

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
FEBRUARY 18, 2003**

4494

CALL TO ORDER

The 1904th meeting of the Milwaukie City Council was called to order by Mayor Bernard at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Deborah Barnes
Larry Lancaster

Susan Stone
Jeff Marshall

Staff present:

Mike Swanson,
City Manager
Gary Firestone,
City Attorney
Alice Rouyer,
Community Development/
Public Works Director
Steve Smith,
Finance Director

John Gessner,
Planning Director
JoAnn Herrigel,
Program Administrator
Paul Shirey,
Engineering Director

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Milwaukie's History

At Mayor Bernard's request, Milwaukie Museum Curator Madalaine Bohl agreed to prepare historical comments for each regular Council session during the City's Centennial Year. For this meeting Bohl prepared the following:

"...The gentlemen on that first Council and the people of Milwaukie fought for two years to become incorporated. The concern over amounts of explosives being stored along the railroad tracks and the condition of roads, sidewalks, central water supply, sewers, etc. pushed these men to act. To give this newly formed City the money to operate, a treasury was started by each of these men donating \$1.00 to the City. Eight dollars was all it took to begin, and poll tax receipt books and a City seal were ordered. With the City limits set to include the railroad tracks to the east, Milwaukie was able to control the amount of explosives stored in the powder houses as well as tax them. Now we look forward to creating a better City for all."

Commendation for Milwaukie Police Officer Billy Wells

Kanzler presented a Certificate of Commendation to Officer Wells for his selfless action while off duty and use of his knowledge and training to save the life of a fellow human being, Mr. Richard Austin, on January 21, 2003.

Capt. Ron Schumacher, Clackamas County Fire District #1, presented Officer Wells with the Award of Merit for lifesaving volunteer care and giving assistance to another person.

Auditor's Report for Fiscal Year Ending June 2002

Charles Swank, Grove, Mueller & Swank P.C., Certified Public Accountants, provided a brief overview of the audit report.

It was moved by Mayor Bernard and seconded by Councilor Barnes to consider the Other Business agenda item at this time. Motion passed unanimously.

OTHER BUSINESS**Agreement with Clackamas Cable Advisory Board**

Herrigel provided the staff report in which the City Council was requested to authorize the city manager to sign a personal services agreement with the Clackamas Cable Access Board (CCAB) to manage and operate Milwaukie's Public Access studio located at 6596 SE Lake Road.

In response to projected general fund shortfalls, the City's Public Access Studio Board considered ways to reduce expenses. It recommended the City terminate its existing studio manager contract in December 2002 and prepare a request for proposals (RFP). Seven qualified proposals were submitted, and a review panel recommended an agreement with the CCAB. The agreement keeps the Lake Road studio open 4 hours per day 5 days a week, offers Milwaukie users full privileges at the Willamette Falls TV (WFTV) Station in Oregon City, meets the City's contractual obligations to the Clackamas County Fire District, and provides for additional staff if necessary to meet obligations. The City's total expense for the remainder of FY 2002 – 2003 is not to exceed \$17,000.

Councilor Barnes asked if the CCAB would continue to use interns and how quickly it would respond to system problems.

Herrigel said the RFP addressed the use of interns, and the CCAB indicates it would welcome interns at both facilities. The system will be monitored from the WFTV facility, and Milwaukie will have equal access to studio engineers in the event of a system outage. She discussed using PEG funds to upgrade or modify the playback system.

Councilor Barnes discussed the feasibility of installing monitors in the City Hall lobby to run cable programming.

Herrigel said this would require 2 monitors: one for the public access station and one for the government channel.

Councilor Lancaster asked if studio users, including Fire District personnel, would be supervised.

Herrigel said, with the exception of those authorized by her or WFTV, that is correct.

Councilor Lancaster understands upgraded equipment would make it easy to program several days in advance.

Herrigel responded the playback system would be the next phase of the equipment upgrade.

Councilor Lancaster is mainly concerned about the quality of the City Hall transmission and hopes both the audio and video will be improved before the system is expanded.

Herrigel reported PEG fees would be used to review the entire system and to upgrade the transmission quality.

Stone asked why Gladstone is withdrawing from the WFTV agreement.

Herrigel replied the City of Gladstone is facing budget constraints and has decided to spend its money elsewhere.

Stone was curious if Milwaukie had ever done a survey to determine how many people watch the cable stations. She noted that Part II – System Concept and Solution refers to hiring another employee.

Herrigel says WFTV has an extensive operation, but the addition of another entity with a separate studio may require an additional employee. This would not result in any additional cost to Milwaukie.

Stone understands CCAB will assist the Fire District.

Herrigel explained the Fire District allows the City to use the Lake Road facility at no cost in exchange for 30 hours of studio assistance per month.

Stone said the figures in Part VII – Budget should be checked for accuracy.

Mayor Bernard suggested continuing the Milwaukie Cable Access Studio Board and assigning 1 of the members to participate on the CCAB. He asked who participated on the RFP review panel.

Herrigel said the final review panel was Board member Sherri Campbell, 2 volunteers from other area cable access programs, and herself.

It was moved by **Councilor Barnes** and seconded by **Councilor Marshall** to authorize the city manager to sign a personal services agreement with the Clackamas Cable Access Board to manage and operate Milwaukie's Public Access Studio located at 6596 SE Lake Road. Motion passed unanimously.

CONSENT AGENDA

The consent agenda included:

1. **City Council Minutes of January 21, 2003;**
2. **Authorize Equipment Purchase for Lake Oswego Dispatch Transition;**
3. **Acceptance of 2001 – 2002 Sewer Replacement Project; and**
4. **OLCC Application for Plaid Pantry – 10598 SE 32nd Avenue.**

Councilor Barnes referred to the request to purchase mobile data terminals (MDT) from the City of Portland and asked how many vehicles would be equipped and if the equipment would be transferable when new vehicles are purchased.

Kanzler said this purchase order provides for 10 patrol vehicles; however, that is not the entire fleet. The equipment is anticipated to surpass the 5-year expectancy of patrol cars and will be installed in new vehicles. MDT's do not replace voice radio. In response to another question from Barnes, Kanzler said the ancillary equipment referred to in the staff report includes, among other things, transmission lines between Milwaukie and Lake Oswego and geo-based emergency information that must be upgraded and transmitted to Lake Oswego. He hopes these 10 MDT's will be operational by the second week of April with the full fleet online in 2 years. The cost of the new cars includes the MDT's. He believes Motorola offers a 1-year warranty.

It was moved by **Councilor Marshall** and seconded by **Councilor Lancaster** to adopt the consent agenda. Motion passed unanimously.

AUDIENCE PARTICIPATION

Ed Zumwalt, 10888 SE 29th Avenue, Milwaukie. On Thursday he attended an event at ODS with downtown merchants and property owners. These people have a right to realize a profit on their properties, but he urged the City not lose sight of neighborhood livability as the downtown develops. The North Main Development is not that far in the future, and traffic and parking will become issues. He is keenly interested in healing the split between downtown development interests and the neighborhoods. He reminded the Mayor and Council that they are elected by the neighborhoods, not by downtown businesses.

Annaliese Hummel, Monroe Street resident, is outraged. Monroe Street needs traffic calming devices. She requested the person who took the decorative designs from her yard to return them. Today Los Angeles joined 90 other cities in adopting resolution in opposition to the Patriot Act. Civil liberties are being taken away. War is obsolete; this is a war of fear. She read a speech prepared for the Organization for the Liberation of the Sabitistas. The war is not about defeating Iraq; it is about demonstrating the North American government can commit its crimes in any part of the world at any time with impunity. How are the American people convinced that Hussein is the enemy? The government does not want to find Bin Laden, and he would never have come back to the United States alive. She showed an upside-down flag symbolizing distress.

Councilor Stone asked if and when the City Council would discuss the resolution Hummel has put forward.

Councilor Lancaster is not in favor of discussing it at all.

Councilor Barnes believes this is a personal issue, and the City Council should not get involved.

Mayor Bernard does not intend to bring it up in respect to a Councilor whose son is there.

Stone feels strongly that local government should have a voice because change begins at the local level in our country. Although she respects other Councilors' reasons, she is saddened the issue will not be discussed.

Mayor Bernard said there is a group of people who wish to speak in support of the Providence Milwaukie Hospital's nurses union. He explained the Council listens to statements about issues that are properly the object of its consideration. He announced his father is a member of the Hospital Board.

Bill Reese, 6335 SE Deering Court, Milwaukie, spoke as a concerned resident, health care professional, and union member. The nurses have been negotiating for some time, but progress has been slow. Those who provide the service know best what needs to be done. He asked the Council to encourage both sides to come to a resolution soon.

Richard Toll, St. John's Episcopal Church, spoke on behalf of the nurses. The health care crisis leaves nurses at the bottom of the heap. He has worked with the hospital for 19 years and knows the nurses serve well, and they have needs that must be considered by the hospital and community. This is a community concern that needs to be resolved quickly.

Barbara Cole, 4828 SE Caruthers, Portland. She has been a Providence employee for 20 years, and her primary interest is patient well-being. There is a nursing shortage, and she wants Providence Milwaukie to attract the best workers. The issues need to be resolved so people can get on with their work. Her intent for addressing Council was to provide information and ask Council to support a speedy closure to negotiations.

Advisory Board Appointment

With Council consensus, **Mayor Bernard** appointed Jane Hanno to Center/Community Advisory Board position #3 as recommended by the Board.

PUBLIC HEARING

Appeal of Planning Commission Denial of a Three-Lot Minor Land Partition with Two Flag Lots, File No. MLP-02-07

At 7:00 p.m. **Mayor Bernard** announced the continuation of the public hearing called to order on January 7, 2003 on the appeal of the Planning Commission's denial of a request for a minor land partition, File No. MLP-02-07, for the property located at 5650 SE King Road.

The purpose of the hearing was to consider the appeal of the Planning Commission's denial of an application for a minor land partition, File No. MLP-02-07. Phillip Reich made this appeal. The appellant requested City Council consider the Planning Commission's denial of his application to develop a 3-lot minor land partition with 2 flag lots. The applicable standards to be considered are Zoning Ordinance, Section 1002 (Appeal from Ruling of Planning Commission), Subdivision Ordinance Section 17.32 Partitioning, and Zoning Ordinance Section 1011.3 Minor Quasi-Judicial Review.

Mayor Bernard reviewed the order of business. The applicant has the burden of proving that the application complies with all relevant criteria of the Comprehensive Plan and Zoning Ordinance. The appellant must demonstrate that the Planning Commission erred in its decision in the particulars they allege. The City is in receipt of the appeal, which identifies the issues and the reasons for the appeal.

All testimony and evidence must be directed toward the applicable substantive criteria. Failure to address a criterion precludes an appeal based on that criterion. Failure to raise constitutional or other issues related to proposed conditions of approval with sufficient specificity to allow a response precludes an action for damages in circuit court. Any party with standing may appeal the decision of the City Council to the State Land Use Board of Appeals according to the rules adopted by that Board. Persons with standing are those who testify or sign the City Council Attendance sign-up sheet on the information table in the hall.

Mayor Bernard reviewed the conduct of the hearing.

Conflicts of Interest and Site Visits

There were no conflicts of interest declared. All Council members had visited the site.

Ex Parte Contacts

Councilor Barnes announced she spoke with Reich to request entry to the back of his property to view it more closely, and that was the full discussion. Reich confirmed that.

Challenges to Impartiality or Ability to Participate in the Decision

No member of the audience made any challenge to any Council member's impartiality or ability to participate in the decision.

Jurisdictional Issues

There were no objections to the Council's jurisdiction to consider this matter.

Staff Presentation

Gessner presented the staff report. The Planning Commission denied a 3-lot partition Reich submitted on the basis the application did not comply with applicable substantive criteria that require streets be provided in lieu of flag lot development when possible and feasible.

Reich states his reason for the appeal is "denial by board in contradiction to allowed partition requirements for this partition. Documentation to follow." The contest was over whether or not a new street must be provided in lieu of actually constructing flag lots. The applicant has not submitted additional documentation other than the appeal.

The subject property, which Gessner indicated on a map, is on King Road south of Stanley Avenue. Both the Reich property and the neighboring property are 100 x 460 feet, and each has development potential, which the Planning Commission took under consideration. The Commission applied a section of the partitioning regulations that speaks to actual submission requirements. Applicants must expressly address access to the subject site and adjacent underutilized property in a comprehensive manner. Additionally, a plan is required that demonstrates access ways and new street development have been investigated for the purposes of minimizing the number of new flag lot driveways.

The specific flag lot partitioning requirements are very clear. Staff believes the Planning Commission's findings were accurate, and regulations were applied in accordance with the intent and letter of the subdivision ordinance. The ordinance states, "applicants for flag lot partitioning must demonstrate that access by means of a dedicated street is not possible." The applicant bears the burden of demonstrating compliance with applicable

regulations and furthermore must demonstrate the Planning Commission erred in applying these specific code requirements.

Development potential of adjoining properties is important in that the Commission must consider whether a jointly dedicated right-of-way could provide suitable access and avoids additional flag lots. When potential exists for future development, flag lots may be allowed as an interim measure; however, in this case, the Planning Commission made specific findings that flag lots as an interim measure were not suitable. Finally, flag lots must be designed to allow for future street development, and right-of-way dedication must be part of the final plat.

Gessner summarized the Planning Commission's findings for denial which included: there is development potential on the adjoining lot which falls under the criteria; the applicant has not demonstrated that access by means of a street is not possible; creation of the flag lot is not an appropriate interim measure to avoid other flag lots; and the applicant's proposal does not assure future street development. A full copy of the Commission's decision is in the staff report.

Based upon the Planning Commission's decision and the manner in which the Commission applied the regulations, staff recommends the City Council deny the appeal and adopt findings in support of the denial similar to those adopted by the Commission. Specifically, the applicant has not demonstrated that the Planning Commission erred in applying the subdivision ordinance. The applicant has submitted no documentation beyond the appeal itself that would indicate how the Commission erred in applying the street requirements for flag lot partitioning. Future development on the adjacent property can be served by creating a dedicated street and should be required as a condition. Flag lots as an interim measure do not assure development. Staff believes the Planning Commission did properly apply the regulations and recommends the City Council deny the appeal based on the findings listed in the staff report. The engineering director Shirey was present to provide information on new street development.

Additional Correspondence: None.

Appellant Testimony

Tom Rastetter, 294 Warner-Milne Road, Oregon City, Oregon 97045, attorney representing appellant Phillip Reich. As staff indicated, the property is approximately 1.06 acres. The proposal is a minor partition into 3 lots, 2 of which are flag lots. Access to the 2 rear lots would be across two 15-foot flagpole portions of the lots with a 12-foot paved driveway consistent with City code requirements. When the application was originally submitted, City staff interpreted the first sentence of 17.32.040(A) to mean that applicants for flag lot partitioning must demonstrate access is not possible by means of a public roadway. The interpretation of that sentence and its application to Reich's proposal is what the appellant wishes the Council to consider. There can be at least 2 interpretations of that sentence, which he believes Firestone acknowledged during the

Planning Commission hearing. The first interpretation is the one that has been adopted by staff that essentially says instead of creating a flag lot or flag lots, one must dedicate and build a public street if possible. He believes this is a plausible interpretation. The other interpretation, which in the appellant's mind is correct, says a flag lot cannot be created if the lot already has means of access to an existing public street. Under the former interpretation, the applicant would have to dedicate and build a public street if possible. Under the latter, which he urged Council to adopt, the applicant would just have to show that there is no current access to a public street.

There are various reasons why the second interpretation makes more sense. First, it does not make sense that the City would always require a public street for every potential flag lot. The code simply makes the statement that the applicant must show access by a dedicated public street is not possible. Suppose someone is creating 1 flag lot behind a parent lot. Does it make sense the City would intend a public roadway be installed for that 1 flag lot? Under staff's interpretation, that would apply to the creation of only 1 flag lot and does not make sense in that situation. The code provision under which this language appears comes right after the heading "future development." He supposes the City could make the argument that that language only applies in situations where there is potential for future development on adjoining properties, and, because of that, creation of a public roadway is desirable. He referred the City Council to the exact language in Ordinance 1440 that does not contain the words "future development." He submitted that was not the original intent of the ordinance.

Secondly, as a matter of policy, the planning codes of many jurisdictions seem to have provision saying a flag lot cannot be created unless there are no other means of access to the property. This makes sense if there is access from the other side of the block. The Milwaukie code should have a provision to that effect, but nowhere in the code is there a mention of the issue. Rastetter suggested this was because it was never intended to require construction of a road for just any proposed flag lot.

Third, the code already requires flag lots with adjoining access ways to have a combined width of the 2 access strips of not less than 30 feet. As shown by the city engineer's comments in this application, which indicate the 30-foot width is sufficient width for a roadway of modest size. Two flag pole sections are already wide enough for a roadway, so when would there be flag lots if there are already access ways required by the code which are wide enough for a public roadway? His point is, if the quoted language is about access to a dedicated public street, then when would there be 2 flag lots with adjoining access strips? There would not be; there would always be a dedicated public road instead. The interpretation proffered by staff would render meaningless the language in the code about the adjoining 30-foot access ways. Therefore, it cannot be the right interpretation.

Finally, the City has historically approved many flag lots without dedication of a public roadway. He offered maps into the record of other partitions in the City showing adjoining flag lots with configurations similar to his client's.

Rastetter said this application could be approved without a street dedication since there is no other access to the proposed flag lots. If Council is so inclined that the code provision does require the dedication of property for a public street, then he could proceed with that despite the disagreement with that interpretation. City staff suggested Reich apply under the provisions of the code that do allow interim flag lots. This provision says where there is potential for development on adjacent lots, flag lots may be allowed as an interim measure. The application was prepared under interim provisions, but there were problems from the perspectives of the applicant, staff, and Planning Commission. The City is concerned about the impact of allowing a minor partition with flag lots and driveway access on its ability to identify a funding mechanism for new roadway construction if future development does occur on the adjacent lots. As a condition of approval of any land use application on those adjacent lots, the property owner could be required to construct that half of the roadway. How could this be required of the owners 15 years from now? He has concerns with it as well because essentially all but 2 feet of the roadway would be on Reich's property. The roadway would be almost entirely on the subject property, and this is a real concern. It also puts the roadway close to the applicant's house with about 8'8" between the sidewalk and the applicant's house. Additionally, putting the roadway almost entirely on the applicant's property would require the removal of some mature trees.

Rastetter further submitted that the applicant bears the undue burden of accommodating the roadway, 26.5 feet of a 28-foot road width, and this is not directly proportional to the impact Reich's 2 additional lots would create. The applicant also submits this would violate the spirit if not the letter of the code. The code does speak to access when there is potential development on adjoining properties and does talk about access by means of a "jointly dedicated right-of-way." He does not think requiring the applicant to assume 26 of the 28 feet is a joint dedication.

Rastetter appealed to the Council's sense of fairness on this issue and consider the following compromise: dedicating and constructing half-street improvements at this stage up to the property line so that half of the roadway is already built to City standards. It would be about 14-feet wide and would accommodate essentially half-street improvements. If the adjacent property to the east develops, at that point the City, as a condition of approval, can require that property owner to build the other half of the roadway. This would solve the City's concerns about how to require the flag lot properties to pay for the roadway development. Reich had previously talked about just putting in a driveway on his property, and, if the adjoining property ever developed, then both property owners would join together and build a roadway. This, however, would present a funding mechanism problem; however, the compromise could solve that problem. The roadway on the Reich property would already be developed. It also puts the roadway in jointly dedicated rights-of-way as mentioned in the City code and not put an undue burden on Reich. Half-street improvements are more than adequate for access to these 2 rear flag lots and are half of what the engineer would require for the permanent roadway. This solves the issues and makes a lot of sense. He does suggest that construction of sidewalks and the hammerhead be deferred. The applicant would be willing to dedicate that property to the City at this time as part of the approval,

but these improvements do not seem necessary for 2 flag lots. Apparently the adjoining property owner does not have any plans to develop at this time.

He submitted materials for the record. These were not submitted prior to this hearing because the architect passed away.

Phillip Reich, 5650 SE King Road, Milwaukie. This has been a frustrating process. He has tried to work repeatedly with staff on this application and endeavored to do it properly. The Planning Commission did not discuss the application at all but simply adopted the staff report. What the Council has seen reflects no discussion by the Commission. He and Associate Planner Kenneth Kent discussed in concept this proposal of abutting the roadway to the property line and developing it in this manner. Kent did not indicate there would be any problems but that he would have to see the drawings. He hoped to come to this meeting with the staff's saying this proposal is workable and that the City Council would approve. He was unable to contact his project manager for several weeks and finally learned today that he had recently died of a heart attack. He apologized for bringing the material late, and if Kent were here he could validate the discussion that took place weeks ago.

Other Testimony in Support of the Appeal

None.

Testimony of Those Opposed to the Appeal

Karen Liebert, 5640 SE King Road, Milwaukie, west of the subject property. She is concerned with the interim issue because there is no deadline. The neighbors have no intention of developing their properties. What happens if Reich sells his property, and this is still an interim issue?

Firestone reminded Council and the audience this hearing is about whether or not to allow the minor land partition.

Neutral Testimony

None.

Staff Comments and Recommendations

Gessner showed the site plan and said this is the type of case regulations anticipate for the creation of streets. There is significant development potential both on this lot and the adjoining lot that warrants street construction as opposed to having substandard driveways. Each property could potentially develop 4 lots. The applicant is proposing a 3-lot division at this time with 2 flag lots, but the remaining area could be divided again. Mirror that on the adjoining property, and there is a potential for 8 lots. The code section that requires consideration of adjacent underutilized or vacant properties for the

purpose of determining whether or not a street should be provided was adopted by Ordinance 1440 in 1981. He cannot agree with Rastetter's representation that it was not under the heading of future development and should therefore not be considered. He believes it was specifically placed in the ordinance to address incremental partitioning. In this appeal, the Council is considering the context and letter of development regulations, and it is appropriate for the body to evaluate whether development of oversized properties should be done in a piecemeal, flag lot pattern or if streets should be provided.

Gessner responded to Rastetter's testimony. The first item had to do with addressing access issues in a comprehensive manner. There is a requirement that new street development be investigated as part of the application review, and the applicant has the burden of demonstrating that a street cannot be constructed. To substantiate this, he pointed out the size of the parent lot and the feasibility of creating additional lots as well as the development potential of the adjoining lot. The code was written for this type of property and speaks to giving consideration to adjacent or nearby properties that could be served by a jointly dedicated right-of-way. Lastly, the code addresses dedication of future street rights-of-way as a requirement of the final plat approval.

Gessner addressed other statements made during the testimony. Reich opined the Planning Commission had adopted the staff without any discussion; however, the meeting minutes indicate extensive Commission discussion on the technical requirements of the code. There was discussion of the adequacy of a shared driveway as well as the code requirement for a dedicated public street where possible. The engineering division has looked at a compromise right-of-way cross section which is specifically designed to 26.5 feet as the minimum width necessary to ensure safe and convenient access for homeowners. In order to allow for on-street parking on 1 side, it is a common practice for the City to require a minimum width of 28-foot to ensure a 20-foot clear aisle for emergency and service vehicle access. The compromises allowed by the engineering division include putting a sidewalk on an easement so lot area is not reduced. Staff approached the issue from the perspective that the roadway will serve 6 additional lots in the future beyond the 2 in Reich's proposal. In that instance, the applicant's proposed 14-foot driveway does not meet on-street parking needs, does not provide a clear 20-foot accessway as required by the fire department, and does not meet the intent of the regulations.

Applicant's Rebuttal

Rastetter submitted a copy of Ordinance 1440, adopted in 1979, into the record to show the words "future development" do not appear as a heading. The applicant agrees there is potential for future development on the adjoining parcel. If Reich builds half of the roadway at the time, the issue will be taken care of. Gessner argues a 26.5-foot minimum road width is required for on-street parking. It will not be used as a public street yet. If the adjoining parcel is developed, that is the point at which a public street will be needed. The code only requires 12-feet of paved access for flag lots, and the applicant has exceeded that. He understands the fire marshal originally approved the

12-foot access width. The applicant does not believe a roadway is needed for 2 flag lots. Liebert was concerned about interim solutions with no deadlines. The only thing interim with this proposal is the condition of the roadway. When the adjoining parcel develops, the roadway will be permanent. He stated this hearing is about a minor land partition, not site development.

Reich mentioned there are 2 inaccuracies in the Planning Commission minutes. The Linwood Neighborhood District Association (NDA) stated that both neighbors had complained and opposed the application. The neighbor to the east indicated he had not spoken with NDA representatives. The people to the west are renters, and the owner did not appear at this Council hearing. The owner as well as her daughter did appear at the Planning Commission hearing and gave testimony to their concerns. He felt they had been misrepresented. He asked if those representing the NDA were elected representatives at this point. As reported at the Planning Commission meeting, the then-president of the NDA in a phone conversation with the Planning Director indicated no objections to the project. It was only later that the acting president issued this letter, likely at the Liebert's request. Reich researched recently-developed partitions and flag lots in the City which did not require street development. These were done after Ordinance 1440 was adopted in 1979. It is his contention that the standard has undergone interpretive changes since 1979. He does not believe changing interpretation mid-stream is appropriate. If, in fact, the desire is to eliminate flag lots by requiring roadways, then certainly the standard itself should be changed. He proposed that abutting the street to the property line would eliminate any concerns about future street development. He felt taking 14-feet from his property is reasonable, and the other property owner would fund development of his side of the street.

Questions from Council to Staff

Councilor Marshall understood the 28-foot right-of-way is just for the roadway and does not include sidewalks.

Gessner said that was correct. The sidewalk would need to be placed on an easement next to the right-of-way. An additional dedication of 9 – 10 feet would be obtained at the time the adjoining property to the east develops to complete the roadway surface and sidewalks. It would be a condition of approval under the provisions the City Council is reviewing at this meeting. The property to the east would be subject to the same considerations regarding construction of adequate streets. The reason for not requiring sidewalks at this time is that the lot is only 100 feet wide, and even the narrowest right-of-way with sidewalks on both sides and full travel width would eat up so much of the lot that development would not be feasible without substantial variances of lot depth.

Gessner made several additional comments. He looked at the materials submitted by the applicant at this hearing demonstrating that the City has had a practice of approving flag lots without requiring streets to be constructed. These materials suggest that in most if not all of the cases, the lots being partitioned were not large enough to support future development. The partitioning itself exhausted the development potential.

Additionally, there was no comparable condition next to the subject lot that demonstrates the need to accommodate future development. In the case being considered at this hearing, there is development potential on the subject site as well as the adjoining lot. He also notes one of the examples is outside the City limits. He did not believe these were comparable cases and should not be used to consider whether or not the City has consistently applied this section of the code. From his experience since 1998, it has been a practice for all applicants to demonstrate whether or not a roadway is needed by virtue of the size of the lot and its immediate surroundings. Consideration of street development is required for applications where there has been excess development potential on the subject site or adjoining sites. There was an issue raised that Reich's paying for street construction was an undue burden on the applicant. On one hand the code says the applicant shall bear the burden in the public interest for assuring safe, convenient, and appropriate development. In that case it becomes an obligation of the developer by virtue of the specific code requirements under review by the City Council. On the other hand, there are code provisions that allow the developer to oversize utilities in anticipation of future development and later recover the cost for the excess design. This mechanism is called a reimbursement district and is an option for the applicant to recoup costs from the adjoining property if developed in the next 15 years.

Firestone said, procedurally, since Gessner made additional comments, the applicant may make additional comments. There were no further comments by the applicant.

Close Public Hearing

Mayor Bernard closed the public testimony portion of the hearing at 7:50 p.m.

Council Discussion

Councilor Lancaster was persuaded the Planning Commission did not err in its decision, and the appellant's case was not compelling. He will vote in support of the Planning Commission's decision.

Councilor Marshall agreed with Lancaster. He was disturbed by the fact this case has been going on for so long and at the last minute the applicant submitted auxiliary information. He was not impressed by this tactic. He suggested the City Council consider another option if there is sufficient time.

Firestone said the applicant has until March 4 for further action, so time is limited.

Reich indicated he would be willing to extend it for as long as it takes.

Councilor Marshall said he would vote to uphold the Planning Commission's denial unless the applicant amended and resubmitted his proposal.

Councilor Barnes said, if it is a case of interpretation, then communication should be improved and code language clarified.

Firestone commented an attorney could always find more than one interpretation for anything. Part of the role of the Council is to interpret the code, and under existing land use laws, the Council interpretation of pure city code is entitled to a great amount of deference. In this case, the one bit of language that has been discussed is, "applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible." Interpretation of that statement is part of Council's decision. Staff and the Planning Commission interpreted it to say the applicant must show he could not create a dedicated public street to serve these lots. That is a perfectly reasonable interpretation. Contrary to Rastetter's opinion, from Firestone's point of view, that is probably the best interpretation. He recommended looking at the language and deciding whether code requires the applicant to show that a dedicated public street cannot be extended to these lots. It is Council's decision on interpretation.

Councilor Stone, asked, if right-of-way would have to be obtained from the neighboring property if the applicant were willing to build a dedicated public street.

Firestone said not necessarily. If there is sufficient width on this property as staff believes there is, and to some extent he thinks the applicant also believes there is, then there is a difference of opinion between staff and applicant as to the how wide it would have to be for a dedicated public street. That is all staff and the applicant are talking about at this time -- that the right-of-way dedication goes to the property line and not beyond.

Councilor Stone asked if the applicant's dedicating right-of-way would comply with staff's requirements.

Firestone said that is correct provided that the width satisfies the acceptable street width standards under the circumstances. That would also include the necessary improvements.

Councilor Stone concurred with Lancaster's and Marshall's comments based on Firestone's clarifying remarks. She does not think the Planning Commission erred, and at this time she recommends the applicant go back to the Planning Commission. Otherwise she would vote to uphold the Commission's decision.

Firestone suggested a recess so staff could determine if the applicant is willing to grant an extension to submit additional materials for Planning Commission decision.

The City Council took a 5-minute recess.

Decision

Firestone said the applicant indicated he would submit revised materials to staff for consideration by the Planning Commission. The applicant further agreed to a 120-day extension from today. The City Council may decide to grant, to deny, or to allow the applicant to submit additional materials for consideration by the Planning Commission. The public testimony portion of this hearing has been closed, and the Council will make a decision that closes the hearing at the Council level for now. The applicant has also agreed to submit the revised application within 21 days and further agreed the application would be considered denied if additional materials were not submitted within 21 days.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to deny the appeal but allow the applicant 21 days to submit a revised application to the Planning Commission; if the materials were not submitted in 21 days the denial would be final.

In response to a question from Marshall, **Firestone** said the 120-day clock begins immediately with tomorrow being day 1 of the 120 days.

Gessner said the City would not be receiving new application fees to review the revisions. Reich's application has been in house for a long time, and the conversation and the issues with the applicant have not changed. The applicant has not found himself to be able to agree with staff and the Planning Commission as to the improvements needed. There is no prospect of the applicant's making revisions that will meet staff's recommendations having to do with roadway improvements. His concern is staff may see something far less and spend more time without being able to come up with a plan that could be recommended to the City Council for approval. The Council has the ability to make a decision on the application at this meeting. There is nothing that prohibits the applicant from submitting a new application that would be at Reich's expense. The application fee is about \$1,400.

Councilor Lancaster is in favor of the applicant's having an opportunity to prepare a proposal that works. Unless Reich's submission passes staff and Planning Commission scrutiny, which is consistent with what Council has tried to develop and fine tune over the past several years, it will not get past him.

Councilor Marshall appreciated Gessner's comments and moved to bill Reich half fees.

Mayor Bernard accepted the amendment.

Councilor Stone asked if half fees would be adequate.

Gessner said adequacy depends on the quality of the information submitted. The burden on staff is reduced when applications are complete with all engineering and design details.

Firestone suggested accepting a deposit for costs as another option.

Councilor Lancaster felt a fee discount was fair. He wanted to add the qualification that anything less than a complete application would not be considered.

Councilor Marshall said the applicant needs to come back with something that is substantially within the bounds of what has been laid out by the Planning Commission. It has to do more than simply move the issue forward a couple of inches.

Mayor Bernard agreed and indicated he would not accept an appeal if the application changes were not in line with the Planning Commission's findings.

Councilor Marshall said it must be clear this Council would have denied the appeal but is trying to work with the applicant.

Councilor Lancaster seconded the amendment.

The main motion passed 4 – 1 with the following vote. Mayor Bernard, Councilor Lancaster, Councilor Marshall, and Councilor Stone aye; Councilor Barnes nay.

Firestone restated the motion: to deny the appeal but allow the applicant 21 days to submit a revised application to the Planning Commission; if nothing is submitted within those 21 days, denial would be final and permanent.

LUBA Appeal Information

Any party with standing may appeal the decision of the City Council to the State Land Use Board of Appeals according to the rules adopted by that Board. The written decision will contain an explanation of the appeal rights. If you have questions, please call the Planning Department staff.

Sale of Surplus Property Located at 12125 SE 21st Avenue -- Resolution

Firestone presented the staff report in which the City Council was requested to approve a resolution declaring the property located at 12125 SE 21st Avenue surplus, authorizing its sale as 2 separate lots, and setting minimum terms. The minimum terms are outlined in the staff report. The City obtained this property after a foreclosure action and the judgment became final. The City owns the property outright although the former owners continue to make statements that they have some rights. The City recently received communication from the former owner, but the papers submitted have no legal effect. There is a structure on the property that straddles the lot line, and staff recommends selling the property as 2 separate lots and requiring removal of the house

by the purchaser. The minimum price for tax lot 1400 is \$53,000 and a requirement to allow access to the site in order to remove the structure. The minimum price for tax lot 1401 is \$48,000 and a requirement that the structure be removed.

A resident at 12107 SE 21st Avenue heard discussion of this property at the Island Station Neighborhood Association meeting. There was consensus among the residents that the property should be sold. He understood there were 3 lots.

Firestone responded technically there are 3 lots, and 2 would be consolidated to make them adequate size for development.

Councilor Stone asked how costly this process had been to the City.

Firestone said the actual costs, not including fines and penalties, are about \$41,000.

Swanson said a portion of the costs related to satisfying a Department of Veterans' Affairs lien in the amount of approximately \$30,000. The City paid this about 6 months ago in order to take clear title.

It was moved by Mayor Bernard and seconded by Councilor Stone to adopt the resolution declaring the property located at 12125 SE 21st Avenue surplus, authorizing its sale as 2 separate lots, and setting minimum terms. Motion passed unanimously.

RESOLUTION 6-2003:

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.

Discussion of Core Values and Cost Analysis

Councilor Lancaster had 3 items for discussion. The first had to do with recent budget discussions about how many people read *The Pilot* and its value as a communication tool. It seemed to him this would be a great opportunity to do a front-page budget article and ask people if *The Pilot* is important to them and if they wish to continue receiving it. This would be valuable input to find out how important the newsletter is to the people who actually read it.

Mayor Bernard suggested also asking people if they would read it on the web.

The group discussed other options for reader responses including mail, phone, fax, or e-mail.

Mayor Bernard asked if the City would be going out soon with a request for proposals (RFP) for printing *The Pilot*.

Swanson was not sure this would be done within a month because of Centennial Event obligations.

Councilor Lancaster said this would be helpful before making any decisions related to *The Pilot*.

Councilor Barnes was concerned because people are frequently not interested in spending the time to respond. She feels a lot can be saved in printing costs.

Councilor Stone suggested prefacing it with comments on the budget constraints and the proposal before the Budget Committee about minimizing circulation. She believes it would get people's attention if there is a possibility of *The Pilot* going away.

Councilor Lancaster agreed; however, the City continues to try to find out how effective communication efforts are. There needs to be an effort to get some sort of measurement.

Councilor Marshall does not disagree with conducting a survey. If 100 people respond, what does that really say? *The Pilot* is like neighborhood meetings. It is not fair to base participation how many people respond to the survey, just like basing neighborhood participation on the number of people attending the meetings. He recommended being cautious when interpreting this information.

Councilor Lancaster agreed. There are credible numbers from the past used by senators and representatives who take the approach that for every response there is a greater number who feel the same way but will never respond.

Mayor Bernard offered to take a family of 4 out to dinner as an incentive.

Councilor Lancaster had 2 other issues. One is really important, and he has said it repeatedly during the Budget Committee meetings. It is absolutely critical that the Council, as the policy setting body, determine what the core services are this City should be providing and establish some sort of benchmark that identifies what the minimum level of service is going to be.

It was moved by Councilor Lancaster and seconded by Councilor Stone that the Council will determine as a matter policy what the core services are that the City should be providing based on its revenue ability and determine a minimum level of service for those core services.

Mayor Bernard's concern is minimum level of service at what budget level.

Councilor Lancaster said the budget would drive what is done. The Council must make this decision. It has been clear in budget discussions for several years, and now even more so that priorities must be set. The Council must determine right away what these priorities are to provide a definitive guide for decisions from this point forward.

Councilor Barnes said when she ran for office she made 3 promises, and she believes she was elected based on these promises. The library is a core service, and she will support it. She also supports communication, which includes *The Pilot*. Anyone who campaigned and said something was important should back that up or answer to the electorate why this change was made.

Mayor Bernard agreed, and he feels every service in the City is core. It is the level that he debates.

Councilor Lancaster added it is the Council that needs to do this.

Councilor Stone said the Council must to identify and reach an understanding of what core essential services means. To her, these are the services that affect citizens' lives on a daily basis. They are the services, which, if not provided, would negatively affect community livability or one's safety. For her core essential services have everything to do with public safety including police, fire and code enforcement. She supports the library. In her campaign she used the terms "fight to the death" to support police and code enforcement. She feels if the average citizen were asked to choose between having another police officer and putting more money into *The Pilot* or library, they would opt for the officer given Milwaukie's crime rate and reductions in state and county officers. This is not the time to reduce Milwaukie's police force; it is time to really beef it up. Citizens expect Council to manage their money so they are getting the core services that protect and enhance their lives.

Councilor Barnes said a majority of the people speaking at the Budget Committee meetings spoke on behalf of the library and *The Pilot*.

Councilor Stone said that does not mean necessarily they do not want public safety supported. That is a given and is taken for granted money will be spent there first.

Councilor Marshall made a motion to have this discussion at a later date.

Councilor Lancaster seconded the motion and suggested meeting on a Saturday to develop a list of core services and identify levels of service. This would provide direction to the Budget Committee.

The motion passed 3 – 1 – 0 with the following vote: Councilor Lancaster, Councilor Marshall, and Councilor Stone aye; Councilor Barnes nay; Mayor Bernard abstained.

The group agreed to meet Sunday afternoon February 23 at 1:00 p.m. in the City Hall conference room.

Councilor Lancaster commented on the numerous discussions about determining costs of services. Marshall has raised this issue many times over the past several years, but the Council has not gotten to the point of how to go about it or give direction on creating a system or process to determine what those costs really are. Marshall has wanted to know for some time if it is cheaper to provide a service in house or to contract it out. The only way to find out is to do some sort of cost analysis of the services the City provides. It will be critical for Council to know costs when looking at drastic cuts.

It was moved by Councilor Lancaster and seconded by Councilor Stone to direct the City Manager to begin the process of cost analysis to determine actual costs of providing services.

Councilor Marshall said, although he did not necessarily disagree with the proposal, he had concerns about the financial impact as well as the impact on staff time. He does not wish to create an undue burden.

Councilor Lancaster has provided detailed information on how cost analysis are done both by public and private organizations, and some approaches can be very costly.

Swanson said the biggest challenge to him in costing services is the ability to make a meaningful comparison.

Councilor Lancaster agreed. He wants to understand clearly how much it costs to provide each service. The City has been struggling over the general fund, but how much does it cost to provide public works services? Once this is determined, then the next phase would be the comparison with other local governments and the private sector. Nothing can be compared until costs are known.

Mayor Bernard did not feel there needed to be a motion but agreed it is important to find out how much services costs. There is also the issue of customer service levels.

Councilor Stone asked Swanson to comment on the soundness of this idea and looking at whether the City is getting the most "bang from the buck" from each department.

Swanson said the new accounting system makes it easier to extract information, but the difficulty comes in meshing that information to get meaningful results.

Councilor Lancaster thought certain services would be easy to cost, for example, there are requirements for sweeping the streets a certain number of times per year. It should be easy to determine how much a contractor would charge versus how much it costs the City to own the sweeper and hire the operator. He believes there are certain activities that could be easily measured and compared. He wants a clear picture that

can be validated to the residents when good programs are being cut. This would be phase 1.

Mayor Bernard agreed this is needed information, but he did not feel the motion is necessary.

Councilor Lancaster said from his experience the only way to get things moving is to make a motion and provide direction. He does not want to create a burden, and he is not opposed to Swanson's making a proposal on how to accomplish the project.

Swanson says this is not a function of the software. He can identify many costs, but the real question is how Council wants to base the costs.

Councilor Marshall moved to table the current motion until Council adopts the community goals.

Councilor Lancaster was willing to amend his motion that Swanson prepares a proposal on doing the cost analysis to begin this year.

Mayor Bernard seconded Marshall's motion to table the motion.

Councilor Lancaster was willing to withdraw motion and **Councilor Stone** agreed.

Councilor Stone thought Swanson could solicit help from department heads and ensure the City is getting the bang for its buck from its employees.

The group agreed to give direction to Swanson.

Adjournment

It was moved by **Councilor Marshall** and seconded by **Mayor Bernard** to adjourn the meeting. Motion passed unanimously.

Mayor Bernard adjourned the meeting at 9:10 p.m.



Pat DuVal, Recorder

**CITY OF MILWAUKIE
CITY COUNCIL AGENDA
FEBRUARY 18, 2003**

MILWAUKIE CITY HALL
10722 SE Main Street

1904TH MEETING

REGULAR SESSION - 6:00 p.m.

- I. CALL TO ORDER**
Pledge of Allegiance

- II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
 - A. Commendation for Milwaukie Police Officer Billy Wells (Kanzler)**
 - B. Auditor's Report for Fiscal Year Ending June 2002 (Chuck Swank)**

- III. CONSENT AGENDA** *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*
 - A. City Council Minutes of January 21, 2003**
 - B. Authorize Equipment Purchase for Lake Oswego Dispatch Transition**
 - C. Acceptance of 2001 – 2002 Sewer Replacement Project**
 - D. OLCC Application for Plaid Pantry – 10598 SE 32nd Avenue (new outlet)**

- IV. AUDIENCE PARTICIPATION** *(The Mayor will call for statements from citizens regarding issues relating to the City. It is the intention that this portion of the agenda shall be limited to items of City business which are properly the object of Council consideration. Persons wishing to speak shall be allowed to do so only after registering on the comment card provided. The Council may limit the time allowed for presentation.)*

- V. PUBLIC HEARING** *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*
 - A. Appeal of Planning Commission Denial of a Three-lot Minor Land Partition with Two Flag Lots File No. MLP-02-07 (Kent)**
 - B. Sale of Surplus Property Located at 12125 SE 21st Avenue – Resolution (Firestone)**

- VI. OTHER BUSINESS** *(These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

Agreement with Willamette Falls for Public Access Studio Management (Herrigel)

VII. INFORMATION

- A. Park and Recreation Board Minutes, November 26, 2002**
- B. Riverfront Board Minutes, December 17, 2002 and January 27, 2003**
- C. Center/Community Advisory Board Minutes, December 13, 2002**
- D. Library Board Minutes, November 25, 2002**

VIII. ADJOURNMENT

EXECUTIVE SESSION -- *At the end of the regular meeting, the Council may hold an Executive Session under the authority of Oregon Revised Statutes 192.660 as needed.*

For assistance/service per the Americans with Disabilities Act (ADA), dial TDD 786-7555.

The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

Date 3/18/03

I wish to address City Council on Agenda Item # CITIZENS PART

Name ED ZUMMALT

Organization SELF

Address 10880 S.E. 29TH

Phone 654-2492

Speaking in Support

Speaking in Opposition

Raising Questions

Providing Information

Comments GEN COMMENTS ON STATE
OF UNIVERSE

Date _____

I wish to address City Council on Agenda Item # 4

Name RICHARD TOLL

Organization ST. JOHNS EPISCOPAL CHURCH

Address 2036 SE JEFFERSON

Phone 503-653-5880

Speaking in Support

Speaking in Opposition

Raising Questions

Providing Information

Comments IN SUPPORT OF THE NURSES AT PROVIDENCE MILWAUKEE
HOSPITAL.

Date 2-18

I wish to address City Council on Agenda Item # _____

Name Bill Reese

Organization OFNHP

Address 6335 S.G. Deering Ct Milwaukee

Phone 503 786-1946

Speaking in Support

Speaking in Opposition

Raising Questions

Providing Information

Comments Milwaukee Nurses.

Date _____

I wish to address City Council on Agenda Item # _____

Name Anneline H.

Organization _____

Address _____

Phone _____

Speaking in Support

Speaking in Opposition

Raising Questions

Providing Information

Comments _____

Date 2/18/03

I wish to address City Council on Agenda Item # audience participation
Provide info

Name Barbara Cole

Organization ORHP

Address 4828 SE Caruthers

Phone 503-239-6937

Speaking in Support

Speaking in Opposition

Raising Questions

Providing Information

Comments _____

Date 18 Feb, 03

I wish to address City Council on Agenda Item # Open audience

Name Betty

Organization OFNHP

Address 12971 S. New Era Rd.

Phone (503) 656-1255

Speaking in Support

Speaking in Opposition

Raising Questions

Providing Information

Comments _____

Date 2-18-03

I wish to address City Council on Agenda Item # 12125 21ST

Name CLIFF KOHUT

Organization _____

Address 12107 SE 21ST

Phone 659 6073

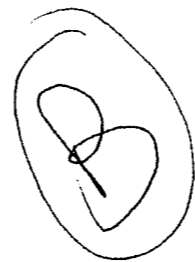
Speaking in Support

Speaking in Opposition

Raising Questions

Providing Information

Comments _____





TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: February 10, 2003
RE: FYI Memo for the Weeks of 2/10/02 through 2/21/03

During the abovementioned weeks you have a Budget Committee meeting on February 11, 2003 and a City Council meeting on February 18, 2003. An agenda has previously been distributed for the Budget Committee meeting. Note that there is no Council work session on Monday, February 17, 2003 as it is Presidents' Day.

The February 18, 2003 Council meeting convenes at 6:00 P.M. at City Hall. Agenda items are as follows:

1. **Auditor's Report for FY Ending June 30, 2002:** Each year the City's auditing firm presents brief comments at the close of the annual audit process. Charles Swank of Grove, Mueller & Swank, P.C. will be present to make that presentation and to answer questions. A copy of the report will be provided at that time.
2. **Authorize Equipment Purchase for Lake Oswego Dispatch Transition:** The transition of the Dispatch Center to Lake Oswego begins with the purchase and installation of the Mobile Data Terminals in each police car. This is a sole source equipment purchase, with installation by the City of Portland Bureau of Communication and Networking. This purchase and installation are time sensitive and critical to maintaining the schedule that permits full transition to Lake Oswego.
3. **Acceptance of 2001-02 Sewer Replacement Project:** The current Sewer Master Plan identifies sewer lines requiring replacement to upsize or to eliminate physical deterioration or deficiencies. Two replacement projects were included in the 2001-02 Sanitary Sewer Replacement Project. Both were completed to correct physical deterioration and sags which caused ponding in both the mainline and manholes. The 42d Avenue portion of the project replaced 125 feet of sagging 8-inch concrete pipe with a new 8-inch PVC line. The Plum Drive/Sequoia Place portion of this project

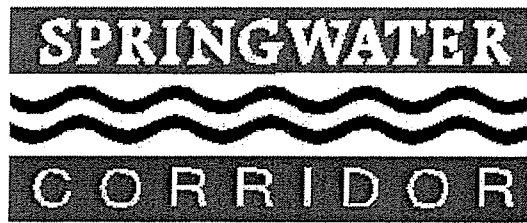
replaced 349 feet of sagging 8-inch concrete line with new 8-inch PVC line. The action requested is acceptance of the project.

4. **Sale of Surplus Property Located at 12125 SE 21st Avenue:** This is the first sale of property pursuant to the City's new Surplus Property Ordinance. The property has been the subject of a long line of activity, commencing with the City's foreclosure for failure to satisfy fines resulting from code violations. The City ultimately took title to the property. Disposition of the property was discussed with the Island Station NDA, and a sale and redevelopment was the choice of the neighbors.
5. **Appeal of Planning Commission Denial of a Three-lot Minor Land Partition with Two Flag Lots:** This item was carried over from the January 7 Council meeting. Property owner Reich has appealed the Planning Commission denial of a three lot partition located on King Road. He based his appeal on his belief that the Commission did not properly apply the Subdivision Ordinance. The Commission's denial is based upon a Code provision that requires applicants for flag lot development to demonstrate that access cannot be provided by means of a dedicated public street. The Commission found that the applicant did not adequately address the street requirement of the flag lot regulations.
6. **Agreement with Willamette Falls for Public Access Studio Management:** The action requested is that the Council authorize the City Manager to execute a personal services agreement with the Clackamas Cable Access Board to manage and operate the Milwaukie Public Access Program and studio located on Lake Road. The City assumed responsibility for operation of the studio upon the expiration of AT&T's obligation pursuant to a franchise agreement. The studio has been operated by a private contractor, with oversight by the Public Access Board. The Board, in light of the City's budget problems, recommended that the previous contract be terminated consistent with its terms. It further recommended that a new RFP be published. This proposed contract is the result of the RFP process. (Mr. Beck's letter to the Council of February 3, 2003 requests that a member of the evaluation group be declared ineligible and the results ignored. Mr. Marvin's eligibility was checked with the City Attorney prior to a decision being rendered, and no problem was found to exist.)

Additional items of interest are as follows:

1. Paula Mishaga's retirement party/reception will be on Thursday, February 14, 2003 from 9:30 A.M. until 11:30 A.M. at the Library.
2. I have attached two items of interest relating to the Springwater Corridor Trail.

3. On February 26, 2003 an open house will be held to review the North Industrial Land Use & Transportation Study. It will be at the Public Safety Building from 6:30 p.m. to 8:30 p.m. The open house will include exhibits that detail the findings of the market and transportation studies and possible land use scenarios.
4. On February 25, 2003 a joint public hearing of the Planning and the Design and Landmarks Commissions will be held at 6:30 p.m. to review the proposed Downtown Design Guidelines and sign code changes. The public hearing for Council adoption is tentatively scheduled for April 1, 2003.
5. Among the items you may be considering at your February 1, 2003 Council meeting is one very angry owner of a local collection service. Mr. John McHenry operates Metro Area Collection Services, Inc., which is located in the City and was the City's collection agency for many years. The contract between the City and Metro provided for a 50% collection fee at one time. However, among the many complaints I received when I assumed this position were those of staff who were quite unhappy with both Metro's service and their rate of return. We cancelled the contract with Metro and retained another agency using the State of Oregon bid. The rate charged was 12%. Metro retained the accounts it had when the contract was terminated. However, problems remained with the service. (See letters of September 28, 2001 and October 11, 2001 attached.) After meeting with McHenry, I permitted the accounts to remain as long as the service was consistent with expectations. When that did not appear to be the case, I requested that the accounts be returned, and Mr. McHenry called to object. (See letter of January 15, 2003.) When I would not back away from the demands of the most recent letter, he asked for the next Council date and promised to appear to speak directly to Council. I have had no further contact.



Springwater Coordinator Trail Three Bridges Project

The Springwater Corridor extends from SW 4th & Ivon (near OMSI) east to Boring. Within the corridor, seventeen miles of the trail are complete. The westernmost three-mile section of the trail (Springwater on the Willamette) was completed in the fall of 2002. East of McLoughlin Blvd., the trail is complete from Tideman Johnson Park through Gresham to just past the Clackamas County line.

Now funding through the Federal Transportation Enhancement Act has made it possible to design and build the Springwater "Three Bridges" project. The FTEA funds are distributed through the Metropolitan Transportation Improvement Program which is coordinated by Metro. When complete, this addition to the trail will provide a safe pedestrian and bicycle crossing over McLoughlin Blvd., Union Pacific railroad tracks (just east of McLoughlin), and Johnson Creek. Just east of the Union Pacific railroad tracks, the new trail will meet the original trail at Tideman Johnson Park.

The three bridges and connecting trails are located within the city limits of both Portland and Milwaukie and the trail right-of-way is owned by Metro. Representatives from each of the jurisdictions are represented on a Leadership and Oversight Committee (LOC) which provides overall project guidance and coordination.

A Working Group, representing a cross-section of key stakeholders and interest groups from multiple jurisdictions, is being established to advise the LOC and project management staff and consultants. Their role is to identify issues and concerns related to each project component; suggest potential design themes; help develop or review alternatives to resolve specific site-related or technical issues; and provide feedback on design direction.

A series of **Public Open House Events** are scheduled to select design themes and evaluate options for each bridge design and related right-of-way improvements. The first is scheduled for **Saturday, May 17** and will include site tours. It will be advertised in a broadly distributed newsletter as well as through community papers, organization newsletters, email, and the traditional media. We welcome any suggestions or assistance in spreading the word to the community.

For additional information or to add your name to the mailing list for this existing project, call Portland Parks & Recreation 503-823-5588 or email pkplanning@ci.portland.or.us.

February 6, 2002

Dear,

As you know, funding through the Federal Transportation Enhancement Act has made it possible to design and build the Springwater "Three Bridges" project. When complete, this portion of the Springwater Corridor Trail will provide a safe pedestrian and bicycle crossing over McLoughlin Blvd., Union Pacific railroad tracks (just east of McLoughlin), and Johnson Creek. Just east of the Union Pacific railroad tracks, the new trail will meet the original trail, which continues east to Boring.

The three bridges and connecting trails are located within the city limits of both Portland and Milwaukie and the trail right-of-way is owned by Metro. Representatives from each of the jurisdictions are represented on a Leadership and Oversight Committee (LOC) which provides overall project guidance and coordination.

A Working Group, representing a cross-section of key stakeholders and interest groups, is being established to advise the LOC and project management staff and consultants. We would appreciate your participation.

We expect the Working Group to meet three times - late February, late April, and mid-June to identify issues and concerns related to each project component; suggest potential design themes; help develop or review alternatives to resolve specific site-related or technical issues; and provide feedback on design direction.

The first meeting is scheduled for

Wednesday, February 26
1:00 – 4:30 p.m.
SMILE Station
8210 SE 13th

This is a relatively long meeting because it includes a site tour. Prior to the tour, the Working Group will meet the design team and be briefed on all aspects of the project. From their individual perspectives, the Working Group members will be asked to help identify any potential issues, concerns, constraints or opportunities associated with the project. Following the tour, the issues discussion will continue and we will brainstorm potential themes for the bridges.

Future meetings are tentatively scheduled for April 30 and June 18th from 4:00 p.m. - 6:00 p.m.

Concepts for bridge design and right-of-way improvements will be reviewed and further refined through a series of public Open Houses. The first is scheduled for Saturday, May 17. It will be advertised in a broadly distributed newsletter as well as through community papers, organization newsletters, email, and the traditional media. We welcome any other suggestions you may have.

We are looking forward to this exciting project. Please contact Gay Greger at **503-823-5113** to confirm your participation in the Working Group.

Sincerely,

George Lozovoy
Project Manager – Portland Parks & Recreation

cc: Rex Burkeholder
Brian Newman
Darlene Carlson
Jim Desmond
Mel Huie
JoAnn Herrigil
Zari Santner
Mary Anne Cassin



METRO AREA COLLECTION SERVICES, INC.

September 28, 2001

Mike Swanson
City Manager
City Of Milwaukie
10722 SE Main St.
Milwaukie, Or. 97222

Dear Sir:

This is notification that Metro Area Collection Service objects to the demands made in your letter of September 9, 2001, and will not comply. The city has no contractual right of cancellation on the collection inventory or legal right to impound private property. We consider you to be in bad faith with all terms and agreements that have existed between the City of Milwaukie and MACS.

MACS has served the City of Milwaukie on a very difficult assignment for over eight years. Our recovery performance pattern is in excess of thirty-two percent which is twice the national recovery average for municipal inventory. Not once has MACS involved the city in a negative legal issue due to our efforts. In this period of time we have collected over \$950,000.00 on the inventory. Previous administrators reported to us that the proceeds of the collections were funding the most of the budget for the records office payroll. Local service for our local community has been efficient, cost effective and people friendly for our citizens.

Your decision to move your assignments to a statewide bureaucracy will not provide the same quality of service or performance. The decision was made on a basis of a rate cut. This decision is ill advised and does not serve the interest of the city or mathematically compute. The reality is that the lower the rate is, the less a business has to invest in service. The result is that a lower rate percentage of a reduced recovery percentage equals less revenue in the city coffers. This defeats your stated and implied intentions. You may be unaware of this information, as you did not extend the courtesy of discussing the matter with MACS or allow a competitive bid process. Thus, allowing your decision to be made by the State of Oregon's representatives for the city of Milwaukie.



METRO AREA COLLECTION SERVICES, INC.

MACS and our employees live and work here. MACS is negotiating the purchase of our building in downtown Milwaukie. We vote here. Is it the policy of the city that our local businesses are of no account? Our Mayor, the City Counsel and Chamber of Commerce may have a different opinion

In reference to your demand that MACS "turn over all records" on the assigned inventory, MACS refuses to turn over our property to the city. MACS owns the information and we have no requirement to give our records to your next vender. MACS has an eight year investment in enriching and maintaining the files. You have offered no compensation for our expenses and would unjustly enrich the city and your next vender at our expense. Our records are private property.

In our meeting of August 2, 2001, you informed MACS of your decision to assign your collections to the state consortium. You agreed to leave the assigned inventory with MACS. Your letter dated September 7, 2001, is a complete reversal of that commitment. We are not subject to your invalid dictates.

You have apparently made other decisions of which you have failed to inform MACS. The payment reporting by the city has apparently stopped or at a minimum is not accurate. Several payments have been brought to or attention that have not been reported over the Three months. You are responsible to report all payments promptly upon receipt. Failure to report the payments will cause inaccuracies in the credit reporting of the effected accounts. Inaccurate reporting constitutes violations of the federal "Fair Credit Reporting Act" and the "Fair Debt Collection Practices Act" both of which provide for statutory fines levied by the Federal Trade Commission. Please verify that all payments are reported until all issues are resolved. Failure to report payments exposes MACS and the City of Milwaukie to litigation on very large scale.

Any transfer of our inventory will be preceded by a full audit of accounting records, restitution for costs advanced by MACS and expenses incurred by MACS to accurately facilitate the transfer. You have no right to demand that MACS suffer lost revenue or incur additional expenses due to your arrogant demand.

We encourage you to meet with us to resolve these issues. Failure to come to an accommodation will cause MACS to pursue other remedies. Your prompt response will be appreciated.



METRO AREA COLLECTION SERVICES, INC.

Sincerely,

Jon McHenry, CEO
Metro Area Collection Service, Inc

Cc: James Barnard Mayor
Cc: Larry Lancaster City Council
Cc: Mary King City Council
Cc: Brian Newman City Council
Cc: Jeff Marshall City Council



October 11, 2001

Jon McHenry
Metro Area Collection Services, Inc.
10835 SE Main Street
Milwaukie, Oregon 97222

Re: Termination of Contract

Dear Mr. McHenry:

A city council member provided me with a copy of your letter dated September 28, 2001, which was addressed to me. I never received the letter from you. In the future, if you are going to address a letter to me and provide copies to the Council, please make sure that I receive a copy.

I take issue with most of what you stated in your letter. You stated that Metro's collection for the City was twice the national rate and that the City would have received more revenue if it had remained with MACS. Even accepting that MACS collects double the national average, your commission rates are more than twice as high as those of your competition. Even if another collection company collects 50 percent less, the City will still end up with substantially more revenue. We expect our new collection company to recover at approximately the same rate that MACS recovered, so the City will end up more than doubling its revenue from collections.

Public contracting law did not allow the City to renew the contract with MACS. A competitive process would have been required, and that process would have resulted in a substantial cost to the City. With MACS's rates, it would have had no chance in a competitive process. By using the system set up by the State, the City was able to take advantage of the State's competitive process to choose from a list of qualified collection companies with established records and reasonable prices. Our experience with our new collection company to date has been a vast improvement over our relationship with MACS in the best of times.

You refer to the fact that MACS is located in Milwaukie. While the City supports local businesses, I as City Manager and the Council must protect the City's financial status. We cannot prefer a local business its rates are more than twice as high as its competitors. In addition, our responsibility is to maximize revenues on behalf of all citizens, not just one business. If the new collections company recovers the same amount of revenue, on an average year the City will receive approximately \$200,000 in additional revenue.

MILWAUKIE CITY HALL
10722 SE MAIN STREET
MILWAUKIE, OREGON 97222
PHONE: (503) 786-7555 • FAX: (503) 652-4433

Your letter ignores that fact that the City, in my letter to you dated July 3, 2001, terminated the City's relationship with MACS. This letter was sent after the previous contract was expired, but the City did not want to disrupt MACS's business and therefore provided more than a month's notice. The termination was consistent with the "no-cause" termination provision in the expired contract. The City could have terminated the relationship for cause. Part of the agreement was the list of specific responsibilities that MACS had submitted to the City and that the City had accepted. Those responsibilities included providing weekly, monthly, quarterly, and annual reports. MACS for some time had failed to provide anything other than monthly reports, and those reports did not contain all the required information. The City was frustrated by the lack of reporting by MACS and the general inability to get information from MACS. The service that the City received from MACS was far from what MACS had promised. The service had deteriorated to the point that the City could not continue the relationship.

MACS has been functioning as the City's agent in collecting from those who owe the City. As the City's agent, you have a duty to provide full records to the City of the work you perform for the City. The City has a right to review all your records.

You have asked the City to provide a full report of all payments received directly by the City. We will continue to provide you with reports of funds received directly by the City for all accounts that MACS remains responsible for. However, MACS needs to provide the City with better reports, including a full report on the status of all accounts.

You have asked the City to pay for the costs of providing information to the City. MACS is required to provide the information to the City. The City should not pay for reports that MACS promised to provide and never did. If MACS had been doing its job properly, MACS would not have to incur any costs in reporting on the status of all accounts, and indeed, the City would not have had to ask for the information.

The City holds MACS responsible for the state of the accounts that MACS has been handling for the City. We have consulted with our attorneys, who advise us we are on strong legal ground. I have also spoken with many of the Council members.

Despite the fact that the City has the right to demand a total cessation of the relationship, the City is willing to meet with MACS to discuss an orderly return of the City's accounts and a schedule for doing so. We need to meet soon. If we do not resolve this by the end of the month, I will ask the Council to authorize the City Attorney to take all action needed, including litigation, to preserve the City's rights and funds. I expect that the Council will provide the necessary authorization.

Sincerely,



Mike Swanson
City Manager



January 15, 2003

Metro Area Collection Services, Inc.
1935 SW Washington Street
Milwaukie, OR 97222

Re: Inactive Accounts

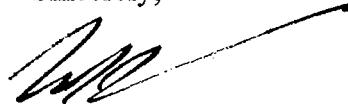
Dear Mr. McHenry:

In September 2001, I wrote to you to clarify how the City would treat accounts that Metro Area Collections had been attempting to collect on as the City's agent, given the termination of the contract between the City and Metro Area Collections. I specified that any account then remaining with Metro Area Collections would be considered inactive if no payment is received on the account for a period of 60 days and that Metro Area Collections is required to turn over all accounts that have become inactive.

You have totally failed to comply with this requirement. The contract has been terminated for more than a year and you have continued to try to avoid your obligation to return the accounts to the City. I write to demand that Metro Area Collections turn over all City accounts back to the City. Metro Area Collections has no right to keep the accounts or to benefit from the City's efforts to collect on delinquent accounts. Therefore, the City will no longer pay any commission to Metro Area Collections.

If the City does not receive all account files back from Metro Area Collections within 30 days, I will turn this matter over to our attorneys.

Sincerely,



Mike Swanson
City Manager

MILWAUKIE CITY HALL
10722 SE MAIN STREET
MILWAUKIE, OREGON 97222
PHONE: (503) 786-7555 • FAX: (503) 652-4433

**CITY OF MILWAUKIE
CITY COUNCIL MEETING
JANUARY 21, 2003**

CALL TO ORDER

The 1902nd meeting of the Milwaukie City Council was called to order by Mayor Bernard at 6:10 p.m. in the City Hall Council Chambers. The following Councilors were present:

Deborah Barnes
Larry Lancaster

Susan Stone

Staff present:

Mike Swanson,
City Manager

Paul Shirey,
Engineering Director

Gary Firestone,
City Attorney

Jay Ostlund,
Associate Engineer

Alice Rouyer,
Community Development/
Public Works Director

Steve Campbell,
Code Compliance Coordinator

John Gessner,
Planning Director

Jeff King,
Project Manager
Ken Kent,
Associate Planner

PLEDGE OF ALLEGIANCE**CONSENT AGENDA**

It was moved by Mayor Bernard and seconded by Councilor Barnes to consider Other Business item D – Transportation Enhancement Grant Application Support Resolution in the Consent Agenda. Motion passed unanimously among the members present.

It was moved by Mayor Bernard and seconded by Councilor Barnes to adopt the Consent Agenda that included:

1. City Council Minutes of January 6 & 7, 2003;
2. 40th Avenue and 43rd Avenue Stormline Project Bid Award;
3. Intergovernmental Agreement (IGA) with Oregon Department of Transportation for the 42nd Avenue Improvements Project; and
4. Resolution 4-2003: A Resolution of the City Council of the City of Milwaukie, Oregon, Supporting the Request for Transportation Enhancement Funds for Main St. Downtown Improvements.

Councilor Lancaster referred to the IGA with the Oregon Department of Transportation (ODOT). He understands this is a reimbursement process and wants to ensure the state guarantees these funds in light of its current budget crisis.

Shirey said, as the City incurs expenses for the project design and construction, ODOT agrees to make incremental reimbursements.

Councilor Stone referred to the stormline project bid award request. She noticed the bid amounts varied up to \$150,000 and wanted to ensure awarding the contact to the lowest bidder is in the City's best interest.

Shirey said, in order to protect the City, staff did a complete reference check on the contractor to ensure there are no claims. Staff received excellent reports on this firm.

The motion to adopt the Consent Agenda passed unanimously among the members present.

AUDIENCE PARTICIPATION

Ed Zumwalt, 10888 SE 29th Avenue, Milwaukie. In planning for the Centennial Event, it is becoming increasingly clear that crossing McLoughlin Boulevard to access Milwaukie's riverfront is a serious problem. This issue must be addressed, and 1 possible solution is using the Kellogg Lake culvert, which is dry during the summer. He urged the Council to use its influence with Metro to find some Greenspaces money to fund a project that helps people access the riverfront.

Sherri Campbell, 3803 SE Filbert Street, Milwaukie, invited the City Council to attend the Ardenwald-Johnson Creek Neighborhood Association's annual Pajama Night on January 23 at Ardenwald School. Balfour Street residents attended the recent Ardenwald Neighborhood Association meeting and expressed their opinions of Emmert International's proposed relocation of the Sam Marinos house to A Street. Campbell noted the Association supports these residents' comments.

PUBLIC HEARING

Appeal of Planning Commission Denial of a Three-Lot Minor Land Partition with Two Flag Lots, File No. MLP-02-07

Mayor Bernard announced the applicant Phillip Reich had requested the hearing be continued to the City Council meeting on February 18, 2003. Mr. Reich signed a waiver of the 120 processing requirements.

Protest of Notice to Abate Nuisance on Property Located at 21st Avenue and Lake Road

Campbell presented the staff report. Council acknowledged the protest filed by Emmert International at its January 7, 2003 meeting. At that session, the Council heard facts and information and voted to continue the hearing to January 21, 2003. Council directed Emmert International to develop a project schedule with milestones and a date certain for removal of the house. Staff was directed to work with Emmert International to review the project schedule to ensure it adheres to Council expectations and City

regulations. Staff requested that Emmert International representatives speak to the schedule Council requested at the last meeting.

Presentation by Protestor

Emmert International representatives present: Terry Emmert, 10470 SE Hillcrest Drive, Portland; Katie Daniel, 9900 SE Lawnfield, Clackamas; and Greg Arquit 1000 SE 15th Avenue, Portland.

Arquit compiled a report with a brief summary of what has taken place to date, a work in process chronology, and milestone dates as Council requested. The report also contained construction drawings, a work in process master schedule, and proposed A Street improvements.

Daniel said several years ago Emmert International considered developing the subject property. The Housing Authority of Clackamas County (HACC) and Housing and Urban Development (HUD) participated, and, although it would be a matter of time and review by various agency attorneys, there was no opposition to development of that property. HUD criteria would be the granting of the dedication and easement. Daniel discussed the feasibility of a memorandum of understanding (MOU) signed by all parties, HACC, HUD, City of Milwaukie, and Emmert International, that would allow the process to move forward. City staff indicated once the MOU is signed, Emmert International could begin the moving process before all of the HACC and HUD items are accomplished. Emmert International is prepared to submit the permit application by Friday, January 24, 2003 that is required prior to submitting the transportation permit. The foundation plan has been prepared and is part of the building permit. With cooperation of all parties, Daniel believed the house would be moved by April 27, 2003 and occupied by summer.

Arquit added HACC and HUD provided time frames in which their responses will occur, and Emmert International used a conservative approach in preparing the schedule before Council. More than likely, the process can be expedited. He saw no reason to be concerned this project would not come to fruition.

Emmert explained that he owns the subject lot on Balfour Street. He spoke with HACC several years ago about developing that site and got a positive response. He discussed issues related to PGE and the expense involved with moving structures. When the 2 buildings on Washington Street became available, Emmert International obtained only one. Recently, Emmert International was contacted by the City to move the house, and it was the intent to move the second house to the lot near 30th Avenue and Madison Street. Emmert had no idea a 1-1/2 foot variance for the proper setbacks would be required, so he decided to use the alternate lot on Balfour Street. Emmert International has also made provisions and purchased another lot that will be used as a failsafe, but it is farther away and moving costs will be greater. The company can move quickly on its building permit application because only the plot plan will be different. Emmert is confident he will be able to save the building.

III. A. 4

Councilor Lancaster commended Emmert International on the amount of work accomplished in a short period of time. It seems to meet the Council's expectations, but he is concerned that there are no commitments in writing from Clackamas County regarding easements.

Daniel said HACCC provided a letter stating it has no objections to such a dedication or easement; however, there are other agencies, which must agree before the final decision is made. This would be the purpose of the MOU.

Councilor Lancaster understands the MOU would encompass all of the issues and asked if the Balfour Street neighbor was reluctant to provide a written statement.

Daniel said the easement documents are based on surveys. She has no reason to believe the neighbor would change her mind about signing the appropriate document.

Councilor Lancaster asked if the foundation plan was complete.

Daniel responded that the foundation plan is already drawn.

Councilor Lancaster asked for clarification of the PGE deposit Emmert referred to earlier.

Emmert said the deposit has nothing to do with hooking the structure up to power. The deposit is to send one person out to look at the route and estimate the fee for the wire move. He understands Councilor Lancaster's concern, but Emmert International will do what it takes to comply with agency requirements and get the job done.

Councilor Stone understands occupancy is scheduled for the end of June in the worst-case scenario and asked the best-case scenario.

Daniel said, if the MOU is signed by the first week of February, the entire schedule could be shortened by 5 weeks.

Emmert said the home will be set up so it is pleasing to the neighborhood. A home of this caliber would be better served as an owner-occupied home rather than a rental.

Councilor Barnes is surprised, based on Van Bergen's comments at the January 7, 2003 Council meeting, that the house could be refurbished in 14 days. It sounded as if there were major problems including the heating system.

Daniel said in the report submitted at this meeting is conservative and shows a longer time period.

Emmert said typically it takes about 30 days to complete the rehabilitation process including utility connections. The chart Emmert International provided was established to allow sufficient time, although he hopes to finish sooner. Rehabilitation of a home

that is moved is not of a long duration. He said both the Marinos house and the one next door had been remodeled to add a heat pump and ductwork.

Mayor Bernard asked Emmert if he foresaw any problems with the "failsafe" lot.

Emmert said it is a separate legal lot with no houses on it.

Julie Wisner, 3325 SE Wister Street, Milwaukie. She read a letter into the record from **Linda Montgomery**, former Traffic Safety Board member. Montgomery writes of her concerns after learning the City was contemplating demolition of the Sam Marinos house. This house has been a community landmark for over 80 years, and she feels it would be a great disservice not to do everything possible to relocate the structure to another site in Milwaukie. Montgomery gave examples of decisions made over a number of years which resulted in removal or destruction of architecture that gives Milwaukie its identify. These represent an architectural loss to the community, and Montgomery urged the Council to reconsider any decision that would lead to the destruction of a well-known landmark. The Marinos house is a beautiful example of an early 20th century private home. Montgomery believes there is a responsibility to the community to keep architecturally significant buildings, and it would be a shame not to allow a reasonable amount of time to move the house. Some individuals have claimed the presence of the house has reduced property values in the vicinity; however, tax assessor's records show a steady increase for the past 3 years. Milwaukie police have no record of crimes related to this house. The community must keep its older, finer-built homes for future residents, and she urged against making a hasty decision based on earlier misfortunes. Saving this house supports the City's mission statement. Montgomery asked the City Council to consider the future impact that destroying homes such as this could have on the community.

Julie Wisner asked City Council to remember this is a Centennial year and to honor the community's history. This is not a drug or a biohazard house. It is a house with a vibrant history built by a Greek immigrant for his family. Marinos was a philanthropist, and Wisner cited several examples of his generosity during the Great Depression. He was a man of great integrity who gave back to his community as well as a prominent Portland businessman. Wisner believes the City should make a commitment to preserving these structures. Emmert is the right man to move it, but he needs time. Milwaukie has lost a significant amount of architecture through demolition or relocation. Rich Peterson, the previous owner, wasted a lot of the City's time, and she understands the frustration. Emmert International has a team of professionals that can get the job done in a reasonable timeframe. She implored the City Council to give Emmert the time needed to move this significant piece of architecture and part of Milwaukie's heritage. She is personally committed to the community and its future and feels passionately about giving Emmert International the time it needs to accomplish the relocation.

Martin Wilkins, 3026 SE Balfour, Milwaukie and **Charles Wilkins**, 3122 SE Balfour Street, Milwaukie. Charles Wilkins, a resident since 1969, spoke as property owner of tax lots 9200 and 8800. His property is adjacent to the Emmert property on Balfour

III. A. 6

Street. Clackamas County installed a fence about 7 years ago to reduce trespassing, and Wilkins is concerned about maintenance responsibilities if Emmert International is allowed to move forward with its proposal. As yet, Emmert has not repaired the fence from the last time he accessed his property to cut the grass and weeds.

C. Wilkins discussed the history of the 1968 warranty deed for Emmert's property, tax lot 9000, which appears not to be a legal deed because it does not carry right-of-way provisions for a minor land partition (MLP). He believes the lot should be legalized before any residential building is placed on tax lot 9000. Adjacent property owners have not received any notice from the City about the proposed siting of the Marinos house on tax lot 9000. He understands access to the subject property will be from A Street. Any street dedication should include public access to tax lots 9100 and 8800. This action would support the goal of infill development on oversized City lots.

The proposed house move was discussed at length at the January 14, 2003 meeting of the Ardenwald-Johnson Creek Neighborhood District Association. Alternative legal vacant lots were identified which people felt would be better sites for the Marinos house. He requested that the City have a representative at the next Association meeting to provide a status report. Wilkins was somewhat confused by some of the information Emmert International provided at this meeting. He provided photographs of the site.

C. Wilkins read a letter dated January 21, 2003 into the record from Roberta Ojala, 3040 SE Balfour Street, Milwaukie. She owns the adjacent property north of the subject site. She states she is opposed to the plan and would not agree to an easement for water access. She was contacted by an Emmert International spokesperson and had a tentative agreement for the easement only by phone. She said the situation was not clearly explained to her.

Councilor Barnes asked what the general consensus was of the neighbors about Emmert International's proposal.

C. Wilkins said residents were concerned because there are about 5 other legal lots in the neighborhood that have access to Balfour Street and are curious why these lots were not considered. These lots, owned by 1 person, have been abandoned for many years, and code enforcement has been called numerous times.

Councilor Barnes asked, if given an opportunity, would the neighbors support or oppose having the house moved to that site.

C. Wilkins thought they would probably be opposed.

Councilor Lancaster appreciated the amount of research on Wilkins's part. He asked if the objective was simply that he does not want to have a house on that lot or if it would be acceptable only if certain conditions were met.

C. Wilkins said Emmert should have followed the minor land partition process in effect at the time to create a legal lot. Emmert is working on an easement and waterlines, and if the paperwork is submitted to the planning department, it will become a legal lot.

Councilor Lancaster asked Wilkins if he spoke directly with Ms. Ojala.

M. Wilkins indicated he spoke with her.

Councilor Lancaster asked who was clarifying the situation for Ms. Ojala.

C. Wilkins said Ojala was invited to the neighborhood meeting but could not attend and asked him or his son to let her know what transpired.

M. Wilkins said Ojala was unaware of the stipulations of granting a water right-of-way. Someone simply asked her if they could do it but did not explain they would actually own the property.

Councilor Stone understands that if this lot is made a legal lot that Wilkins has no objection to the house being there.

C. Wilkins said it should be a legal lot according the City's land use regulations. As he said in his testimony, 1 of the considerations should be for density infill on several other lots.

George Van Bergen, 12366 SE Guilford Drive, Milwaukie. If the City Council defers or delays its decision on abating the nuisance, the house will be there for 2 more years. This house is a public nuisance and should be abated. Milwaukie is a home rule charter community, and there are certain services a city must provide. He discussed plenary power and the need to rid the community of nuisances like this house. It is an item of personal property, not real property. He came to speak to the abatement issue, not to the land use issues related to a non-conforming property. This old house sits on blocks with boarded windows. If the Council votes to continue this, it should ask for a surety bond that is not refundable if the move is not accomplished by the due date. He believes the abatement should continue because the appropriate results have not been tendered.

Patty Wisner, 3325 SE Wister Street, Milwaukie, and current member of the Milwaukie Design and Landmarks Commission, spoke as a private citizen. She provided a report of facts and documentation meant to educate Council and staff and to refute some of the misinformation given at previous meetings. Wisner read a letter into the record stating her family's support for the preservation of the 82-year old Marinos house presently owned by Emmert International. The house is a significant example of a large, Craftsman, 2-story bungalow architecture unique to Milwaukie. She asked that the Council show its commitment to the City's mission statement by protecting this house from demolition and ensure it is preserved and relocated. She is aware of the difficulties in the process and of citizen concerns about the house being stored at its

current site beyond City-approved deadlines. Milwaukie police department records show no criminal activity related to the house. On January 13, 2003, the tax assessor records showed no decline in either assessed or market values in the surrounding area. These are indications that the house's current location has not been detrimental to the immediate area. She asked the City Council and staff to allow adequate time to relocate the house to a permanent site because demolition would be a great loss to Milwaukie's architectural heritage. The relocation of this well-known, well-built home is in Milwaukie's best interest. Preservation of this significant architectural style will allow future generations the opportunity to live in vintage homes as well as fulfill the City's vision statement. Wisner's report contained a summary of the historic homes already lost in Milwaukie, tax assessor information, and history and question and answer sections specific to the Marinos house. She sees no problem with the house sitting on that site a little longer while waiting for permits and urged Council to allow a reasonable amount of time to work cooperatively with Emmert International to relocate an architectural treasure.

Councilor Stone commented Wisner's report is thorough and well done

Brent Carter, 8806 SE Regents Drive, Milwaukie, Design and Landmarks Commission Chair and Planning Commissioner addressed the City Council as a resident. At some time in the future, the only signs in the City will be "Milwaukie Junction" with arrows pointing to expressways and Tri-Met park-and-rides. The City has a heritage, and he urged preserving it. He suggested looking at the Gilman Village website to see how Issaquah, Washington, created a village by moving its historic buildings to a designated site. As a professional in the field of architecture, he spoke to the goal of preserving the City's heritage. This is Milwaukie's Centennial year and it would be a shame for the public sector to have difficulty in moving one of its sacred landmarks. As the year progresses, Carter urged this issue be resolved by considering the bigger picture. One solution might be the creation of a subdivision for these types of historical buildings. He supports the abatement but asks the Council to be patient and allow time for Emmert International to complete the job.

Catherine Brinkman, 2513 SE Lake Road, Milwaukie. For the record, she does live in a Craftsman bungalow style house that was built during the Great Depression, and she assured the Council if these houses were side by side the difference would be clear. She is in favor of preserving architecture but also wants the neighborhood to look as it should. She is tired of seeing a boarded up, ramshackle house on top of stilts. At the last meeting, the Council requested Emmert International to provide a date certain, and Emmert indicated it could have it moved by April 27. She does not believe the word "could" constitutes any sort of certainty in respect to when the house will be removed. She questions the salability of the house. She also questioned whether the property values have increased as much as they could. She disagrees with those testifying that the house being parked on the site for a year has not been a detriment. It erodes the sense of pride of other Lake Road residents, and people are uncomfortable. It is easy to champion the values of preserving architecture if one does not pass the house each day. Brinkman suggested moving the house to another temporary location if the current

plan fails. Emmert indicated he has a storage facility, and perhaps it could be moved there. Lake Road residents and businesses on 21st Avenue have contributed as much as they can be expected in terms of patience. If the storage site is not an option, then perhaps those espousing the virtues of architectural preservation would like to have the house moved next door to them. This house is an embarrassment and people are getting very tired of its sitting there.

Lisa Gunion-Rinker and **Matt Rinker**, 3012 SE Balfour Street, Milwaukie and regular attendees of Ardenwald neighborhood meetings. Although Gunion-Rinker appreciates the house's architecture, Emmert International's proposal essentially places it in someone's backyard, and no one would ever see it. There are 2-acre lots in this neighborhood that have access to Balfour and Kelvin Streets with abandoned homes on them. Placement on one of these lots would accentuate the special nature of the Marinos house. As a property owner, she is concerned this would set a precedent in the area to open up back lots, and she is opposed to that. She did not believe Ojala understood what people were asking when they talked to her about granting an easement. She stated her opposition to Emmert International's siting the house on the proposed lot on Balfour Street.

Rinker is not opposed to preserving the house but is concerned about the appropriateness of the house on that lot. He understands the Fire District would require a turnaround area. If the County does not allow the turnaround on its property, then it would have to be on the subject lot. This gives rise to a concern with setbacks. It is a beautiful house and will not be seen if it is put on that lot. He is concerned about security and possible trespassing issues from people accessing 32nd Avenue and other streets from Hillside Housing if the fence is removed.

Gunion-Rinker said there is a large Russian community in Hillside. They are wonderful people, and she has personally had no problems.

Staff Rebuttal

Mayor Bernard asked the alternatives are if the neighbor denies the easement.

Shirey said, if the neighbor refuses to grant the easement, then the line could be run to 32nd Avenue across Housing Authority property. The sewer line already goes to 32nd Avenue.

Councilor Stone asked how one accesses the property.

Gessner said 1 possible access is a hammerhead turnaround constructed in accordance with City and Fire Marshall standards at the end of A Street. A portion of the proposed turnaround is on Emmert property, but the City would require additional right-of-way from Emmert to ensure the entire turnaround is within a dedicated City right-of-way. The County Housing Authority has not reviewed this.

Councilor Stone understands the house could be seen from A Street but not from Balfour Street.

Gessner believes that was true. A Street would be extended, and Emmert would be responsible for all necessary improvements. He understands in speaking with Gary DiCenzo, Housing Authority Executive Director, that the approval process would require a survey of residents to determine the acceptability of the proposal. The next step would be consideration by the Housing Board that is comprised of a citizen member and the Clackamas County Board of Commissioners. DiCenzo was reluctant to indicate the likelihood of Housing Authority approval at this time based on what it might hear from the neighborhood. The Board might find it is not in the best interest of the residents of the housing project. It may be 1 to 2 months before a decision is reached because meetings must be scheduled.

Emmert International submitted a timeline at this meeting which staff feels is more accurate than that previously provided. Staff provided copies of an e-mail from HUD which contained sample questions the agency would expect answered prior to granting a dedication.

Gessner said staff believes there are potentially 2 fatal flaws to the project because of uncertainties. One question has to do with the legality of the lot. There are procedural remedies in the event it was created illegally through a minor land partition application. The other issue is that a house may not be placed on a lot without street frontage. Both technical problems can be overcome given the circumstances; however, these will require additional time. Emmert International will have to apply for a minor land partition and variance if it is unable to secure Housing Authority approval. This potentially adds an additional 120 days to the overall time period. Emmert International has not discussed lot legality with staff. The issue before Council at this time is establishing a factual basis for declaring the nuisance. Storage of an unoccupied building is not allowed and does not comply with the City's Zoning Ordinance.

Councilor Barnes asked the normal fee for a Zoning Ordinance violation such as this.

Campbell explained Emmert International has not been cited, but normally it can be up to \$500 per day.

Councilor Lancaster noted Gessner made reference to technical defects and asked if fixing those defects would conflict with the principles the City Council set for the Planning Commission regarding zoning.

Gessner said the criteria for granting a variance are clear. In the event Emmert International does not secure the right-of-way dedication, a variance would be required to construct or place a house on a lot without street frontage. The first criterion is that there are unusual circumstances about the property relating to its physical characteristics or some other physical condition over which the applicant has no control. The Planning Commission recently looked at a similar application in which an illegal lot

was created in 1970. A subsequent property owner sought a minor land partition and variance approval, but it did not pass the Commission's critical examination of the circumstances. The challenge in any variance application is to provide a persuasive argument that it is excusable today. The City's entertaining a minor land partition assumes a disposition that it will not go after the property owner for a violation that occurred over 30 years ago. The application would open testimony before the Planning Commission.

Councilor Stone asked Gessner his opinion on possible negative impacts for the neighbors.

Gessner said the neighbors have explained their issues well. If this were a legal lot, impacts would be ordinary. There is a general acceptance that adjacent vacant lots will be developed in accordance with the Zoning Ordinance with certain acceptable impacts.

Protestor Rebuttal

Emmert was not aware of any problems when he purchased the Balfour Street lot 35 years ago. He has been paying taxes on it, so perhaps he should apply to the taxing division for a refund. Or, he could return the lot to the County, and then the neighbors would have the housing project people closer to them. He will ensure the fence is installed. The neighbors have been kind enough to let him access the lot to take care of the grass and clear berry bushes. He spends \$400 - \$500 a year to maintain this vacant property and feels this is still a country where people have a right to use their land. Water is available by other means, and apparently there needs to be more discussion with the neighbor to change her mind. He intends to install a hi-tech waterline in a 6-inch trench, so there is little concern about having to dig it up in the future. Although he appreciates Van Bergen's comments, people should keep in mind that Emmert International has been involved for only a few months. The house would have been moved to the first lot if it had not been for the 18-inch variance that, in his opinion, is not significant if it saves a building. It is not as much the value of saving an historic structure as much as it is recycling and saving natural resources. The neighbors have no problem if Emmert purchased 1 of the vacant lots across the street, so it is certainly not an issue for them to have the house in their neighborhood. Emmert International has moved historic structures from the Sunnyside Road improvement project to other sites for restoration, and variances far in excess of 18 inches were granted. If Emmert International had known the variance was needed, it would not have made the commitment to move the house. Apparently, this will remain a piece of land without a home on it that matches neighborhood characteristics. The Balfour Street site is his preference, but he does have a standby lot. Moving the house to the Emmert International storage lot is economically out of the question. The lot on Balfour Street is almost 10,000 square feet. The hammerhead turnaround at the end of A Street is an improvement, and if adjacent property owners wished to share the cost, then they could have access to the hammerhead. Or, he can install a spike strip to ensure it is never used since no one seems to want more lots. The home is good quality, and he hopes to see it saved for its recycling and historical value. If the County turns down that site, he

will use the backup lot; in the meantime, Emmert will submit the plans for both sites since the foundation plan is the same in either instance. It is unfortunate the house will not have much visibility, but this is the available lot. He agreed with those speaking in favor of saving the house and the importance of preserving Milwaukie's history. He applauded Carter's suggestion of creating a subdivision for historic homes.

Mayor Bernard asked Emmert how he felt about a performance bond.

Emmert said performance bond are rarely required in this type of circumstance, and he would take offense at adding costs to a preservation project. He would like to see people with a "can do" attitude in this project. He does recognize the issues and difficulties with the County agency. It makes more sense to increase the tax base by moving the house instead of only collecting taxes on a vacant lot. Dogleg lots have been approved in the subject area over the past 3 – 4 years. Although he cannot speak for HUD, he believes the County Commissioners will be supportive.

Councilor Barnes noted one of HUD's questions is the appraised property value.

Daniel believes it is about \$12,300.

Councilor Stone asked the location of the backup lot.

Emmert said it is about 4 – 5 blocks north and 2 – 3 blocks west of the Balfour Street site and near the railroad tracks.

Councilor Stone asked for additional comments on the variance requirement on the first lot.

Daniel said the property line needed to be redrawn because it was currently east to west and needed to be north and south. She understood either the property line would be redrawn or the variance granted, but not both.

Emmert explained this is a corner lot, and, to him, this is a matter of changing the lot line to get full utilization of the property. The original lot would have been a better site, and the house would have fit with the existing neighborhood characteristics.

Mayor Bernard said this is an abatement issue, and the City Council needs to determine whether or not to abate on this piece of personal property. This is not a land use hearing.

Councilor Stone hopes the goal of everyone in the room is to save the structure because of its architectural significance. She understands that if agencies do not approve the proposal then 120 days will be added to the timeline. She hoped all would work together to make it happen even if it means adding more time.

Emmert agreed with Stone's comments and is willing to readdress the variance with his client.

Mayor Bernard asked if the City would be responsible for the cost of running a waterline to that property.

Firestone said not necessarily.

Swanson commented on the amount of time spent on discussing one solution when in reality it is the Council's role to determine whether or not there is in fact a nuisance. A year ago the house was on School District property, and the District was anxious to begin construction. The District planned to demolish the house, but the City got involved through a series of discussions and agreed to allow storage for a period of time. It was not anticipated the City would be itself in this position today. The City began the first abatement process some month's ago when Peterson owned the house, and now the City finds itself in that position once again with Emmert International. The Council's role is to determine whether or not, according to the municipal code, there is a nuisance. This is a fairly simple determination because the code speaks to property used in a manner inconsistent with all state, county, or city land use and zoning regulations and decisions pertaining to the property. It does not speak to the character or nature of the property. Staff has spent a great deal of time dealing with solutions, and he hopes one will be found to this issue. The Council must focus on its decision, which is the question of nuisance or not nuisance. When that decision is made, according to the code, then 10 days are given to abate. If abatement is not done in that time period, then the City can abate the nuisance, which can mean various things to various people. The real issue is whether or not the house meets the code definition of a nuisance. That is not saying it is a bad piece of property or that it does not have some architectural status. It simply means, at least in this instance, is it or is it not used in a manner inconsistent with all state, county, and or city land use and zoning regulations and decisions pertaining to the property. That is the issue. One method of abatement, if the Council determines there is a nuisance, is to find another site for the house. The issue is not where or how to move the structure, but to abate or not to abate. This merely addresses the municipal code.

Firestone followed up on the issue of discretion. The Council has a decision to make on whether or not the house is a nuisance, and under the code, this is the Council's sole decision to make. Once it is determined to be a nuisance, if that is the Council's decision, the city manager may cause it to be abated. The word "may" gives the manager and the rest of city staff acting as the city manager's designees to take action and gives authority to take action but does not necessarily require the action to be taken. The Council can give instructions to the city manager as to how his discretion is to be exercised that could involve a timeline. The decision is whether or not the property is a nuisance and is not a land use proceeding. At some time in the future a land use hearing may be required, but the only issue at this point is whether the property is a nuisance or not.

Emmert said almost 2 years ago when the issue came up with the School District, he was assured by City staff that the 2 buildings could be sited on lots he owns in the City. Emmert International did not draw plot plans and was not aware the lines of the lot went crosswise. City staff and Marinos family members contacted Emmert to find out if he could help when the Peterson plan faltered. Emmert International agreed in good faith to do something and submitted a bid to move the house. He understood he would only have to submit a foundation permit application and get his building permit. Subsequently, he had the lot surveyed and discovered there were different lot lines. He was informed he could either switch the lot lines or get the 18-inch variance but not both. He owns the lot on Balfour Street as well as a back up. Deconstructing the house would be expensive and would not save the structure. Emmert is willing to do what is reasonable in order to make the project happen. The City granted Peterson the storage permit without which Emmert would have gotten both buildings and moved them 2 years ago.

Mayor Bernard closed public testimony portion of the hearing at 8:12 p.m.

Council Deliberations

Councilor Barnes understands the land on which the house is being stored is railroad property.

Firestone said the City provided notice to the railroad, but it did not respond. The City believes Emmert International is in charge and has responsibility for the ownership of the personal property, which is the house. To that extent, Emmert can be considered a person in charge. Although nuisances are directed toward the property owner, they are also directed toward the person in charge, and that is how Emmert and Emmert International became involved.

Swanson said the first time the railroad was notified during Peterson's ownership it did respond with a letter saying this was not a case in which they had any interest. This time, the railroad did not respond.

Councilor Barnes requested a copy of the municipal code section defining nuisances. For the record, she is not interested in demolishing this property and understands the family's feelings. She is concerned that there are many who are living and working in the area who do not share the emotional attachment to this structure. They have watched it being stored on this site for 2 years. She understands other residents' concerns and those of Milwaukie High School students. She does not think the house should be stored at its current site any longer.

Councilor Lancaster looks to what is fair and reasonable. Emmert International was tasked with developing a plan with timelines and benchmarks, so the City can track its progress. Emmert has put forth a reasonable effort to comply with Council direction. He does not feel it is fair or reasonable to craft an accelerated program, and Emmert International should have the full opportunity to move the house. Much of tonight's

discussion had to do with land use, and he does not intend to second-guess the Planning Commission. He believes the April removal and June occupancy is reasonable. However, if anything goes wrong in that process, he is ready to move toward abatement.

Councilor Stone agreed with Lancaster's comment. She looks at this house and believes it is architecturally significant and believes the Council should do everything to support the moving of the house. She also supports Emmert's plan to make it an owner occupied house that would benefit the City. She perceives the house not as a nuisance but as an annoyance. It should never have come to this point, but she believes the Council must look at what is in the best interest of preserving this architecturally significant structure. She is not in favor of moving toward abatement at this time. The timelines seem reasonable, and she urged giving Emmert International sufficient time to move the house. If there is some delay in getting Housing Authority approval, she did not see a problem with another 120 days when the house is 85 years old. She does not care where the house is moved but hopes it is to a site in Milwaukie.

Mayor Bernard believes the house is a nuisance that should be abated but is willing to provide direction after it is declared a nuisance. Doing so changes the City's position. He thinks the timelines Emmert provided are reasonable but is concerned land use issues will hold up the move. He is in favor of declaring the structure a nuisance, abating the nuisance, moving the house by April 27, and requiring a \$6,000 refundable performance bond if the house is moved by that date.

Firestone said the nature of a performance bond is that it is posted and then released. The person obtaining the bond pays a certain percentage for the bonding company to issue it. The bonding company is responsible for paying if the action does not take place on time.

It was moved by Mayor Bernard and seconded by Councilor Barnes to declare the structure a nuisance, to abate, and to direct the city manager to request Emmert International provide a performance bond, and move the house by April 27, 2003.

Motion failed with the following vote: Mayor Bernard and Councilor Barnes aye; Councilor Lancaster and Councilor Stone nay.

Firestone suggested several options: make an alternate motion; close the matter because the motion did not receive a majority vote among those present; or continue the matter. If continuation were chosen, the absent Councilor would have to familiarize himself with the entire record.

It was moved by Councilor Lancaster and seconded by Councilor Stone to move forward with the original plan without a performance bond, establish an April 27, 2003 deadline as reasonable for removal of the personal property regardless of where it goes, and if that deadline is not met, the City will go forward with a performance bond or abatement.

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Councilor Stone asked if the timeline would be the end of June for occupancy.

Councilor Lancaster said by the end of April the house would be moved and occupancy established by the end of June.

Councilor Barnes understands the City Council is being asked to make a decision on whether or not this is a nuisance. The Council is responsible for making its determination on the legal definition under which she feels there is not choice but to say the house is a nuisance.

Motion failed with the following vote: Councilor Lancaster and Councilor Stone aye; Mayor Bernard and Councilor Barnes nay.

Firestone said there are alternatives that the Council may wish to consider. One is to declare the nuisance but suspend effectiveness of the decision until some point in the future, for example, through April 27, 2003.

Swanson said the Council could declare the nuisance, hold implementation in abeyance until after April 27, 2003 at which time, if the house is moved, the Council could vacate that decision. If Emmert International does not perform and the City has to abate, then there is a lien against the property. He is not as concerned about the performance bond because there is an enforceable lien, and the City does have a budgetary item that would eventually be reimbursed. The effect is to get the finding on the record, hold it in abeyance, and vacate it if there is compliance with the move on or by April 27, 2003, which is the proposed deadline.

It was moved by Mayor Bernard and seconded by Councilor Barnes to declare the nuisance, hold that declaration in abeyance until after April 27, 2003, and that order be vacated if the house is moved by April 27, 2003.

Councilor Lancaster wanted to be clear the motion did not include a performance bond.

Mayor Bernard said a performance bond is not included in the motion.

Councilor Stone asked for clarification of the definition of a nuisance and the Council's obligation to declare it a nuisance.

Firestone said the Council declares a nuisance if it believes the real property is being used in violation of the municipal code including the Zoning Ordinance which does not permit the storage of a structure such as this.

Councilor Stone said the railroad has no problem with the house being stored on that particular piece of property.

Firestone said it is not a question of whether the railroad wants it there. It is a matter of permissibility under the City's Zoning Ordinance and other municipal code regulations.

Councilor Lancaster commented on the letter and the spirit of the law and Council's role in determining what is appropriate under certain circumstances. He feels this motion represents a good compromise.

The motion passed unanimously among the members present.

Councilor Stone requested a 5-minute recess, and there was consensus to do so.

OTHER BUSINESS

Elect Council President

It was moved by Mayor Bernard and seconded by Councilor Stone to elect Councilor Lancaster Council President. Motion passed unanimously among the members present.

Citizens Utility Advisory Board Annual Work Plan

Shirey introduced Citizens Utility Advisory Board (CUAB) members **Bob Hatz**, Chair, **Charles Bird**, and **Ed Miller**. **Betty Chandler** had earlier excused herself from the meeting. The Board was established to advise the Council on the manner in which rates are for City utilities. He reviewed the nine items proposed for review: transportation utility maintenance fee, street light fee, 2003 – 2008 Capital Improvement Plan, system development study and revisions, cost of service study for water services, volume-based sewer rate study, pavement management system, and Portland/Milwaukie sewer rate adjustment.

Bird asked if the Council had any observations or wished to prioritize these projects.

Mayor Bernard said Clackamas County is studying the street maintenance fee issue and is almost ready to present the results to others involved in the study including the City of Milwaukie. Many cities are concerned about street lighting costs and system development charges. He felt the list was complete and in good order.

Councilor Lancaster felt all of the items on the list are critical projects and suggested the Board work on some or all of them concurrently.

Councilor Stone had a procedural comment since Council typically meets with the appointed advisory boards during work session. Would there be a future work session to discuss the items on the list in more detail and provide direction?

Mayor Bernard said typically an appointed advisory group provides a draft program for Council comment and direction. There are many important issues on this list, and he believes it is important to move forward.

Swanson added in the recent goal setting session Council discussed meeting 2 times annually with each advisory board. In 6 to 8 months the Council could schedule a meeting with this group for a status report.

Sanitary Sewer Volume Based Billing Update

Ostlund and **Shirey** provided the staff report updating the Council on the volume based sanitary sewer billing program. The City moved from a purely fixed rate structure to the new program in 2001, which is intended to be revenue neutral. Current figures indicate excess revenue being generated on the residential side. Financial Consulting Solutions Group (FCSG) has been retained to analyze the problem and make a recommendation if necessary.

FCSG identified potential reasons for the increased revenue as well as 3 possible courses of action which includes continuing to evaluate revenue collection trends and possibly amend the July 1, 2003 rate increase; conducting an account-by-account study for possible billing system problems; or immediately adjusting the billing structure to make the system revenue neutral. Staff recommends analyzing the revenue figures in March to determine if it is a "one time" occurrence or if a correction must be made to make the program revenue neutral.

Mayor Bernard agreed with the staff recommendation to evaluate the revenue figures in March before making any changes.

Councilor Barnes asked how much the consultant is being paid.

Ostlund said this study would cost about \$1,500. This is a specialized project for which the staff does not feel it has the necessary expertise.

Councilor Lancaster agreed this may not be a typical year and advised against rushing to make changes that might prove unnecessary. He does believe the program should be revenue neutral.

Councilor Stone agreed it was appropriate to study the program further.

Downtown Design Guidelines Project Update

Kent provided a status report on the Downtown Design Guidelines Project. The purpose of the project underway with the Design and Landmarks Commission (DLC) is to ensure downtown development is consistent with and contributes to the downtown character and vision. The project consists of 3 parts: Design Guidelines; Design

Review Process Code; and Sign Code Amendments. The Planning Commission and DLC will hold a joint public hearing in February with Council consideration in April.

Advisory Board Appointments

Mayor Bernard, with the consent of Councilors, appointed Kevin McNally to the Design and Landmarks Commission.

Resolution Changing March Meeting Dates

The group discussed the March 2003 Council meeting schedule. Members agreed to cancel the first work session of March and hold the first regular session on March 10, 2003. The work session on March 17 and regular session on March 18 will be held as normally scheduled.

It was moved by Mayor Bernard and seconded by Councilor Barnes to adopt the resolution changing the March 2003 Council meeting dates. Motion passed unanimously.

RESOLUTION NO. 5-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, PROVIDING PUBLIC NOTICE OF CHANGES TO ITS MARCH 2003 MEETING TIMES AND LOCATIONS.

Comments on Draft Letter from the Clackamas County Coordinating Committee to the Metro South Corridor Policy Committee

The Council reviewed and commented on a draft letter from the Clackamas County Coordinating Committee to the Metro South Corridor Policy Committee. **Mayor Bernard** said the letter states the combined light rail project should proceed as the Locally Preferred Alternative (LPA) and financed and constructed as a single corridor in 2 phases. The first phase of this single project would be I-205 and the second phase Milwaukie to Portland. Swanson included several bullet points which supported the recommendation by identifying redevelopment opportunities in Milwaukie.

Councilor Barnes asked how the ridership was calculated.

Mayor Bernard said Tri-Met and Metro project ridership. This is not about whether or not Milwaukie wants light rail. The important thing is to take the opportunity to make sure Milwaukie is not overlooked in the transportation system.

Swanson said the Policy Committee is scheduled to meet on January 30 and February 13 in addition to community meetings. Eventually, the whole LPS issue will reach the Planning Commission and the City Council. The Policy Committee will be asked to

III. A. 20

reach a decision before the Washington, D.C. trip in March to show the delegation a decision has been reached. He made amendments to the original letter proposed by the Clackamas County Coordinating Committee with 2 thoughts in mind. One is to deal with Washington County's stance that this is in reality 2 projects. Second, it reiterates the 2 phases of the project are linked, and one is no more important than the other.

Councilor Lancaster felt it was consistent with Milwaukie's position.

Councilor Stone is opposed to the light rail alternative because voters did not approve it. She cannot support signing this letter without comments from constituents.

Community Goals

Councilor Lancaster felt the City Council needed to discuss the proposal of adding support of library services to its goals. There are other issues related to that.

Mayor Bernard said these are still in draft form and would be discussed and adopted at a future Council meeting.

Executive Session

Mayor Bernard announced the City Council would meet in executive session pursuant to ORS 192.660(1)(d) to consult with labor negotiator and (h) real property transactions.

Adjournment

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

Mayor Bernard adjourned the meeting at 9:30 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: Larry R. Kanzler, Chief of Police

Subject: Lake Oswego Dispatch Transition – Dispatch Equipment Purchase

Date: January 22, 2003

Action Requested

Authorize the City Manager to sign a purchase order with the City of Portland in the amount of \$65,060.00 to purchase Mobil Data Terminals critical to the transfer of emergency dispatch operations to the City of Lake Oswego.

Background

On December 17, 2002 the Milwaukie City Council approved, by adopting Resolution 31-2002, an intergovernmental agreement merging Milwaukie's Dispatch Center with the City of Lake Oswego's Dispatch Center. An integral part of that merger included the purchase of Mobil Data Terminals, Computer Assisted Dispatch readers and printers, the installation costs associated with this equipment, and the necessary software to make the system operate. The merger of the two dispatch centers is scheduled to take effect on March 31, 2003. The purchase of this equipment is time sensitive and critical to the orderly merger of the two dispatch centers and will allow Milwaukie police to receive dispatch communications from Lake Oswego's dispatch center.

Concurrence

- Milwaukie City Council resolution 31-2002 dated December 17, 2002.
- Police Department Staff
- Lake Oswego Emergency Dispatch Center Staff

Fiscal Impact

The merger of Milwaukie's Dispatch Center with Lake Oswego's Dispatch Center will generate saving over a five year period of approximately \$700,000. During the first year of the merger Milwaukie will incur equipment integration and transition costs of approximately \$150,000 that are above the contracted personnel costs with Lake Oswego and were previously identified in Milwaukie's Dispatch Merger Plan and Staff Report.

We do not anticipate the overall merger costs to exceed what would have been necessary to budget to operate Milwaukie's current dispatch center. However, during the first year, savings identified in personnel and general operating expense will be realigned and transferred to pay the cost of Mobil Data Terminals, Computer Assisted Dispatch readers and printers, and the cost of software to support the hardware.

Future purchases for ancillary equipment will be necessary to facilitate this merger. Electronics and communications engineers are currently surveying the extent of those costs that are not part of this request.

Work Load Impacts

All equipment will be purchased and installed by the City of Portland's Bureau of Communication and Networking to the standards they have developed in collaboration with Motorola, the Portland Police Bureau, Lake Oswego Dispatch Operations, and the Milwaukie Police Department. This equipment is currently standard on all Portland Police Bureau patrol vehicles. There are no direct workload impacts to Milwaukie other than the administrative time necessary to issue the purchase order. We anticipate that the use of this equipment, when fully functional, will enhance police efficiency and service delivery substantially.

Alternatives

Terminate the intergovernmental agreement with Lake Oswego for dispatch services.



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Community Development Director *ACR*
Paul Shirey, Director of Engineering *PS*

From: Jack R. Ostlund Jr., Associate Engineer *JRO*

Subject: 2001-2002 Sanitary Sewer Replacement Project

Date: January 23, 2003 for February 18, 2003 City Council Meeting

Action Requested

Accept the Sanitary Sewer Replacement Project performed at the following locations:

1. Intersection of Plum Street and Sequoia Place
2. 42nd Avenue, south of Covell Avenue

Background

The current Sanitary Sewer Master Plan identifies sewer lines requiring replacement to upsize or to eliminate physical deterioration or deficiencies.

Two replacement projects were included in this project. Both were completed to correct physical deterioration and sags causing ponding in both mainline and manholes. Ponding is a major cause of odor and pipe deterioration in collection systems. The 42nd Avenue portion of this project replaced 125 feet of sagging 8-inch concrete pipe with a new 8-inch PVC line. The Plum Drive/Sequoia Place portion of this project replaced 349 feet of sagging 8-inch concrete line with new 8-inch PVC line.

At the September 17, 2002 council session, City Council awarded Canby Excavating, Inc. the contract for this project. Work was started on November 3, and was substantially completed by November 13, which was within the 60-day contract period.

One approved change order in the project totaled \$5231.00. This kept the contract total amount under the budgeted and approved amount by Council on September 17, 2002. The change order resulted from a decision to increase the length of pipe to be replaced at the 42nd Avenue site in order to fully eliminate the

III. C. 2

"sag" in the pipe. The final contract retainage will be released and paid to the contractor upon Council acceptance of this project.

Summary of replacement for Plum/Sequoia and 42nd Avenue Location:

Replaced Sewer Infrastructure: 8-inch Sewerline: - 498 feet
Manholes: - One

Concurrence

Public Works Engineering and the Sewer Department recommend that City Council accept the project resulting in retainage being paid to Canby Excavating, Inc.

Fiscal Impact

There are no fiscal impacts. All project costs were budgeted and approved in the fiscal year 2002-2003 Sanitary Sewer budget. The combined project budget was \$66,000. The bid by Canby Excavating was \$73,560.45, which exceeded the projected budget amount. The total cost of the project was \$88,635.02. This included construction, inspection, design, and advertising costs. The project exceeded the approved budget line item for this project by \$22,635.02. Funds from the General Capital Projects portion of the sewer budget were used to supplement the project deficit. The General Capital Projects line in the Sewer Fund has over \$81,000 available, in anticipation of special capital projects throughout the year and project cost underestimates, such as those that were presented in this project.

Work Load Impacts

There are no further impacts. Project is complete.

Alternatives

None.



III. D. 1

*Approved
1/28/03
[Signature]*

To: Mayor Bernard and Milwaukie City Council
Through: Mike Swanson, City Manager
From: Larry R. Kanzler, Chief of Police
Date: January 28, 2003
Subject: **O.L.C.C. Application – Plaid Pantry – 10598 S.E. 32nd Avenue**

Action Requested:

It is respectfully requested the Council approve the O.L.C.C. Application To Obtain A Liquor License from Plaid Pantry – 10598 S.E. 32nd Avenue.

Background:

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

EXHIBIT G

V. A. 1



Planning Department

Memorandum

To: **Mayor and City Council**

From: Kenneth Kent, Associate Planner *VAK*

Date: February 6, 2003

Subject: Additional Correspondence for Philip Reich Appeal
Application MLP-02-07

Attached is additional correspondence regarding the Philip Reich Appeal, which was continued from the January 7, 2003 and January 21, 2003 meetings to February 18, 2003. This item was received after distribution of the Council staff report and is to be attached as Exhibit G.

V. A. 2

December 20, 2002

Mayor and City Council
City of Milwaukie
10722 SE Main Street
Milwaukie, Oregon 97222

RECEIVED
JAN 06 2003
CITY OF MILWAUKIE
COMMUNITY DEVELOPMENT

Dear Mayor and Council;

In response to the recent appeal filed regarding the desired flag lots at 5650 SE King Road, Milwaukie, we have the following concerns that we would like the City Council to consider carefully in its review process:

1. We have lived at 5640 SE King Road since January 1985, with the property owned by Evelyn Knutsen since 1970. We are very concerned of the adverse affect to our stand of trees on our property, along with the native vegetation and wildlife that live in the forest environment. The proposed 6 foot fence is a concern, since we have wood fence lining a part of our property along 5650 which has been damaged with items that have been leaned against it from 5650 and have caused our boards to be broken into our property. Our fence has 2 sections completely off the 4x4 posts from items leaned against the fence. It has been this way for 2 years without being fixed. We would like to see a better fencing through the forest for the protection of the vegetation and wildlife. According to Section 17.32.040.E the rear and side yards of the development area (flag) shall be screened from adjacent property with a 6-foot-tall wood or masonry fence. If this appeal is approved, we ask that fencing is in place PRIOR to any development, in recommendation by Phil Wich, Certified Arborist, from Collier Arbor Care, to ensure that root damage does not occur.
2. We are concerned with the tree mitigation. Prior to submitting this flag lot partition documentation, several healthy mature evergreen trees were cut down. This was done early into the mornings, after midnight. We asked them to stop since it was well after 11 PM..
3. Concern regarding the term "Interim" when proposing the development of the public street. We have no assurance when or if it will be completed. The applicant proposes approval of flag lots as an interim measure including dedication of public right-of-way, without construction of street improvement at the time of lot creation. According to Subdivision Ordinance Section 17.32.040.A, the applicant has not demonstrated that access by means of a dedicated public street is not possible. Also, development of flag lots as an interim measure does not assure development of a public street that would provide suitable access and avoid other flag lots. The word "interim" gives no time limit.
4. Concern regarding houses being moved onto the property, the quality of the structures and the regulations regarding completing the structures in a timely manner. We have a

great concern regarding the time allowed to work on the homes(actual construction hours), and if this is approved, we hope defined time limits will be in place and enforced regarding the completion of the flag lot.

5. We feel King Road has 4 beautiful lots of over 1 acre each (5624 is shy of 1 acre) right next to each other and it would be a shame to split up any future possibilities these lots could have. We do not find this proposal to be an enhancement to the neighborhood or the community at large.

We submit these concerns to be considered while reviewing the appeal at 5650 SE King Road.

Enclosures include newspaper article and a letter from Collier Arbor Care.

Thank You
Karen and Dan Liebert
5640 SE King Road
Milwaukie, Oregon 97222

Evelyn Knutsen property owner
7854 SE King Road
Milwaukie, Oregon 97222

V. A. 4



**COLLIER
ARBOR CARE**

Environmentally Friendly... Since 1977

11814 SE Jennifer St., Clackamas, OR 97015

August 6, 2002

Karen Liebert
5640 SE King Rd
Milwaukie OR 97222

2002 COLLIER ARBOR CARE PROPOSAL

Below are my recommendations and estimates. If you have any questions or wish to schedule this work, please give us a call.

The following are my recommendations with regards to your trees and the potential home sites to be located adjacent to your property. Given the size and species involved I would recommend the following precautions to be taken to safeguard the health of the trees along your east and west property lines.

- No vehicular traffic, construction equipment movement or material storage occurs within the drip line of any tree along the property lines. The drip line is defined as a vertical line running from the tip of the longest branch down to the soil line. In most cases this distance is approximately 20 feet.
- A barrier fence should be installed around the proposed "No Traffic Area", prior to any activities to ensure that root damage does not occur.
- The brush pile to the east that has been repositioned under the Douglas Firs should be removed to deter possible root suffocation.
- In general, keeping all traffic, trenching and other construction activities as far away from your trees as possible is recommended.

Thank you,

Phil Wich
Certified Arborist

Venerable trees one of site's big assets

By **KENDRA HOGUE**

STAFF WRITER

Most of the time, landscaping is one of the last things to get done on a home-show site.

But when large, old trees are part of the equation — as they were at this year's Street of Dreams site at Atherton Heights in Lake Oswego — planning for their preservation must be a priority early in the process.

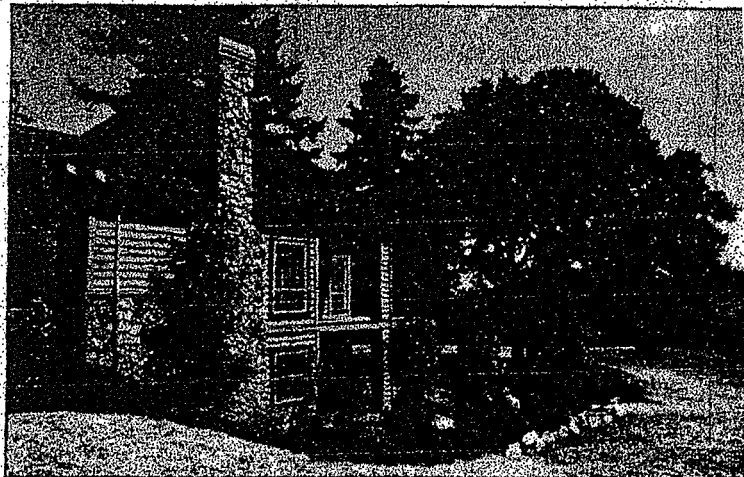
"I was part of the development team," said arborist Terrill Collier, of Collier Arbor Care in Clackamas. "I got involved this time last year."

What Collier did was take an inventory of trees on the 15-acre site and consider which trees should be preserved and how. He then drew up what's called an "arbor plan" or "tree protection plan," something that's required for developments in Lake Oswego and several other communities in the Portland metropolitan area.

"In the last 10 years, this has become a normal thing to do," Collier said. "Part of the reason we do it is it's required by the city of Lake Oswego, but we also had some very nice trees on the Street of Dreams site that would be very nice to preserve."

At the top of Collier's keeper list was a 70-foot-tall Oregon white oak and three large Douglas firs more than 100 feet tall. Collier estimates the oak is 125 to 150 years old and the firs are 70 to 100 years old. A hawthorn and 17 other smaller firs were also preserved. Collier guesses a portion of the site was a former Christmas tree farm.

The oak became a star attraction at the aptly named Cottage by the Tree, by Blazer Development. The



JOHN M. VINCEN

A 70-foot-tall Oregon white oak became the star attraction at the site of Blazer Development's Cottage by the Tree.

tree provides shade over much of the back yard and filters sunlight into the kitchen.

Protecting the trees during the site development and construction process meant tagging them for preservation and erecting a fence around each tree's drip line, the point to which the tree's branches reach. Collier said the distance that needs to be fenced off is usually 1 foot from the tree for every inch in diameter. The oak required a fence 36 feet in diameter.

Collier said the show's contractors also were warned not to compact, dig into or smother potential

root areas, which can reach beyond a tree's drip line. Installing grass and irrigation over the roots of trees unaccustomed to large amounts of water also is a no-no, since it can cause root rot.

The end result, said Collier, is well worth the effort.

"Trees are an amenity to the site, not an impediment," Collier said. "People want to live near trees, not in a clear-cut."

RESOURCES

• Terrill Collier, Collier Arbor Care, 1814 S.E. Jennifer St., Clackamas; 503-722-7267; www.collierarbor.com



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: Gary Firestone, City Attorney's Office
Michelle Gregory, Neighborhood Services Manager

Subject: Sale of Surplus Property

Date: February 18, 2003

Action Requested

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

Background

The City acquired the property located at 12125 SE 21st Avenue by foreclosing on a judgment against the property. The judgment was for penalties for numerous code violations on the property. The property is not needed for City purposes, and the City can realize some financial benefit from selling the property. The property 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 it projects a short distance into the other lot. Because of the condition of the structure and the fact that it straddles a lot line, the City should require the purchaser of that lot to remove the structure and should require the purchaser of the other lot to grant access for removal of the structure. An appraisal prepared for the City appraises the lot without the house at \$53,000, and the other lot at \$48,000. The reduced price reflects the need to remove the structure. Staff believes that the minimum acceptable price for the lot

V. B. 2

with structure should be \$40,000 and that the minimum acceptable price for the other lot should be \$53,000.

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. Retain the property.
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.

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, the City has no further use for the Property; and

WHEREAS, the structure on the Property contains several deficiencies rendering it inappropriate for continued residential use and straddles a lot line; and

WHEREAS, on February 5, 2003, the City published notice in the *Clackamas Review*, a newspaper of general circulation in the City, providing notice that a public hearing on the proposed sale of the Property would be held on February 18, 2003; and

WHEREAS, the City provided notice of the public hearing to property owners within 300 feet of the Property; and

WHEREAS, the City Council held a public hearing on the proposed sale of the Property on February 18, 2003;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILWAUKIE 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 terms for the sale shall be a sale price of \$53,000 and a requirement to allow access to the site for purposes of removing the existing structure. For Tax Lot 1401, the minimum terms for the sale shall be a sale price of \$48,000 and a requirement that the seller remove the existing structure on the property.

V. B. 4

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 _____, 2003.

James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM

Pat DuVal, City Recorder

Ramis, Crew, Corrigan & Bachrach, LLP

G:\mun\Milwaukie\Heckmann sale resolution011703.doc



To: Mayor and City Council

Through: Mike Swanson, City Manager

From: JoAnn Herrigel

Subject: Agreement with Clackamas Cable Advisory Board

Date: January 30, 2003

Action Requested

Authorize the City Manager to sign a personal services agreement with the Clackamas Cable Access Board to manage and operate Milwaukie's Public Access studio located at 6596 SE Lake Rd.

Background

In December 2002, the City's Public Access Board recommended that staff terminate the contract with the current studio operator and develop a Request for Proposals (RFP) for a new manager/operator as soon as possible. This recommendation was motivated by the current general fund problems facing the City. The Board felt that if a new operator, or the current operator under a new agreement, could significantly reduce the cost of running the public access studio, the likelihood that it would remain open after June 31, 2002 would be greater.

After discussing this Board recommendation with the City Manager, staff notified the current operator of the contract termination and developed an RFP that was advertised in the *Oregonian* on January 12 and 19.

The City received 7 qualified proposals. The review panel consisted of one Milwaukie staff person, one Public Access Board member and two staff people from other access programs in the area. The reviewers recommended that the City pursue an agreement with Clackamas Cable Access Board (CCAB).

The CCAB proposal contains the following elements:

- The City's public access station on Lake Rd will remain open.
- The Milwaukie Cable Access facility will become a sub-studio of Willamette Falls Television and be called WFTV-Milwaukie. Under this arrangement, Milwaukie's studio would remain at its Lake Rd site and would operate four hours a day, five days a week.
- Milwaukie users (including Fire District #1 will have full privileges at WFTV in Oregon City (709 Main Street). They may use that facility Mon-Fri, 9 am to 9pm and Saturday from 9 to 5 (closed Sat in summer).
- It is expected that existing WFTV staff will be responsible for operating the Milwaukie studio. However, WFTV is prepared to hire additional staff if necessary to fulfill their obligation to Milwaukie.
- WFTV will also assure that Milwaukie's obligation to Fire District #1 of 30 hours/month is met.
- The staff person(s) responsible for the Milwaukie studio would attend all CCAB meetings and update the CCAB on studio issues. In addition, minutes of all Board meetings, plus a quarterly report of programming, training, programs submitted and hours of equipment usage will be provided to Milwaukie along with an annual audit report..
- The services provided by the CCAB would cost Milwaukie \$2,500/month.

Concurrence

The City Manager and the City Attorney concur with the staff recommendation.

Fiscal Impact

For the balance of this fiscal year, the proposed agreement would cost the City \$12,500 for operation of the facility and \$3,750 for utilities and office supplies. The total expense for the studio for this fiscal year would be reduced by \$13,750 from the amount currently budgeted.

For fiscal year 03-04, operation would cost \$30,000 and fixed costs would be \$11,000, for a total of \$41,000. This is a 53% decrease in the current cost to run the studio as budgeted for this year. (\$87,000 for FY 02-30).

Work Load Impacts

Staff work load related to studio operation and management would decrease with the assumption of studio operation by Willamette Falls staff. The Milwaukie Public Access Board could be dissolved further reducing staff work load.

Alternatives

- Authorize the City Manager to sign a personal services agreement with the Clackamas Cable Access Board to manage and operate Milwaukie's Public Access studio.
- Direct staff to re advertise the studio management/operation

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

Part I - Description of Organization: Clackamas Cable Access Board (CCAB) is an intergovernmental agreement between the cities of West Linn, Oregon City, and Gladstone. The City of Gladstone is withdrawing from the agreement, effective June 30, 2003. CCAB was formed in 1984 for the purpose of pooling resources to operate a Public Access television studio serving the three cities. We also provide service to residents of unincorporated Clackamas County under a flat fee service agreement. Due to some confusion between the Clackamas area and the fact that we served only the three cities, the CCAB does business and operates our studio as Willamette Falls Television (WFTV) Our studio is located at 709 Main Street, Oregon City.

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

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

The CCAB consists of two members from each city, plus one member selected by the Board who may live anywhere in Clackamas County. The Board meets on the second Monday of each month at WFTV. Clackamas County has a representative who attends the meetings and can voice opinions and concerns, but does not have a vote. The Board sets policy,

and does much of the direct management of the facility. Paid employees include the Studio Manager, Melody Ashford, a Studio Engineer, an Administrative Assistant, Studio Assistant, and a Production Assistant. The Engineer and Assistants report to the Studio Manager, who reports to the Board via Personnel officer Marvin Fourier. Bookkeeping is contracted to US Bookkeeping, and annual audits are performed in accordance with state law.

Part II - System Concept and Solution: CCAB proposes that Milwaukie Cable Access become a sub-studio of Willamette Falls Television, known as WFTV-Milwaukie. We propose operating with the existing equipment. The studio on Lake road could remain open in the evenings, four hours per day, five days per week. 5pm -9pm are the hours envisioned. This job may possibly be split between two employees. The employee(s) would be responsible for keeping the facility clean. We hope to use existing employees to provide this service, but an additional employee would be hired if needed. This employee would report to the WFTV Studio Manager. Engineering services would be supplied by the WFTV Studio Engineer, with an additional 100 hours per year budgeted over his current hours. ✖

The operating rules would be the same as that of the WFTV-Oregon City studio (see attached), with the mission being to provide training and equipment for the users to create their own shows. The current practice of having staff go out and make the show for city residents could not be supported. Milwaukie residents could use the Milwaukie or Oregon City studios, and check out equipment from either facility. WFTV users from either facility would be eligible to use the other, so that Clackamas County users who live close to Milwaukie could use that facility instead of Oregon City.

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

Part III - Program: CCAB will provide one employee to keep the Lake Road facility open on a half time basis. This employee will assist users, schedule and accomplish playback of programming, clean the facility, and assist the fire department as needed during the open hours of the

✖

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

Milwaukie users, including Fire District 1, will have full privileges at WFTV-Oregon City. They may use the facilities during the hours of 9am – 9pm Monday through Friday, and 9am – 5pm Saturday during the fall, winter, and spring. Saturday hours are eliminated during the summer, due to lack of demand.

Part IV – Program Management Structure: The WFTV Studio Manager will be in overall charge of the operation of both studios. CCAB will attempt to have an employee in place to operate the Milwaukie facility on February 1, 2002. If that is not possible, existing employees will program the playback, and users will be directed to WFTV-Oregon City until an employee can be hired and trained. The employee will attend CCAB meetings on the second Monday of each month to keep the board apprised of the Milwaukie operations.

The Facil management software in use at WFTV will be linked to the Milwaukie studio. All reservations and programming schedules will be done using Facil. This will allow timely reports on usage and programming to be produced. CCAB will provide setup of the software, and training of the new employee, to get this started.

Part V – Prior Experience: The CCAB has operated a public access studio in Oregon City for 20 years. Three of the current Board members have been on the board for over 10 years. Melody Ashford has managed WFTV for 7 years, and was in another position with WFTV prior to that for a total of 13 years. She also has an independent video production company. Our Studio Engineer, Steve Johnson, has a degree in Television Technology, and was the engineer for the Clackamas Community College A/V department from the time he graduated until he retired in 2002. The

person assigned to operate the Milwaukie studio will have to have experience in video production.

Part VI – Authorized Negotiator :

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

Part VII – Budget:

PROGRAM AREA			BUDGET AMOUNT
Studio Operation			\$2,500/mo (\$30K/yr) \$12,500 for 5 months
Line Items	Operator 24hrs/wk	\$10hr \$1,175 mo*	
	Engineer 8.3 hrs/mo	\$13.19hr \$125 mo*	
	Telecom (phones, cable modem)	\$100/mo	
	Setup expenses	\$1,500 one time	
	Management, use of WFTV-OC	\$1,100/mo	
Office Supplies**			\$2,500
Utilities**			\$1,250
Total to operate Feb 1 – Jun 30, 2003			\$16,250

* monthly wages quoted with 13% loading on hourly rate

** paid directly by City of Milwaukie

***We have insufficient information to estimate capital needs, but note that \$10K is available up to June 30, 2003.

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



Park & Recreation Board

PARB

Tuesday, November 26, 2002

7:00 PM to 9:00 PM

City Hall

MINUTES

Attendees: Mart Hughes, Kathy Buss, Don McCarty, Joe Loomis, Sherri Dow, Edie Kerbaugh

Staff: JoAnn Herrigel, Joan Young

Minutes

Motion to approve minutes by McCarty and seconded by Loomis. Minutes were approved 5 0.

Trolley Trail Support letter

The group reviewed a draft letter Herrigel had written for Council regarding support for MTIP funding for the Trolley Trail project. The group suggested decreasing the verbiage at the beginning of the letter and adding a comment about the importance of trails in the City and to the PARB. Kathy Buss made a motion to have staff draft a letter for Mart's signature. The motion was seconded by Dow and passed 6-0.

Solstice Event Update

The group discussed the details of the upcoming Solstice event at the Riverfront (Dec 21). It was suggested that a barricade be placed along the edge of the flat area where the fire was going to be to prevent people from falling down the hill toward the water. It was also suggested that the area be mowed. Kathy Buss said she'd call Art Ball regarding Starbucks and their support for the event. Joan Young offered additional wood from the Senior Center if there was a need. McCarty said he'd assist with parking. It was suggested that a map be placed on the back of the flier for the event showing where people should park. Loomis said he'd call Vic's regarding electric supply.

District Update

- Purchase of Naef Rd property should be complete by Dec
- District has instituted a hiring freeze
- Next year District anticipates a deficit of \$300,000 - \$350,000
- Cuts made must build capacity in budget – Will look at whether services can be provided by others in community
- Altamont- Developer has charged that District hasn't done anything with SDCs and they want park now.
- The District will honor the master plan in this time of no growth
- Financial stability is their first priority
- Staff and Board will have a retreat in December at which budget priorities are discussed and criteria for cuts will be presented.

VII. A. 2

McCarty asked if the District had been successful at modifying the ratio of expense to revenue for the aquatics park. Young responded that it has gained some but not as much as was hoped.

Dow suggested that the District let people know what “secret” services are (those that exist and are important but few know much about). She said the District should use a public process to tell folks what the District offers.

Joan noted that during the Master Plan process, survey questions were asked of participants that indicated the population’s priorities and that information would probably be used as a basis for prioritizing cuts. Herrigel noted that the Master Plan process was intended to get input from people on what they “would like” to have, not what they would be willing to give up. She suggested that the Master Plan input might not be a valid base of information upon which to base budget cuts. Other comments

- Could volunteers be used for some of the work done by District staff?
- Voters don’t see parks as an extension of their own back yard in Clackamas County – as they do in Portland
- The District DOES need to blow their own horn and then ask which services they should cut
- Proposed cuts should be circulated to the public to let them know what is planned and to get their input.
- Be clear on the process – noting that what benefits the District benefits everybody

Herrigel said she would summarize the group’s comments and get them to Mart before the retreat.

Next Meeting

Buss motioned to cancel the December meeting (which would have been Christmas Eve). The next meeting would be held in January.

Unintentionally, Edie picked up her purse and adjourned the meeting at 9:04.

Riverfront Board Meeting Minutes
December 17, 2002

Approval of November 6, 2002 minutes

Wall motioned for approval of the minutes of the November 6 meeting, Verbout seconded and the motion passed 6-0.

Riverfront Sign Proposal

Herrigel and Verbout described the proposed sign design and text they'd developed. A kiosk with three panels (8'x4' each) was proposed. Each panel would have a teal frame along the edge and the Centennial icons would be used in the four corners of each panel.

In general, the group approved of the layout. Herrigel noted that Gill Williams had suggested we place the concept map on two of the three proposed panels (facing north and south) to get the attention of those driving by and stopped at the light at Jefferson. The group agreed that placing the map on two of the three panels was a good idea.

Wall recommended that staff check with the City's attorney before using the term "tax deductible" when referring to donations on the sign and in other literature.

The group suggested that the text and map also be made into a tri-fold flier that could be handed out to people.

Green asked if there was a price break for more than one sign. Herrigel said she'd look into it.

Oregon Marine Board Response to Boat Ramp Criteria

The group commented that the plans developed by the Oregon Marine Board were not exactly what they'd asked for in several aspects. Verbout and others noted that there was still way too much asphalt and the footprint of the facility is "humongous".

Wall noted that we'd not met with the Oregon Marine Board to actually discuss what we really want and that he was in favor of inviting them to attend our next meeting. Green concurred that it would be easier for the group to talk to the OMB reps directly rather than continue to throw out ideas and send them to Salem.

The group agreed to leave the criteria they had developed for the Boat Ramp as they are and to discuss with the Oregon Marine Board how much flexibility they may have on certain issues.

Herrigel agreed to invite an Oregon Marine Board rep to the next meeting to discuss the criteria.

Meeting Schedule

VII. B. 2

The group agreed to change the meeting day to Monday and, specifically, chose January 27th as their next meeting date. They considered changing the meeting time to allow members to go home for dinner first. The group asked if Herrigel could get food for the Board to eat at the meeting for which each member would chip in. Herrigel agreed to do this.

Next Riverfront Board Meeting: January 27 at 6:00 at City Hall, food provided
(bring \$)

DRAFT Minutes of
Riverfront Board Meeting
January 27, 2003

Members Present: Loaiza, Verbout, Martin, Green, Klein, Wall, Stacey

Staff: Herrigel

Guests: Ron Rhodehamel, Oregon Marine Board

Minutes

The minutes of the December 17 Riverfront Board meeting were approved 7-0.

Park Naming Proposal

Herrigel described a Park naming process for the Riverfront that Council was considering announcing at the February 3 Opening Ceremony for the Centennial. She noted that the Riverfront board would be included in the review of the names for the park. No opposition to the process was expressed. Herrigel said she would keep members posted as to the timeline for this process.

Treatment Plant Update

Herrigel handed out copies of a memo from Mike Swanson, Milwaukie's City Manager, regarding the current status of the sewage treatment plant and the move toward its decommissioning. She also distributed an executive summary of a report by Shaun Pigott Associates containing a rate and economic analysis for the decommissioning process. She said this analysis indicates that the cost of the plant decommissioning may be more affordable than previously indicated.

Discussion of Boat Ramp Criteria with Oregon Marine Board (OMB)

Herrigel began the discussion by going through the history of the Riverfront Board and the relationship of the Board to the Riverfront Plan and Oregon Marine Board.

Following is a summary of these remarks:

- This Board has been in place since March of 1999 (only two members turned over in that time)
- This Board's role was to guide the development and implementation of the Riverfront and Downtown Plan and to provide continuity to address the bigger picture
- The original goals of the Riverfront Plan as dreamed of by the Council that convened this group included:
 - + Connecting the downtown with the Riverfront
 - + Getting rid of Kellogg Treatment Plant
 - + Moving the boat ramp
 - + Not wasting the riverfront on parking

VII. B. 4

- Underlying the Riverfront Plan is the concept that Milwaukie's Riverfront property is valuable real estate and open space property to the City and could change the very nature of what Milwaukie is
- The longest standing members of this group have held onto the above concept and goals since the Board convened
- They take them very seriously, and believe that they are good goals
- This group understands that there are no known alternatives for a boat ramp on the east side of the River.
- This group also understands that your organization, as advocates for boaters and boating facilities, has a great interest in keeping the Milwaukie facility open
- In 2000, Dave Obern of the Oregon Marine Board came to Milwaukie to discuss OMB proposals for modifying the existing boat ramp
- Now, at that time, in the context of a recently dashed goal of moving the boat ramp and having all but finalized a Riverfront Plan with no boat ramp shown, his (Obern's) proposal to increase the size of this facility (especially the asphalt part) was, frankly, alarming.
- Since Dave's last visit to Milwaukie, many changes have occurred at both OMB and the City.
- This board realizes that the boat ramp is important to many folks in and around the City and that, for at least the next few years, the facility will remain in place
- We find ourselves, however, now with an optimistic outlook for moving the treatment plant potentially by 2010. Further, the Centennial (2003) has re-ignited an enthusiasm for the Riverfront that may result in long awaited park development at least in the northern section.
- In this context, the Riverfront Board has developed a list of criteria that could fit a boat ramp that might meet many of the objectives of both the OMB and the City
- The list of criteria they sent you is a vision that they hope you will help us move toward.

Dave Green then reviewed the criteria the Board had developed and tried to described what the group was thinking when they developed the list. He noted that there is some momentum on the Kellogg Decommissioning. He also stated that the Riverfront Board understands that there is interest in the boat ramp and that they take that seriously.

Issues he highlighted were:

- Interest in accommodating non-motorized boating such as canoes and kayaks
- Good pedestrian access to the river itself is important
- Minimizing pavement in the center of the Riverfront is important (Parking should be 30 spaces TOTAL for all vehicles)
- Interest in having boat ramp modifications mesh with the McLoughlin project
- Use of the specifications for public infrastructure from the Riverfront Downtown plan would be necessary

Rhodehamel said that the OMB's revenue is generated by motorized boats but that other projects they've worked on have accommodated non-motorized craft. He listed Oregon City's fishing platform, and projects in Salem and Coquille

Green said the City would want at least the design of the dock to accommodate non-motorized craft whether the OMB could fund the construction for it or not.

Rhodehamel said he'd been in his current position for 16 months. He's been at OMB since 1988. He said the OMB has five members with 4-year terms. He described the OMB members as boaters not politicians. The OMB, he said, does not own or operate the facilities they fund, rather they work in partnership with local jurisdictions or districts. They need to be willing partnerships, he noted.

He said he did not feel that the Jefferson Street Boat facility was incompatible with an open space and park plan for Milwaukie. He was concerned about the amount of parking the Riverfront Board had proposed. He said that below a certain number of parking spaces, the OMB might not feel investment in the facility would be worthwhile. Funds from the OMB generally go where the most boaters per dollar are accommodated. He noted that in addition to the parking stalls themselves there are standards for backing up trailers and turning radii that need to be integrated into parking lot design. There was general discussion of what alternative locations on the east side of McLoughlin might be used for parking.

Green asked how important the Jefferson Street facility was to the OMB.

Rhodehamel responded that it's hard to find new ramp sites given all the environmental regs and permitting issues existing today. He said the OMB is interested in the site – and he referred to the files the OMB have on the site going back to 1987 as evidence of their interest.

A board member asked if the facility was in the optimum location. Rhodehamel responded that it seemed good at that location and that the current site has all the right conditions (not to mention permits). He noted that new ramps are very long. He also noted that these facilities don't *have to be* ugly.

With regard to using paving stones instead of asphalt, Rhodehamel noted that they'd tried using pavers but they hadn't been too successful. (He referred to Sauvie's Island as an example.) Later the issue of graveled parking areas was raised and Rhodehamel noted that this was okay with him but it was hard to maintain.

Rhodehamel said below 30 spaces for boats and trailers and "people get nervous". He noted that a boat space is 10' x 40' (plus road) and regular car spaces are 7.5' x 18' (plus road.)

A board member asked if cars would be ticketed for parking in the Jefferson Street lot. Herrigel said that parking at the boat ramp was enforced by the City and that tagging in off season for parking in boat spots doesn't occur. (She later confirmed that even during high fishing season ticketing only occurs if a complaint is lodged.)

VII. B. 6

Various ideas for arranging parking were discussed: lottery, shuttling boaters from off site locations, and allowing non-season use of boat slots for regular vehicles.

Rhodehamel noted that once you allow folks to use a facility a particular way, it's hard to break them of a habit.

Rhodehamel stated that a 20-year agreement is a policy of the OMB.

Wall asked if Rhodehamel knew where the Jefferson Street facility was with respect to the end of their current grant terms. Rhodehamel said he thought maybe it was within 5 years of the end of the term.

Wall said he'd like to know what course of action the Riverfront Board should take. He asked what the next step might be.

Rhodehamel said the OMB is interested in the urban area. He said their grant program runs on a biennial schedule. Applications for funding would need to be submitted in the spring of 2003 for funding available July 1, 2003. The next funding cycle would be 05-07. He noted that the OMB funds 100% of most projects they accept (no local match required.) The funds for these grants come from boater registration and motorboat gas tax ($\frac{1}{2}$ and $\frac{1}{2}$.) Once funds are granted, permits take 6 months to a year and construction takes three to six months (Total of about 1 $\frac{1}{2}$ years). The City would be the contracting agency for construction but the OMB would do the engineering and design. He noted that 70% of the funds are granted for larger projects and 30% for smaller ones.

Rhodehamel said if the City wanted to pursue a boat ramp project this cycle, an application would need to be submitted by April, 2003. He said it was a fairly simple form.

The group thanked Rhodehamel for coming to Milwaukie.

The Board discussed what their next steps might be. Several questions were raised, including:

- Who owns the road to the treatment plant?
- Would the City have to modify the comprehensive plan to integrate the boat ramp into the Riverfront plan?
- What are the options for using property to the east of Mcloughlin for Boat ramp parking?
- What are the lengths of the current grant terms?

The group agreed to meet in March to discuss what actions might be taken regarding the Boat Ramp and the Oregon Marine Board grant program.

Next Meeting

The next meeting was set for Monday, February 24 at 6:00 pm. Dave Green offered to pay for the dinner that evening. Mike Stacey was thanked for having hosted the January dinner.

Loaiza motioned for adjournment, Wall seconded. Meeting adjourned 7-0.

North Clackamas Parks and Recreation District
Milwaukie Center/Community Advisory Board
Minutes of December 13, 2002

Members present: Kim Buchholz, Molly Hanthorn, Alice Neely, Sharon Phillips, Joan Staley, Ben Tabler, Janet Witter

Member excused: Eleanor Johnson, Jim McCready, Joan Newman, Carol Storment

Staff: Joan Young, Cheryl Nally

Guests: Jane Hanno, Jim McBee, Lynn Wright, Sue Elder

Call to Order: Joan Staley, Vice Chair person, called the meeting to order at 10:03 am. The minutes of the previous meeting were approved as printed. Sue Elder, Director of Clackamas County Children's Commission: Head Start, presented an overview of the program and answered questions from Board members and guests.

Guests: Lynn Wright, Jim McBee, and Jane Hanno introduced themselves and expressed interest in joining the Board. Applications will be considered at the January meeting.

Correspondence: Marc Burnham resigned from the Board since he has moved and taken a different job. Eleanor Johnson will continue as Center representative on the Parks Board.

Parks Board: Joan reported on the Parks Board meeting. Discussion continues on opening part of the park site located immediately south of the Aquatic Park. The federal funds received will not complete the trail project, as expected. A basic park will be developed at the Altamont site. The levy consultant reported some facts and figures about the levy defeat. Parks staff is looking at all programs to determine budget priorities.

Budget Committee: Meetings will begin in January.

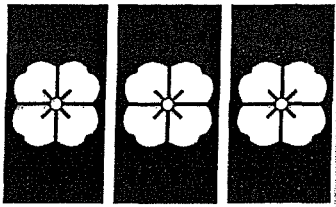
Programs and Services: No meeting.

Nutrition/Transportation: The January 28 state money measure could have significant impact on funding for Nutrition and Transportation programs.

Building Review: The Committee has completed its "Wish List" and is looking for new projects to put on the list.

History: The Board will see the first draft of the History project at the January meeting.

CITY OF



MILWAUKIE

Ledding Library Board

November minutes

November 25, 2002 6:30 PM
Ledding Library

Meeting called by: Pat Healy

Attendees: Attendees: Pat Healy, Tom Hogan, Sue Trotter, Michael Welling, and Ed Zumwalt.
Absent: Mark Docken
Staff: Cynthia Sturgis

Agenda topics

Approval of minutes

Approved as written.

Librarian's report

The children's library staff is developing a books-on-cd collection.

Cynthia met with Alice Rouyer, Jeff King, and Mike Swanson to review the memo of library concerns about the extension of 21st Avenue, loss of parking spaces, and restricted expansion space. Alice and Jeff presented suggestions for alleviating some the parking problems. Cynthia brought their topographic drawing and an overlay with suggested changes. Shared parking will also be a suggestion to contractors who reply to the city's RFP.

The board questioned the library site listed as Lewelling Park on the planning department drawing. Members made and passed a motion to have Cynthia contact Alice about this.

Libraries for Tomorrow

Sue, Joe, and Cynthia attended the library network meeting to discuss the problems of compression and the effects on collection of property tax revenues for future districts or levies. Sue suggested copies of the handouts be sent to board members. A copy of proposed formulas for reimbursement to cities will also be sent.

The next meeting of the LNIB and the Libraries for Tomorrow committee will be held on Thursday, December 5th at 2:00 at the Network office. Further discussion and recommendations will be made concerning future formulas. This is a public meeting and library board members were encouraged to attend.

Library budget

Because of the defeat of the city operating levy, the City Council will hold public hearings in January to discuss what areas of the city budget to reduce. Cynthia will notify board members when dates are set.

The city manager has frozen hiring for any new vacancies and has requested that departments look at areas to reduce spending without affecting services. The librarians asked him if the library should stop buying circulating materials now, and he advised that service not be reduced until the Council makes a decision in January.

Board vacancy

The board's newest member, Michael Welling, was introduced to all. He has been working on the library's Facility Planning Committee for the past year.

Cynthia is trying to make contact with Anna O'Guinn about a formal resignation and to invite her to a farewell get-together with board members after the December 16th meeting.