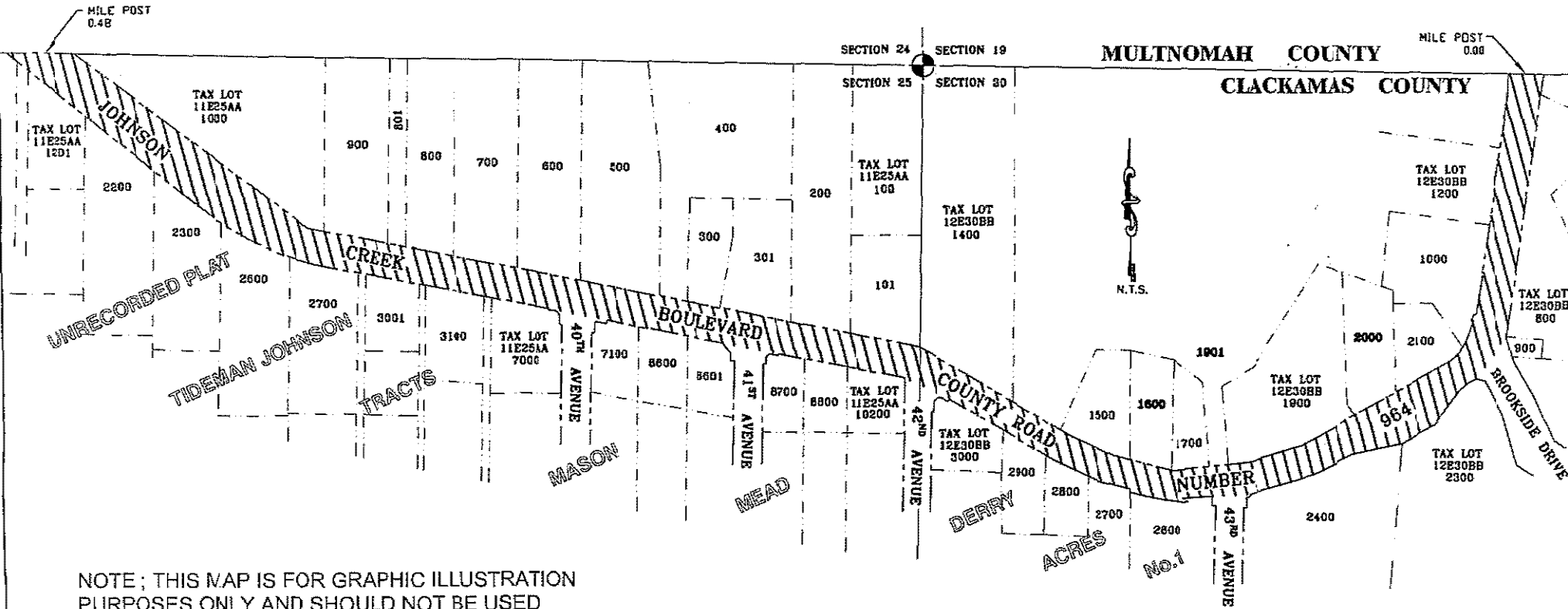
Commissioner

Commissioner

Comprising the City Commission
of Milwaukie, Oregon

JURISDICTIONAL TRANSFER OF JOHNSON CREEK BOULEVARD TO THE CITY OF MILWAUKIE
 IN SECTION 25, T.1S., R.1E., W.M. AND SECTION 30, T.1S., R.2E., W.M.
 CLACKAMAS COUNTY, OREGON

ATTACHMENT B



NOTE ; THIS MAP IS FOR GRAPHIC ILLUSTRATION PURPOSES ONLY AND SHOULD NOT BE USED FOR SURVEY DATA OR ANY OTHER SURVEY RELATED INFORMATION.

LEGEND

- AREA OF JURISDICTIONAL TRANSFER CONTAINING 119,600± Sq. Ft.
- TAX LOT LINES
- RIGHT OF WAY LINES
- PLAT LINES

| | | | | |
|--|-----|-------|-------------------|------------------------|
| CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT 9101 SE SUNNYBROOK BLVD • CLACKAMAS, OREGON | | | | |
| Johnson Creek Boulevard Jurisdictional Transfer | | | | |
| DESIGNER | N/A | SCALE | NTS | SHEET 1 OF 1 |
| DRAWN | DJC | DATE | NOVEMBER 24, 2004 | |
| CHECKED | ES | FILE | EN 12032 | |



To: Mayor and City Council

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

From: F. Kelly Somers, Public Works Operations Director

Subject: Sale of Surplus Property

Date: November 30, 2004

Action Requested

Approval of a resolution declaring the property located at 12125 SE 21st Avenue as surplus; authorizing the sale of the property as two separate lots; and setting minimum terms for the sale. A copy of the draft resolution is attached.

Background

In accordance with Ordinance – MMC Section 3.15, staff is required to follow a procedure in order to consider the sale of surplus property. Staff is now beginning this process on a site in the Island Station neighborhood located at 12125 SE 21st Avenue.

Council may recall that we previously asked Council to approve this matter at the February 18, 2003 Council Meeting and at that time Council approved the request and the resolution. Please find attached a memo from our attorney, Dominic Colletta, explaining in detail the failed sale and lawsuit that has since been resolved.

The City acquired the site and existing house located at 12125 SE 21st Avenue by foreclosing on a judgment against the property. The judgment was for penalties for numerous code violations. The property is not needed for City purposes, and the City can realize some financial benefit from selling the asset.

The site is comprised of two developable lots, currently identified with different tax lot numbers, and the City should be able to realize greater financial benefits from selling the two lots separately.

There is a structure, mostly located on one of the two lots, but the building projects a short distance into the other lot. In order to correct this problem, City Staff has recently completed a lot line adjustment between the two parcels that are to be sold. This resolves the issue and allows the lots to be sold separately without further encumbrances. The lot line adjustment allows for the structure that is located on one of the lots to meet code.

An appraisal prepared in November valued the lot without the house at \$65,000, and valued the lot with the house at \$150,000. Staff believes that the City should set the minimum acceptable price for the lots at 5% under the appraised values as a starting minimum bid for the bidding process.

Concurrence

The City Manager, Community Development Director, Public Works Operations Director and City's legal counsel all support this resolution.

Fiscal Impact

The City will incur some administrative costs, including advertising costs and attorney time, in conducting the sale. These costs are expected to be within the City's existing administrative and legal budget. The sale proceeds are expected to substantially exceed the administrative costs of the sale.

Work Load Impacts

Approximately 10-20 hours of staff time.

Alternatives

1. Sell the property as two separate lots.
2. Sell the property as a single parcel, with a requirement to remove the structure.
3. Sell the property as a single parcel, without any requirement to remove the structure.
4. Retain the property.

RAMIS
CREW
CORRIGAN &
BACHRACH, LLP
ATTORNEYS AT LAW

1727 N.W. Hoyt Street
Portland, Oregon 97209

(503) 222-4402
Fax: (503) 243-2944

MEMORANDUM

TO: Kelly Somers, City of Milwaukie

FROM: Dominic Colletta, City Attorney's Office

DATE: November 29, 2004

RE: Heckmann Property Disposition

This memorandum is in confirmation of our consultations regarding the proposed sale of the Heckmann property, and our advice that it is necessary to recommence the standard City process for sales of real property, despite the earlier process that was performed.

As you are aware, the City acquired title to the Heckmann property some time ago. A determination was made by the City that the property was surplus. The property was then exposed to the market in conformity with City ordinances, when a lawsuit was filed in Clackamas County Circuit Court challenging the City's ownership of the property. The suit was filed by an individual who based his claim of ownership on a quitclaim deed signed by the Heckmanns after the City's acquisition of ownership. The lawsuit was entirely without merit, and the result was a Circuit Court judgment in favor of the City and confirming its ownership. A notice of appeal was filed by the plaintiff in the Circuit Court action, but the appeal was denied. No further court action is required to confirm the City's ownership and right to sell the property.

Unfortunately, because of the passage of time it is again necessary to expose the property to the market in accordance with City ordinances to assure that the best price can be obtained on sale. We have consulted with you and advised that you undertake all steps provided by City ordinances for the sale of surplus property.

If you have any further questions, please do not hesitate to contact me.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DECLARING PROPERTY LOCATED AT 12125 SE 21ST AVENUE TO BE SURPLUS, DIRECTING THE SALE OF THE PROPERTY, AND DETERMINING MINIMUM ACCEPTABLE TERMS.

WHEREAS, the City acquired property located at 12125 SE 21st Avenue (the "Property" by foreclosing a judgment lien on the property; and

WHEREAS, the City owns the Property free and clear of all liens; and

WHEREAS, litigation over the ownership of the property has been decided in the City's favor; and

WHEREAS, the property has been divided into two separate legal lots; and

WHEREAS, City staff has recently completed a lot line adjustment between the two parcels allowing them to be sold separately; and

WHEREAS, an appraisal has been prepared for each separate lot; and

WHEREAS, the City Council held a public hearing on December 21, 2004, after publishing notice of the hearing in the Oregonian at least 5 days before the hearing and after delivery of notice to property owners within 300 feet of the property; and

WHEREAS, a structure, is located on one of the two lots, which with some modification will meet code and will be allowed to remain and be sold as surplus with the lot it is located on;

NOW, THEREFORE, BE IT RESOLVED THAT:

SECTION 1: The property located at 12125 SE 21st Avenue, consisting of Tax Lot 1400 containing approximately 9,149 square feet, and Tax Lot 1401 containing 5,000 square feet, is declared surplus to the City's needs and an offer to sell the property as two separate parcels is authorized.

SECTION 2: City Staff is directed to sell the property located at 12125 SE 21st Avenue in two separate parcels, consistent with Milwaukie Municipal Code Section 3.15.015. For Tax Lot 1400, the minimum sale price is \$61,750. For Tax Lot 1401, the minimum sale price is \$142,500.

SECTION 3: The sale shall be by the procedure set forth in Milwaukie Municipal Code 3.15.015.F.

SECTION 4: The resolution is effective upon adoption.

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

This resolution is effective on _____ .

James Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

City Attorney

Document3 (Last revised _____)



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: November 23, 2004
RE: Agreement Between City and Milwaukie Pioneer Cemetery Association re Leona Knutson Trust Fund

Action Requested

The action requested is to approve the proposed agreement between the City and the Milwaukie Pioneer Cemetery Association and Cemetery trustees (Association) with respect to establishing rules governing the Leona Knutson Trust Fund (Trust).

Background

Earlier this year the City Council took two significant actions affecting the City's future relationship with the Cemetery. One was adoption of an amendment to the original agreement with the North Clackamas Parks and Recreation District (District). The amendment adopted in 2004 omitted the Cemetery from the list of parks and open spaces transferred to the District in 1992. The second was an agreement between the City and the Association setting forth certain understandings, including use of the Trust.

In late 2003 the Council authorized the City Attorney to file an action in the Circuit Court to appoint successor trustees to manage the Cemetery. The deed that created the Cemetery in the latter half of the 19th century also appointed trustees to manage the Cemetery. Successor trustees were appointed until the last one passed away in 1985. The appointment of successor trustees once again provided the management function as envisioned by the original grantors.

With the appointment, the City's only role was to administer the funds given to the City in 1995 pursuant to the estate of Leona Knutson. Those funds were to be used "for care and upkeep of [the] Milwaukie Pioneer Cemetery." Given this very limited role, I asked the City Attorney whether or not the City could assign the Trust to the Association. It was not possible to do so without both

endangering future use of the funds and without incurring significant costs that would be borne by the Trust. Thus, the City must continue to administer the Trust.

In conducting this review, I thought it best to further define roles with respect to the Trust. For example, if the Cemetery trustees are responsible for management of the Cemetery, they should have a major voice in the projects that are undertaken. The City's interest should be to ensure that the funds are expended for the broad purpose envisioned by Ms. Knutson. Thus, the proposed Agreement defines the City's and the Association's roles and responsibilities as well as limitations upon both parties.

AGREEMENT

The City of Milwaukie (City) and the Milwaukie Pioneer Cemetery Association and individual trustees (Association) agree as follows:

RECITALS

- A. Ownership and management of the Milwaukie Pioneer Cemetery is vested in trustees appointed pursuant to the terms of the original deed of real property from Henry W. and Jane Eddy and William and Fidelia Meek dated _____.
- B. On April 19, 2004 the Clackamas County Circuit Court appointed the following as successor trustees pursuant to the terms of the said deed: Dolly Macken-Hambright, Mark Neubauer, Madalaine Bohl, and the Milwaukie Pioneer Cemetery Association.
- C. On January 20, 1995 the Multnomah County Circuit Court entered an order distributing twenty-five percent of the residue of the estate of Leona O. Knutson in the approximate amount of \$36,795 to the "City of Milwaukie, Oregon . . . for care and upkeep of Milwaukie Pioneer Cemetery," and the City has administered the funds continuously as a trust account (Trust) within the City budget.
- D. On May 4, 2004 the City and the Association entered into an agreement governing the use of Trust funds by the Association for maintenance of the Cemetery, including "landscape maintenance and repair of any structure or fixture within the cemetery, including grave markers."
- E. It is in the interest of the City and the Association to more specifically set forth terms governing the use and disposition of the Trust.

AGREEMENT TERMS

- 1. The City and the Association each covenant to use the Trust funds and all income earned only for direct costs for the care and upkeep of the Milwaukie Pioneer Cemetery, and the City and the Association each further covenant that no funds described in Paragraph 1 shall be used for administrative costs. Association expenditures of Trust funds shall be only by majority vote of the duly appointed trustees.
- 2. The Association shall have sole discretion to determine projects for which funds are to be spent, and the City may refuse payment only when a proposed expenditure violates the allowable purposes set forth in Paragraph 1.
- 3. The City shall maintain the Trust as a separate fund within the City budget, and it shall maximize investment earnings in a manner consistent with Oregon law.
- 4. Paragraph 2 of the May 4, 2004 Agreement between the City and the Association is amended to read as follows: The City and the Association covenant to maintain a minimum balance in the Trust of twenty-five

thousand dollars (\$25,000) unless otherwise agreed by the City and the Association.

5. The City shall annually budget as an amount for use by the Association the difference between the projected year end fund balance and the minimum balance as described in Paragraph 4, and the Association may draw up to the budgeted amount once each City fiscal year by forwarding a request for funds to the City Finance Director.
6. The City shall provide the President of the Association with an annual fiscal year accounting of the Trust no later than July 31 of each year, and the Association shall provide the City Finance Director by July 31 with: (1)a statement of actual expenditures from Trust funds for the preceding City fiscal year certifying proper use of the funds pursuant to Paragraph 1; and (2)the name of each duly appointed trustee.
7. The provisions of this Agreement may be amended only in writing and by mutual consent of the City and the Association.

CITY OF MILWAUKIE

By: _____

Its: _____

Date: _____

MILWAUKIE PRIONEER CEMETERY ASSOCIATION, INC.

By: _____
Mark A. Neubauer

By: _____
D.I. Macken-Hambright

Its: _____

Its: _____

Date: _____

Date: _____

By: _____
Madalaine S. Bohl

By: _____
James R. Hambright

Its: _____

Its: _____

Date: _____

Date: _____



To: Mayor and City Council

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

From: Jeffrey King, Project Manager

Subject: Predevelopment Loan for North Main Redevelopment Project

Date: December 8, 2004 for December 21, 2004 Council meeting

Action Requested

1. To authorize the City Manager to approve required documents and enter into a predevelopment loan and security agreement with Main Street Partners, LLC for the North Main Redevelopment project as described in the Disposition and Development Agreement (DDA) executed by the City Manager on authority of the City Council as approved at its October 19, 2004 meeting.
2. To approve a resolution authorizing the City to receive and to spend predevelopment loan proceeds.

Background

Main Street Partners, LLC, as developer of the North Main Redevelopment Project is making steady progress towards the construction of a mixed-use development on the former Safeway site. At this stage of the project, Main Street Partners, LLC is incurring a number of costs prior to construction. These include City development application, construction documents, architectural, legal, permitting, bid preparation and other soft costs. In order to bridge the project until construction financing in May/June of 2005, the developer is seeking a \$500,000 Predevelopment loan from Oregon Housing and Community Services (OHCS). The loan will be paid off in May or June 2005 once construction loans have been

closed. There are two key issues related to the loan closing and administration of this predevelopment loan – security/collateral and budgeting.

- **Loan Documentation -Security**

Because the Predevelopment Loan would be secured by the Safeway site land, the City's property will be encumbered by the loan. As outlined in Section 3, the DDA approval of the Predevelopment Loan is "subject to satisfaction in the sole and exclusive direction of the City, of the following conditions:..."

1. "Developer enter into an indemnification agreement acceptable to City holding the City harmless from any loss arising from the Predevelopment loan."
2. "Developer executes and delivers to the City a promissory note in the principal amount and at the interest rate of the Predevelopment Loan, payable at the time of conveyance of the Property to Developer pursuant to this Agreement;"
3. "Developer provides security for said promissory note in the form of a deed of trust naming the City as beneficiary with regard to real property owned by Developer, or other form of security that is acceptable to the City, together with an assignment of Developer's right, title and interest in and to all documents, studies and materials prepared by Developer or Developers agents with regard to the Project or the Property....."

As the loan is being proposed the developer will provide to the City two forms of security. They are:

1. Assignment of development agreement rights in the Esther Short Commons, Vancouver, WA.
2. Second position deed of trust in a multi-tenant office property located at 906 NE 88th Circle in Vancouver, WA.

Staff and the City Attorney have deemed these forms of collateral as adequate to help protect the City in the event of default, as proper documentation pursuant to the DDA will allow the City to foreclose or execute on these securities.

- **Loan Administration –Budgeting and Disbursement**

In order to maintain greater control over the use of these funds, staff is proposing that the City serve as the "cashbox" for the loan proceeds. The City would receive the funds in a lump sum from OHCS. The City will then make disbursements to Main St. Partners, LLC. For each draw requested, Main Street Partners would need to specify the amount requested, the proposed use of the funds and provide documentation supporting the request (e.g. invoices for services from consultants). In order to provide this budgeting function, a resolution approved by Council would be required. This would also enable the City to earn nontaxable interest on the funds.

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

Concurrence

The Community Development Department, City Manager, Finance Director, and City Attorney have reviewed the proposed predevelopment loan structure and recommend Council approval.

Fiscal Impact

A short-term pre-development loan of \$500,000 will be provided to Main Street Partners, LLC from OHCS for the North Main Redevelopment Project. The loan will be paid off in May or June of 2004. Because the site is being used as collateral to secure the loan, the City is a co-obligor to the loan. The City has required in turn collateral from KemperCo, the managing member of Main Street Partners, LLC. In the event of a default by Main Street Partners, LLC the City may foreclose or execute on the securities provided by KemperCo, thus significantly reducing risk.

Work Load Impacts

Existing staff and consultant are managing this project. They are part of existing Community Development staff work plan and budget.

Alternatives

1. Approve Predevelopment Loan authority, security agreement authority and budget resolution as presented.
2. Approve Predevelopment Loan authority, security agreement authority and resolution budget with modifications.
3. Delay approval of Predevelopment Loan authority, security agreement authority and budget resolution for further review.
4. Decline to approve Predevelopment Loan authority, security agreement authority and budget resolution.

Attachment

Budget resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, FOR THE PURPOSES OF BUDGETING FOR A PREDEVELOPMENT LOAN FOR THE NORTH MAIN REDEVELOPMENT PROJECT.

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

WHEREAS, A Predevelopment Loan of \$500,000 from Oregon Housing and Community services will enable continued progress on the North Main redevelopment Project and will administer the proceeds of the loan;

NOW, THEREFORE, BE IT RESOLVED that The appropriation of the Oregon Housing and Community Services (OHCS) Loan is approved as follows:

| | |
|--------------------------|-----------------|
| Resources: | Requirements: |
| OHCS Predevelopment Loan | Capital Outlays |
| \$500,000.00 | \$500,000.00 |

Introduced and adopted by the City Council on December 21, 2004.

This resolution is effective on December 21, 2004.

James Bernard, Mayor

ATTEST:

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

Pat DuVal, City Recorder

City Attorney