

## MINUTES

### MILWAUKIE CITY COUNCIL WORK SESSION MAY 5, 2003

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

Councilors present: Barnes, Lancaster, Loomis, and Stone.

Staff present: City Manager Mike Swanson, Community Development/Public Works Director Alice Rouyer, and Civil Engineer Brion Barnett.

#### Information Sharing

**Rouyer** informed Council the recently adopted resolution establishing sewer charges for customers receiving service from the City of Portland would be revised on a future Council agenda.

The group discussed correspondence from Gene Hatlelid and other Johnson Creek Boulevard residents to Senator Kate Brown regarding the road improvement project.

#### Downtown Parking and Traffic Management Plan

**Barnett** introduced project consultants Beth Wemple, Kittelson & Associates, Inc., and Rick Williams, Melvin Mark Companies.

**Barnett** said the desired outcome of this work session is Council direction on this project. He provided a brief project background for recently elected Councilors and then focused on the tools needed to protect the downtown and neighborhoods from future traffic and parking impacts.

When the downtown plan was adopted, the City Council and Planning Commission were concerned about what would happen as the plan evolved. Staff was given specific direction to address potential parking and traffic impacts as development occurs. At the beginning of the project, a stakeholder committee was formed that included engineering and planning staff, the consultant team, residents, downtown business interests, and library representatives.

The first step of the project was to identify the guiding principles that broadly frame the project and what stakeholders hoped to accomplish. The guiding principles set the tone and priority for the outcome. Briefly, the goal is to focus on accommodating downtown visitors and short-term customers rather than providing cheap parking for people commuting elsewhere.

**Wemple** added there was an emphasis on infrastructure including improved lighting to make the downtown more vibrant and to help users feel more secure.

**Barnett** said there were concerns that some of the lots were not being utilized because people do not feel safe. Dark Horse emphasized this by saying the downtown plan is great, but people will not use the parking lots if they do not feel safe. This was noted in the guidelines by recognizing the need for quality infrastructure.

The second part of the project was taking those guiding principles and refining them into operating principles. These are in 3 parts as outlined in staff report attachment A. The parking infrastructure operating principles state that both on- and off-street parking will be safe, convenient, economical, and link strategically to the pedestrian system.

The central business district operating principles address on- and off-street public parking. The central business district is defined as Scott Street on the north, McLoughlin Boulevard on the west, 21<sup>st</sup> Avenue on the east, and Lake Road on the south. This was perceived as the area that had the greatest need for parking and traffic management. The purpose is to enhance and support the vitality of the retail core by giving priority to short-term parking which is defined as 4 hours or less. Parking should be convenient, economical and user-friendly. Additionally, there would be no un-regulated on-street parking in the central business district and would eventually transition to short-term visitor parking only. Off-street parking in the central business district will be regulated and managed to provide a mix of short- and long-term parking for visitors, residents, and downtown employees. Over time it is desirable for off-street parking to serve a higher mix of short-term demands.

Outside the central business district, the operating principle states this zone exists to meet the demands of that zone. It is un-regulated, and there is no residential parking permit program. If the South Corridor Project is extended to Milwaukie and a parking structure is built on the current Cash Spot location, the residential permit system will be an option to address spillover parking.

**Barnett** said, based on the data collected, traffic speed and volume in the downtown area is consistent with other downtown zones. Vehicles are traveling within about 10 mph of the posted speed, which is 25 mph. Residents and business owners have a vested interest in ensuring those speeds do not get out of hand. He discussed different traffic calming measures on Monroe and Washington Streets that would discourage cut through traffic. The Transportation System Plan (TSP) shows bike lanes on both streets, and because of existing curb-to-curb widths these would be negated. Implementing traffic calming would be beyond the TSP in terms of accommodating bike lanes. The Neighborhood Traffic Management Program (NTMP) sets the guidelines for citywide traffic calming, and only Washington Street would qualify for the

Program because of speeds. The NTMP guidelines indicate no significant problem so there is no ability to consider or implement traffic calming within the existing framework.

**Barnett** discussed policy direction on whether or not to do something beyond the NTMP that would allow the City to construct traffic calming measures on Monroe and Washington Streets. Staff attended the February 25, 2003 Planning Commission meeting to pose this policy question. The Commission indicated it was in favor of doing more than the NTMP with a broad concept of creating a traffic overlay zone.

In addition to speeds, there is a concern with volumes and what could be implemented to get vehicles off 99E by a direct link to Hwy 224. After talking with ODOT, it was apparent an extensive region wide study would be required, and funding would likely not be available. This, however, is probably the only thing that would significantly reduce cut through traffic. The cut through traffic has not actually been quantified, and additional data collection would be necessary.

The last part of project is the parking management. The consultant and stakeholder team worked on management strategies for the short-, mid-, and long-term. The group looked at the parking baseline and what would happen in the next 10 years using information in the downtown plan. After 10 years, Milwaukie would still have an adequate supply of parking which is defined at 85% of capacity.

**Wemple** explained the 85% rule has to do with the supply and what percentage is utilized. 85% is what is defined as capacity above which parking spaces are hard to find and may not be visible.

**Williams** added the 85% rule also indicates a movement toward a higher demand level, and the 15% buffer allows time to discuss planning strategies.

**Barnett** said even in 10 years Milwaukie should have adequate supply of on-street parking. Future options could be a parking structure or shared use agreements with businesses for underutilized lots.

Each of the strategies being considered requires broad policy recommendations. These include adopting the 85% utilization in peak hours as the standard monitoring device; creating the position of parking manager to ensure monitoring; adopting the guiding principles; and adopting the parking management zones and operating principles. These will help staff do the day-to-day management by allowing flexibility in signage, ability to negotiate shared use agreements, and collaboration with Tri-Met and businesses in anticipation of the transit center's moving. In the future, the City can focus on identifying dedicated locations for downtown employees and making more spots available for short-term parking.

The near-term recommendations are to formalize the parking permit program; to install signage on 99E directing drivers to the central business district; to reassign some of the parking areas giving priority to short-term parking; to work with Tri-Met to identify alternate locations for bus staging; and to begin planning for new supply

**Mayor Bernard** suggested talking to Tri-Met about putting a new fare zone in between Southgate and downtown Milwaukie. The purpose would be to encourage parking north of town by making the fares lower. He asked how 10 hour parking slots would be regulated if there are employees parked there. He knows there are employees who move their cars several times a day.

**Williams** said the recommendation is to convert some zones on the south end to a longer period because they are under utilized. Staff will not know if park-and-riders or employees are using these since utilization will still be under 85%. At 85%, the plan will be to implement downtown employee permit parking, and the first people to go will be the park-and-rider users.

**Barnett** added that was not to say staff does not care if there are park-and-rider users there. It is that on-street parking is still underutilized.

**Mayor Bernard** would like the plan to include some kind of funding mechanism. He suggested downtown business and property owners contribute to new signage and perhaps implement parking permits on the south end sooner. He asked how frequently the utilization percentage is updated?

**Barnett** said utilization would be updated annually.

**Mayor Bernard** favors the permitting program. Many business managers want their employees to work rather than spending time moving their cars.

**Councilor Loomis** commented on changing the signage from 2 to 8 hours because it appears there are not a lot of businesses on that end of downtown. He knows in the past those businesses went to a lot of effort to get the time limit changed to 2 hours. He felt their needs should be considered.

**Barnett** did speak with those businesses about 1 year ago. There have had problems with high school students using those spaces, but that problem has subsided since the high school built its new parking lot. Staff will continue to work with those businesses to reach a happy medium.

**Mayor Bernard** felt in this case the permit system would work well. Employees would have permits, and the high school students would not.

**Councilor Loomis** is concerned about the customers in that scenario.

**Mayor Bernard** said most of the employees downtown would not walk a block to work. They would rather park in front of the business and move their cars every 2 hours.

**Williams** said an option would be to leave the parking spaces at 2 to 4 hours. With the data, one would know how many permits to allow in those zones and post "2 hours unless by permit." A balance could be found with the businesses to determine how many stalls could be allowed with permits. When the utilization hits 85%, then the City could start to attrition the permits down. Several stakeholders did have the same concern, so this is another option to eliminate moving to evade. This option is outlined in the detailed plan.

**Barnett** said information would be in *The Pilot* to keep people informed. Even on the south end, only portions of the block will be changed.

**Councilor Stone** had a question regarding the permit system. Is there a plan to charge people for a permit to park?

**Williams** said the system is first established to get an idea of who is and who is not a downtown employee. He believes there is a lot of capacity in the system; many drivers are parking their cars and jumping off to another location. The first part of the permit system may only cover expenses. When it is time to ramp up the program, more data will be gathered. Those seeking parking permits that are not downtown employees would be on a waiting list. The first step is to gather data for good management.

**Councilor Stone** referred to staff report page 21 that says the data quantifying the number of downtown employees and park-and-riders using the Safeway lot and other parking areas downtown is not available. Was this not in the scope of the study?

**Williams** said there is a portion of the 70% utilization where the City could immediately gain additional capacity. The only way of doing that is to gather data by finding out where people work, and there may or may not be a parking fee. The City will be able to buy capacity by implementing the next phase.

**Councilor Stone** noted the suggestion of creating the position of parking manager and remarked Steve Campbell and Les Hall handle the parking responsibilities at this time. Did the discussion include installing parking meters rather than having people monitor the system?

**Barnett** said meters and pay-and-park were discussed, and the conclusion was that the time is not right. The City is small enough and can be handled by staff. At this time, it is more cost effective particularly since the success of meters is unknown.

**Williams** said the general rule of thumb in these situations is that someone still needs to monitor the meters. The decision to go to paid parking would be one of the options to consider when capacity hits 85%. It is really too early at this time. The City would have the ability to buy back some capacity without charging by simply regulating who may and may not have a permit.

**Barnett** reviewed the mid-term management plan that included signage changes on 99E and City-owned lots. With that is improving the infrastructure in the downtown area through streetscaping, better maintenance, and lighting. Parking utilization will continue to be monitored. Since the transit center will be moved, talks will begin with businesses, transit users, and Tri-Met to consider downtown transit stop locations. There were no questions about the mid-term strategies.

The long-term management recommendations deal with 2-plus years in the future. Infrastructure will be consistent with the downtown plan in terms of lighting and lot improvements. New supply is important since the Safeway will shortly be developed. Data shows the supply will still be adequate, but it will be important to identify future supply. The strategy says ideally core parking will be for short-term customers with longer term parking on either end of town. The residential permit would be the last line of defense to keep parking from spilling into the neighborhoods. The concept is to let the residents know what this system entails and what kind of management effort it would take to make it function.

**Williams** added the overall plan is a matter of timing, and the first thing to do is understand who is parking to appropriately capture existing system capacity as needed. Going to a new supply will be a significant investment. The front-end knowledge base and an understanding of where to locate new facilities is crucial. After that, the program should start taking care of itself. It cannot be overemphasized that the residential permit program is the last line of defense. The plan is consistent with alternative mode development and getting everything possible out of the existing system before looking for new supply.

**Hammang** agrees with staff that traffic management is far too complicated for mere humans to understand. The goal is to provide tools early on and provide flexibility by identifying a downtown overlay zone to stay ahead of the 85 percentile. The purpose is to protect parking for businesses as well as not impinging on the neighborhood. He does not want to see micro-political struggles in the future. In most cities in the United States, there is residential development next to downtown shopping areas. Parking permits may have to happen in the future, and he would want those pieces in place now.

**Councilor Lancaster** understands Hammang to say an overlay mechanism is necessary for what will need to be done in the future.

**Barnett** said that term is used broadly in the traffic sense because, as he mentioned, the NTMP would not allow anything in the way of traffic calming on the streets he discussed earlier. The overlay zone would give the ability to do something beyond what is allowed by the NTMP.

**Roger Cornell**, Monroe Street resident, said the stakeholder group felt the NTMP was too restrictive to use in the downtown area and wanted the ability to make decisions more or less restrictive based on the needs of that residential area and the business community. A flexible policy would be better for the future.

**Wemple** explained the overlay zone addresses cut through traffic and speed mitigation but does not relate to the parking management plan.

**Barnett** added adopting guiding principles, operating principles, and the 85% rule are more specific to the parking portion, but there are needed policy elements above and beyond what we have today. The overlay zone is specific to traffic and will potentially allow traffic calming measures. The final question has to do with going forward on steps to reduce cut through traffic. He pointed out the fiscal impact of potential traffic calming treatments on Monroe and Washington Streets. There are unfunded traffic calming projects listed in the Capital Improvement Plan (CIP) that act as placeholders if money becomes available. Staff feels that Monroe Street should be done first because it is narrower and is more residential in nature. The curb-to-curb distance is less, so there could be an actual gateway treatment. It is important to remember Milwaukie Lumber, transit, and the North Clackamas School District must be involved in planning. The library was also represented on the stakeholder committee, and there is a lot of concern about pedestrian safety at Harrison Street and 21<sup>st</sup> Avenue. Although Kittelson identified this as a great location for a round about, this will not happen in the near future for financial and space reasons. An inexpensive safety measure used in other cities is for pedestrians to carry an orange flag when crossing.

**Wemple** commented these flags have been effective in other communities like Ketchum, Idaho, and Kirkland, Washington.

**Barnett** explained there are not a lot of cost effective measures to make crossing Harrison Street safe because it is an arterial. Installing a stop sign and the resultant queuing would likely be an enforcement issue.

**Cornell** commented the guiding principles for parking are very effective in setting program management trigger points. Traffic is unique in that the neighborhood is between Hwy 224 and Hwy 99E, so there are not many ways to move traffic out of the neighborhood. He does support the idea of establishing a unique overlay zone.

**Barnett** added the citizens involved in the stakeholder group asked the feasibility of a mechanism that would pass the fee on to developers. While the concept is good, the law may not be behind the City's doing that.

**Councilor Stone** had a question about developers sharing the cost. She understood data would be collected annually, or at least every 2 years, for the monitoring program and asked the cost of these studies.

**Barnett** said there are several elements. It would probably cost \$500 - \$1,000 to determine how often people are parking. Since there is already a data system, the actual collection would probably be contracted out for about \$1,000. It is important to note that not a lot has changed in terms of volume.

**Mayor Bernard** added developers are required to provide traffic studies.

**Councilor Stone** commented there would certainly be parking and traffic concerns when the Safeway site develops, and she understands developers would be required to pay traffic study expenses. She had a clarification question regarding Hammang's comment about the NTMP being too restrictive and the recommendation for an overlay zone. Was that restrictive in the sense of that the NTMP does not include parking or restrictive in the sense of just traffic calming?

**Hammang** said the NTMP has certain standards for implementing traffic calming. There may be situations in the downtown area when traffic calming is desirable before that criterion is met.

**Councilor Stone** understands, then, that the NTMP qualifying criteria is too restrictive. She was a member of the Traffic Safety Commission and a member of the committee that drafted the Transportation System Plan (TSP) many years ago. The group was adamant that streets classified as arterials would be subject to traffic calming measures with City Council approval. She is concerned why, in this report, suggested traffic calming measures were expensive and would cost about \$35,000 to \$100,000 each for Harrison, Monroe, and Washington Streets. She asked why speed bumps were not included as a solution because they are effective and reasonably priced. Since they are more readily available in terms of budget, why were speed bumps not included?

**Barnett** explained the team did not believe speed bumps were the right choice because they could potentially divert traffic to other locations. The group felt the bulb-outs and median treatments would accomplish the desired effect without diverting traffic.

**Councilor Stone** said it depends on what is installed. There is a certain allowable diversion with speed bumps. Smaller bumps will divert traffic, and she understands that is what Cornell wants. It is a concern these streets are being used by cut through traffic. She thought it would be good to think along the lines

of diverting this cut through traffic by using traffic calming. Secondly, these streets are shared bikeways, and one cannot have bikeways with curb extensions sticking out into the street. When she priced curb extensions 5 – 6 years ago, they were \$15,000 a pair. The figures in this report indicate they are somewhat cheaper. She was concerned about making sure the street that is being traffic calmed is multi-modal friendly. This would certainly not be true of the curb extension solution. From what she knows about traffic calming, bicyclists negotiate the speed bumps pretty well.

**Barnett** said, being a cyclist, he does not like speed bumps. In a perfect world, there would be room for a dedicated bike lane on these streets. In a shared lane, he rides in the wheel path so drivers can see him and feels safer doing that than riding over speed bumps. That was his opinion, and others may feel differently.

**Councilor Stone** knows this has worked and has been used in Milwaukie and other areas around the region. Are speed bumps not an option?

**Barnett** said it is something that can be considered. What is being discussed now is the broad policy direction. Public input and available funding will drive traffic calming itself.

**Councilor Stone** would like the report to address speed bumps as an option because they are cost effective. In terms of policy, she understands Washington Street qualifies under the NTMP criteria.

**Barnett** replied Washington Street is the closest to qualifying.

**Councilor Stone** understood, then, that none of the 3 streets qualify under the criteria as written now. She knows several years ago, some wanted to see the 85 percentile speed as no more than 5 mph over the posted speed limit. This is something the Traffic Safety Board, before it was disbanded, wanted established instead of 7 mph. It certainly can make a difference in terms of streets qualifying, and there are not that many streets in Milwaukie that qualify for traffic calming. There are not a lot of high volume high speed neighborhood streets. That is something she hoped this Council would consider. Her other concern is Washington Street being a school zone area, and she thinks it is a great idea to put calming measures on those types of streets. Regarding the library's concerns and the option of using orange flags, she proposed a dedicated crosswalk made of pavers that looks different than the street with a bump on either side to ensure traffic slows before reaching the crosswalk.

**Councilor Loomis** asked for a brief history of the NTMP.

**Councilor Stone** said the NTMP was written in 1995 – 1996. The Plan has been before Council a couple of times. She believed the initial Plan stipulated a

periodic review. In addition to getting a copy of the Plan, she suggested Loomis be provided with a copy of the criteria.

**Barnett** will provide copy. It is weighted heavily toward high volume, high speed streets, and to a lesser degree proximity to schools and physical restrictions. The street will not score well for traffic calming if the volume, speed, and accident history is not there.

**Councilor Loomis** asked if there were a waiting list of projects?

**Barnett** said there are 3 streets on the project list that potentially qualify and should be re-evaluated.

**Councilor Loomis** feels uncomfortable about saying one street qualifies while another does not and saying an area is special. He commented on Council's denial of Dorothy Snowhill's request for traffic calming several years ago. It seems as if there may be a problem with the Plan.

**Councilor Stone** said, if the 85/5 change were made, the Plan would be more in line in terms of Monroe and Washington Streets; however, she would have to review the criteria.

**Barnett** said the biggest thing to recognize is project was undertaken specifically for the downtown area. While the NTMP could be tweaked for the broader City, the overlay zone for just this area would provide the needed mechanism.

**Councilor Stone** asked if the overlay would be necessary if the NTMP were amended for the 85/5. She asked Barnett to speak to traffic volumes.

**Councilor Loomis** is in favor of traffic calming, but he wants to be fair.

**Hammang** added one of the reasons the Planning Commission wanted a broad general solution, like an overlay, was to deal with the unknown unknown. No one knows what it will be like in 10 years, so there needs to be flexibility. The issue may never be speed bumps or speed; it may be something entirely different. This provides the mechanism to manage traffic into the future.

**Barnett** felt the discussion of the NTMP should take place once people have copies of the Plan and can ask questions. Staff is looking for broad policy direction to be able to treat this area as unique.

**Mayor Bernard** endorsed the proposed operating principles, neighborhood traffic management methods, and the parking management strategies.

**Councilor Barnes** asked how this would be funded? The recommendation discusses funding from the neighborhood grant program much of which will be lost in the upcoming budget. She asked what other alternatives there were.

**Mayor Bernard** would like to see the downtown businesses contribute and noted setting the economic improvement district assessment rate at zero saved businesses money. He suggested implementing something based on the number of employees, which is data already collected in the business license system.

**Barnett** said, to address Barnes's concern, staff understands there is not a lot of money for big traffic calming projects. At this point, staff is asking for direction on how to proceed.

**Councilor Stone** certainly wants to see streets calmed but understands Loomis's comments. People will probably want to discuss why their area is not special too. She wants to look at the NTMP as it is now and then with the policy decision to change it from 85/7 to 85/5 to determine if the overlay zone is even needed. She believes that criteria would be more fair because it would be applied to every street in Milwaukie.

**Mayor Bernard** said the community has told Council it wants to see development occur in the downtown area, and also that they do not want those cars in their neighborhoods. When the Safeway project at 42<sup>nd</sup> Avenue and King Road begins, the City will want to ensure parking and traffic does not expand into the neighborhoods. He would be happy to look at NTMP.

**Councilor Lancaster** understands Stone is talking about 2 separate issues. The overlay provides flexibility and broader scope. Stone is saying if the NTMP ratio is revisited, the local restrictions may be more effective and not trigger the need for an overlay. He thinks the overlay is needed for the big, unanticipated issues.

**Rouyer** has listened to the community for several years about downtown parking and traffic. When the downtown plan was adopted, the Planning Commission and City Council made a commitment to the Historic Milwaukie Neighborhood that its concerns would be addressed in a way unique to that area. This Plan addresses that and was the consultant's scope of work. The overlay zone gets back to that commitment. The City could establish the overlay zone and build review of the Neighborhood Traffic Management Plan into the engineering department's work plan. NTMP revisions, if made, for the broad area of the City could be applied to the overlay zone. She is somewhat concerned about going to a percentile without doing a comprehensive evaluation of the NTMP.

**Councilor Stone** thought applying criteria through a revised NTMP would be more fair to everyone and eliminate doubts about special treatment. Initially, when this plan was adopted in 1995, the group wanted the 85/5 but did not get it.

**Councilor Loomis** liked the idea of flexibility for the entire City that would recognize special needs if a good case is made. He does not believe this neighborhood is more special than his or others.

**Councilor Stone** did not necessarily agree because there needs to be some guidelines in terms of criteria. Give the streets all the same test. If a commitment is made to an area, then by all means the commitment must be met. Too much flexibility was a concern when the NTMP was drafted that would result in willy-nilly traffic calming with people paying for their own projects. It should not be random, and streets must qualify.

**Councilor Lancaster** said when the McLoughlin Boulevard project was discussed and the study required, there was consideration of expanding the study into the entire overlay zone under discussion. He asked what happened with that. There was discussion of expanding into a more comprehensive study to reduce costs somewhat.

**Barnett** said the design and planning for McLoughlin Boulevard looked only at that corridor. The proposed downtown parking and traffic management plan for Council direction does take into account impacts from the McLoughlin Boulevard project and the adopted downtown plan. In response to Lancaster's question, ODOT would not authorize the City to extend the scope of the study area.

**Mayor Bernard** believes the overlay zone is important because the streets are changing, and the City must be ready to react.

**David Aschenbrenner** asked if there was thought of any signage on McLoughlin Boulevard or Hwy 224 that directs people to enter the downtown area via certain streets.

**Barnett** said staff would look into that.

**Cornell** commented signage is important in reducing cut through traffic. The genesis of this downtown parking and traffic management plan was driven by adoption of the downtown plan. The commitment was that the situation is unique, and as redevelopment occurs downtown, there will be collateral damage in the neighborhood. While it may sound like a fairness issue, it really is not. Those streets would still be governed by the same NTMP, but it would give staff the tools to look at unique situations and react with flexibility. He urged the City Council to remember how this project began.

**Barnett** summarized the comments: the City Council endorses the proposed project operating principles and recommended neighborhood traffic management methods and parking management strategies. This would include the concept of an overlay zone to provide flexibility.

**Update on Nuisance Abatement on House at 21<sup>st</sup> Avenue and Lake Road**

**Swanson** reviewed previous actions. On January 21, 2003, the City Council found a nuisance did exist and was held in abeyance until April 27, which has passed. The nuisance is still there. The code provides for a 10-day period after the finding of a nuisance, so technically time runs out on May 7.

In that period of time, he is given the power under the municipal code to abate the nuisance. He may deconstruct or otherwise demolish the house. Staff will solicit bids for a 10 - 15 day period, so realistically that does add several days. During that time, it is certainly possible for Mr. Emmert to have the house removed. Once the bids are in and a contractor is selected the time will have grown short, and the City will act.

Mr. Emmert has identified a property at 3916 SE Jackson Street. The lots in that area are about 5,000 square feet with the exception of 3916 SE Jackson Street. A couple of year's ago, the western most 5 feet were conveyed to the adjoining property. Emmert is, he understands, trying to convey the property back, which would make the lot legal for placement of this house. He is doing this in the context of the City's obtaining bids on his responsibility to abate the nuisance. Swanson has stayed in contact with Mr. Emmert during the intervening months since the Council made its decision in January and has reminded him of upcoming deadlines.

**Councilor Lancaster** asked what is a reasonable expectation of a timeframe if the reconveyance can occur.

**Swanson** said if the reconveyance does occur, he will keep the fires burning. He would probably consider setting out a timeframe in which the permits can be obtained, and if any one of those dates is not met, Swanson will give a notice to proceed. The City got into this because of its interest in preserving the building, and he really believes the effort has been made. It has now been over a year. At this point he will move forward. Reconveyance is the best option, and if that does occur, firm timelines will be set.

**Councilor Stone** asked why the house has not been moved.

**Swanson** believes it is a case of not following through. The City has procedures and timeframes many of which are in place to notify people of pending actions that might affect them. When Rich Peterson owned the house, nothing occurred. With Emmert, it has always been a request for a variance, which are not a matter of right or given out because one is inconvenienced. Variances are for infrequent circumstances.

**Councilor Stone** understood the initial property was not long enough or deep enough.

**Swanson** said when a person knowingly commits to a piece of property with a problem, that is a problem. A variance is not something that is granted when one causes the hardship oneself.

**Councilor Stone** understands the first piece of property was the best. We are trying to save this architecturally significant structure that has been around for 85 years, so she thought an overlay should be applied. The house is special, and this is Milwaukie's Centennial year. She does not mean variances should be granted to everyone; this is a special case.

**Swanson** said in order for something to be defined as a special case it must be done so under the code. Milwaukie does not have any classification for that under the code. People have tried to say this house is different and should get special treatment, but there is nothing under the code that would justify that.

**Councilor Stone** asked why we do not have that kind of classification.

**Swanson** said people have argued the house is historical while others have argued it is not. If the City Council wishes, it could carve out exceptions for historical houses, but at the time this was presented there was no such exception. The City must look at the code and identify the extent of its authority. People may think the City has a great deal of discretion, but it is certainly not unbridled.

**Councilor Stone** remembered Councilor Lancaster's comments that night about the letter and the spirit of the law. She felt the City should look at the spirit of the law and not just the letter of the law. We are human beings making a decision on a piece of our City's history, and, if it can be saved, we need to try to do everything we can to do that.

**Swanson** felt the discussion was about responsibility, and the City took on a great deal. It was perhaps not a well-reasoned decision, but it was taken on. Oftentimes, when something does not work out, we tend to blame ourselves and not look at the fact that someone else may not have discharged his responsibility. In this case, a couple of people from the outside either wanted to slide by on the cheap, wanted to do things the easy way, or had other things to do, so the deadlines were not met. The City is a good target with its pesky regulations. These regulations are designed to protect 20,700 people – not just one. Although he does not take an oath like the Council, he does take his job and responsibilities seriously. Other people had responsibilities they did not discharge. He will not apologize because staff did everything it could. Others, not elected or on staff, did not do their jobs, and if they really intended to

preserve this structure, they are the ones who did not discharge their responsibilities. He will not take responsibility for what they failed to do.

**Mayor Bernard** has taken every effort to keep the family informed and encouraged them to apply pressure, but still nothing happened.

**Swanson** will proceed to get bids to abate the nuisance starting Wednesday. There will be a 15-day process during which Emmert may act to abate the nuisance himself. The reasonable avenue is to secure a reconveyance of those 5 feet, and he is willing to work with Emmert if that happens.

**Councilor Barnes** is concerned about administrative expenses given the amount of time staff has put in with little or no regard from Emmert's company. She asked if he could be billed for expenses from this point forward.

**Swanson** said the City Recorder will track the all the expenses, which will become a lien against the property. This is a valid lien that will ultimately become a battle between Mr. Peterson and Mr. Emmert on one hand and the Union Pacific Railroad on the other. Although kept informed, the railroad has shown no interest. Swanson does not believe Peterson assigned his lease to Emmert and understands the lease was automatically extended for lack of action on Peterson's part. The party who moved the house from the School District property has demanded return of his timbers and moving equipment. There has also been a change in Union Pacific staff, and the current person is not very relaxed about the situation.

#### **Waiver of City Fees**

**Swanson** said this came up because of several issues. One was the Reich case and the non-waiver waiver of fees. Then there is also the question about neighborhood associations and their securing right-of-way permits for the Centennial tree planting project. He referred to resolution 15-1997, which represents good policy on development permit fees. It is helpful for staff to have a policy when asked to waive a fee. He is recommending allowances for the neighborhood associations since it is mostly a matter of City money from one pocket to another. He asked if there was interest in updating the 1997 resolution. He was directed to draft a carefully written policy.

#### **Date for Final Adoption of the Budget**

The group agreed to hold a special meeting on June 16 for the budget hearing.

4631

**Minimum Fine Ordinance**

**Swanson** will prepare an ordinance adopting minimum fine amount for the next agenda. In order to adopt a minimum fine, the City will have to adopt the state traffic code as the City code.

**Mayor Bernard** discussed truck weight fines.

**Mayor Bernard** adjourned the work session at 8:00 p.m.

*Pat DuVal*  
\_\_\_\_\_  
Pat DuVal, Recorder

**CITY OF MILWAUKIE  
CITY COUNCIL WORK SESSION AGENDA  
MAY 5, 2003**

**MILWAUKIE CITY HALL**

Second Floor Conference Room  
10722 SE Main Street

***WORK SESSION – 5:30 p.m.***

Discussion Items:

	<u>Time</u>	<u>Topic</u>	<u>Presenter</u>
1.	5:30 p.m.	Dinner and Information Sharing	Group
2.	6:00 p.m.	Downtown Parking and Traffic Management Plan	Brion Barnett Kittleson & Associates
3.	7:30 p.m.	Update on Nuisance Abatement on House at 21 <sup>st</sup> Avenue and Lake Road	Mike Swanson
4.	7:45 p.m.	Waiver of City Fees	Mike Swanson
5.	8:00 p.m.	Date for Final Adoption of Budget	Mike Swanson
6.	8:15 p.m.	Adjourn	

***The Council may vote in work session on non-legislative issues.***

***The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the preceding items.***

*At the end of the work session, 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.***



**To:** Mayor and City Council

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

**From:** Paul Shirey, Engineering Director  
Brion Barnett, Civil Engineer *BB*

**Subject:** Final project findings for Downtown Parking and Traffic Management Plan

**Date:** April 23, 2003 for the May 5 work session

### **Action Requested**

Review, discuss, and provide policy direction for final project findings from the Downtown Parking and Traffic Management Plan. Endorse or modify the proposed project Operating Principles, neighborhood traffic management methods, and parking management strategies.

### **Background**

1. Summary – The key goal of this project is to produce a plan that allows the City to address and mitigate traffic and parking impacts related to development in the greater downtown area and neighborhoods east of downtown. Staff has worked closely with the consultant, Kittelson and Associates, and the Stakeholder Committee to develop a plan that gives the City the tools to manage these impacts. Staff previously presented the "Draft Guiding Principles" used to broadly frame the fundamental values and objectives for parking management in the greater downtown area. Project related work is mostly complete, and the consultant has evaluated the future (10-year) parking and traffic conditions in the downtown area and developed "Draft Operating Principles" which define the purpose and priority for parking in the downtown area. Stakeholder Committee members expressed concern for impacts to neighborhood livability related to

existing and future development potential, and cut-through vehicle traffic between Highway 99 and Highway 224. Due to these concerns, staff and Kittelson worked together collaboratively to develop an implementation plan for traffic calming treatments that may reduce vehicle speeds and potentially reduce vehicle volumes in the greater downtown area. Lastly, parking management strategies were presented and discussed with the Stakeholder Committee.

2. Key Issues

- Project update on future traffic and parking conditions, presentation of Draft Operating Principles.
- Manage neighborhood traffic impacts by reducing vehicle speeds on downtown streets: policy direction needed.
- Manage neighborhood traffic impacts by reducing traffic volumes on downtown streets: policy direction needed.
- Parking management implementation strategies.

**Analysis of Key Issues**

1. *Future Parking Conditions*

Based on parking data analysis performed by Kittelson & Associates, the City has an adequate supply of parking to handle demands in the next 10 years.

**Table 1 – Public Existing and Future Peak Hour Summary\***

Condition	Supply			Peak Hour Demand			Peak Hour Utilization			
	Type	On Street	Off-Street	Total Parking	On Street	Off-Street	Total Parking	On Street	Off-Street	Total Parking
Existing	Short-term	300	19**	319	163	0**	163	54%	0%**	51%
	Long-term	37	262	299	31	184	215	84%	70%	72%
	<b>Total</b>	<b>337</b>	<b>281</b>	<b>618</b>	<b>194</b>	<b>184</b>	<b>378</b>	<b>58%</b>	<b>65%</b>	<b>61%</b>
Future	Short-term	300	19	319	217	0	217	72%	0%	68%
	Long-term	37	126	163	32	108	140	86%	86%	86%
	<b>Total</b>	<b>337</b>	<b>145</b>	<b>482</b>	<b>249</b>	<b>108</b>	<b>357</b>	<b>74%</b>	<b>74%</b>	<b>74%</b>

\*Summary does not include Odd Fellows lot

\*\*City of Milwaukie Library lot only

Under the forecast land use scenario, peak hour public parking utilization will increase by 13 percent to be approximately 74 percent; peak hour private parking utilization will increase by 10 percent to be approximately 41 percent. System wide there appears to be sufficient supply to meet the estimated demand. On-street parking will become more constrained in the future. Under the existing peak hour two blocks exceed on-street capacity during the p.m. peak hour. In the future, this could grow to seven blocks.

Based on work performed as part of the South Corridor Project, potential parking impacts could occur within a 1,000-foot radius of the proposed park and ride facility located near McLoughlin Boulevard south of Washington Street. The South Corridor Traffic Consultant, DKS Associates, projects that the potential increase in trips to local neighborhood streets (primarily related to park-and-ride activity) is nearly off-set due to the potential to reduce trips by use of transit. Kittelson recommends a public involvement process to educate local residents about a residential permit programs far in advance of any proposed park and ride lot (referenced in Attachment "A," Draft Operating Principles).

#### *Future Traffic Conditions*

Existing traffic conditions show that the streets in downtown are largely operating according to their functional classifications (in terms of speed and traffic volumes). Most traffic volumes have not changed by more than 15 percent between 2000 and 2002. With future development associated with Safeway redevelopment, the Downtown Framework Plan, and the region as a whole, traffic in and through Milwaukie will continue to grow. In addition, vehicle trips associated with potential future light rail will also generate more traffic in and through Downtown Milwaukie. Stakeholder Committee members expressed concern for impacts to neighborhood livability related to existing and future development potential, and cut-through vehicle traffic between Highway 99 and Highway 224.

The city's Neighborhood Traffic Management Plan (NTMP) includes an objective that on Collector, Neighborhood Route, and Local Streets the 85<sup>th</sup> percentile travel speed should be within seven (7) miles per hour of the posted speed limit. This objective is met on all of the downtown streets surveyed, except on eastbound Monroe Street, east of the railroad tracks where the 85<sup>th</sup> percentile speed was 33 mph. The NTMP also has a goal of limiting cut-through traffic to not more than 10 percent of the average daily traffic (ADT). While staff and Stakeholder Committee members agree that some vehicles do "cut-through" the neighborhoods to get from northbound McLoughlin Boulevard to Highway 224, quantifying the extent of the cut-through traffic requires additional data collection beyond the scope of this project.

Kittelton suggests that traffic calming treatments could be applied to the downtown area to reduce vehicle travel speeds and increase pedestrian safety. In terms of reducing vehicle volumes in the downtown area, construction of a dedicated ramp from northbound McLoughlin to Highway 224 would have the greatest chance of reducing traffic volumes in the greater downtown area. However, this option will be costly and will impact existing downtown properties and alter redevelopment options in the downtown area north of Harrison. Constructing traffic calming or traffic reducing treatments requires a policy decision, since only Washington Street currently meets NTMP screening criteria necessary to implement treatments. These policy implications are discussed in detail later in this report.

### *Draft Operating Principles for Downtown Parking*

Kittelton developed the Draft Operating Principles (see Attachment “A”), which define the purpose and priority for parking in the downtown area. Operating Principles fall into three main categories:

- **Parking Infrastructure Principles** – These are aimed at insuring a quality facility is provided that will be safe, convenient, economical, and strategically linked to the pedestrian system to ensure user-friendly access.
- **Central Business District (CBD) Operating Principles** – The CBD is defined as the core downtown business area located east of McLoughlin, south of Scott Street, west of 21<sup>st</sup> Avenue, and north of Lake Road. This principle states that the purpose of, and priority for, on street parking in the CDB is to support and enhance the vitality of the retail core. Off-street parking in the CBD will be regulated and managed to provide a balanced mix of short-term and long-term stay opportunities for visitors, residents, and employees of Downtown Milwaukie.
- **Non-CBD Operating Principles** - Parking outside of the CBD is intended to meet demand generated within the zone. Parking in this zone is unregulated. If parking spillover from the CBD Zone results in inadequate parking availability for land uses within the Non-CBD Zone, Residential Permit Zone programs may be desired and implemented.

## 2. *Neighborhood Traffic Impacts: Potential Treatments to Reduce Traffic Vehicle Speeds*

Overall the traffic volumes and travel speeds on Harrison, Monroe and Washington Streets are consistent with conditions that can be typically expected on arterial and collector streets. However, if directed by Planning Commission and City Council, traffic calming measures to reduce vehicle

speeds and increase pedestrian safety could be implemented in the downtown area. Recognizing that extensive public involvement was beyond the scope/budget for this project, staff and Kittelson worked together collaboratively to develop the following traffic calming recommendations for consideration by City Council and Planning Commission members:

- Washington and Monroe Streets - Construct traffic calming treatments every 300-600 feet (curb extensions, raised landscaped medians, etc.) from 21<sup>st</sup> Avenue to just east of 29<sup>th</sup> Avenue. Cost of these types of treatments range from \$5,000 to \$10,000.
- Harrison Street – Short-term improvements at 21<sup>st</sup> Avenue include utilization of colored and/or textured crosswalk treatments and pedestrian use of an orange colored flag for extra visibility when crossing Harrison; Construction of a roundabout (100-130 feet in diameter) at 21<sup>st</sup> Avenue would be a long-range treatment that would improve traffic flow and pedestrian safety; re-align the 23<sup>rd</sup> Avenue approach to Harrison Street; potentially construct curb extensions near Waldorf School at 25<sup>th</sup> Avenue.
- Lake Road – Construct a curb extension at the intersection of 21<sup>st</sup> Avenue.

Policy issues to be considered prior to implementation include:

- A. Currently, traffic calming treatments can only be considered on streets that meet the specific screening criteria contained in the city's Neighborhood Traffic Management Program (NTMP). If a street meets the NTMP screening criteria, it is placed on a list with other candidate projects and must compete for available funding. Based on the existing NTMP screening criteria, only Washington Street is likely to qualify for treatment. Application of traffic calming treatments on Monroe and Harrison Streets would require revision of the existing NTMP and/or a "special area" designation that distinguishes the downtown area as different from the rest of the city. The Planning Commission supported this "special area" designation.
- B. The city's Transportation System Plan designates Harrison, Monroe, and Washington Streets as bikeways. However, due to insufficient existing street widths (curb to curb), none of these streets can accommodate a dedicated bike lane if curb extensions and/or median islands are constructed. Bike accommodation would need to be provided by means of a shared bike/vehicle lane (minimum width of 14 feet).
- C. Coordination with Tri-Met transit operations, Milwaukie Lumber supply/delivery operations, and nearby school district bus operations is necessary to insure placement of potential treatments does not impact business operations.

### 3. *Neighborhood Traffic Impacts: Potential Treatments to Reduce Traffic Volumes*

Construction of a dedicated ramp between northbound McLoughlin Boulevard and Highway 224 would have the greatest chance of reducing traffic volumes in the greater downtown area (see Attachment B). Other treatments that either restrict access from State Highway Facilities (99E and 224) into the downtown area, or restrict access from the downtown area onto State Highway Facilities, are likely to “push” traffic volumes onto adjacent streets.

Policy issues to be considered prior to implementation of a plan to construct a dedicated ramp include:

- A. The city would need to first endorse the proposed ramp project by adopting it into local plans such as the Transportation System Plan (TSP).
- B. Once local/city support has been established, support would be needed from Clackamas County, Metro, and Oregon Department of Transportation.
- C. Due to funding competition for regional transportation projects, a long-term regional transportation study encompassing the proposed ramp plan would be necessary.

### 4. *Parking Management Implementation Strategies*

Parking management strategies were identified to optimize the use of existing parking and prepare for future parking conditions in Milwaukie. The strategies range from recommendations for policy statements in the zoning code to time-stay conversions of specific spaces. A summary of the recommendations follows (for detailed explanation see Attachment “C,” Draft Technical Memo #3):

- A. **Policy Recommendations** – The consultant recommends the following policy elements be adopted into appropriate City code to ensure that the goals of the parking management plan can be achieved by incorporating parking system management into the City’s development policy.
  - **85 Percent Full Standard** - The unifying monitoring device connecting the various policy elements. Whenever peak hour parking utilization reaches 85 percent, an evaluation of strategies is automatically triggered.
  - **Create a Parking Manager** - Appoint an existing staff member as Parking Manager to ensure that the parking in downtown is monitored and adopted strategies are appropriately implemented to pro-actively manage parking in Milwaukie.

- *Adopt Guiding Principles for Parking Management* - Guiding Principles for Parking Management should be adopted as a policy element of the parking code to inform future management of parking as well as development of future public facilities.
  - *Adopt the Management Zones and Operating Principles* - The recommended Parking Management Zones (Central Business District vs. Non-Central Business District) and Operating Principles should be used to guide the evaluation and management of day-to-day dynamics of parking activity.
- B. Near-Term Management Recommendations - The following strategies are recommended to address existing parking issues. These strategies can be initiated in the near term (0 to 12 months):
- *Parking Permit System* – Develop a permit program to assist with managing parking by gathering residence and employment addresses as part of the parking permit application.
  - *Signage Changes* – Install distinctive, customer-friendly and clear signage on Highway 99E that informs motorists that Downtown Milwaukie is east of Highway 99E.
  - *Parking Space Management Reassignment* – Based on existing parking management policies and existing peak hour utilization analysis, convert a portion of existing short-term spaces to long-term spaces (see Table 1 in Attachment “C” for details).
  - *Transit* - Work with Tri-Met staff to identify alternate locations for temporary bus parking/staging to recapture on-street parking (e.g. north side of Jackson Street from Main Street to McLoughlin, and on the east side of SE 21<sup>st</sup> Street).
  - *Initiate Plan for New Supply* - Begin working to identify locations and funding for downtown employee parking supply to replace employee parking demand currently accommodated in the Safeway lot. Initiate a program to develop shared use agreements with owners of off-street private parking.
- C. Mid-Term Management Recommendations - Be prepared to implement the following recommendations over the next one to two years:
- *Signage Changes* - Distinctive, friendly and clear customer/visitor parking sign should be designed and installed at all short-term public parking lots. The signs should be “blade” signs with information on both sides so that downtown patrons can read the signs from either direction.
  - *Parking Space Management Reassignment* - All 8-hour parking should be converted to 10-hour parking. This is in recognition that

spaces currently designated for 8-hour parking are intended for employee use. If park & riders are out of the downtown parking system, evaluate the potential for converting the Chopsticks lot to short-term parking.

- *Infrastructure* - The City of Milwaukie should plan a program for upgrading and maintaining off-street public parking facilities, including pavement, lighting and landscaping. The program should be consistent with the Downtown Framework Plan and ensure that landscaping be well maintained and be visually “open” (not create visual barriers between the parking lot and adjacent sidewalk).
- *Parking Utilization Monitoring Program* – Collect and evaluate parking supply, peak hour parking utilization, and the number of employees and park & riders parked in downtown every two years (maximum). The Parking Manager should convene the parking committee to review the findings, compare results to the 85-percent trigger rule and evaluate the need for any actions (e.g. re-designating short-term or long-term parking, modifying short-term parking duration from two to four-hour, limiting the number of permits for park & riders).
- *Transit* - When the Tri-Met transit center is relocated out of Downtown Milwaukie, City staff, interested citizens and stakeholders and Tri-Met staff should work together to develop a formally adopted set of transit stop locations for downtown.

D. Long-Term Management Recommendations - Over the long-term (more than two years), the City should be prepared to implement the following measures.

- *Infrastructure* - Consistent with the Downtown Framework Plan, a lighting program should be developed so that as the community is redeveloping the downtown can have distinctive pedestrian-level lighting on the streets and in all public off-street parking.
- *New Supply* - In the event that the Safeway lot has redeveloped, the City of Milwaukie should be prepared to develop new long-term parking supply for downtown employees. Ideally, parking for employees of the northern half of Downtown Milwaukie should be provided on the north end of downtown and parking for employees of the southern half of downtown should be supplied at the south end of downtown. Parking in the middle of downtown would be available for customers/visitors.
- *Residential Permit Zone (RPZ)* - The last line of defense for managing parking in Downtown Milwaukie is a Residential Permit Zone (RPZ). If, in the long-term, it is determined that too many downtown employees (or overflow from a potential light rail parking

lot) are parking in the surrounding neighborhoods, a RPZ should only be implemented if there is confidence that once implemented there is parking supply available for downtown employees within the downtown area (see Attachment “C” for details).

### **Concurrence**

Staff in Community Development, Planning and Engineering support implementing traffic calming treatments to reduce vehicle speeds and increase pedestrian safety in Downtown Milwaukie (should funding become available), and also support adopting and implementing the parking management strategies. Staff will also explore alternative funding opportunities for traffic calming treatments (leveraging existing neighborhood grant monies, working with existing and potential property owners/developers).

Staff received feedback from Planning Commission members at their February 25 work session indicating support for creating a special traffic management area for the downtown and neighborhood east of downtown, and general support for traffic calming measures to control vehicle speeds. This special area zone would set up a process for implementing traffic calming and/or volume reducing measures on streets which would otherwise not qualify under the existing Neighborhood Traffic Management Program.

### **Fiscal Impact**

Staff estimates the cost of implementing traffic calming treatments on Monroe Street and Washington Street at approximately \$35,000 - \$100,000 per street, depending on specific treatments applied. Staff recommends implementing treatments on Monroe Street first because it is more residential in nature. Calming treatments should be placed every 300-600 feet and phased such that a single street is completed (Monroe from 21<sup>st</sup> to Highway 224) prior to beginning to “calm” a second street (Washington).

Staff estimates the cost of implementing the parking management strategies as follows:

- Near-term (0 to 12 months) - Signage changes (\$250 per location)
- Mid-term (one to two years) - Signage changes (\$250 per location), data collection for parking monitoring program (\$1,000 - \$2,000 every two years), infrastructure (\$20,000 - \$50,000 for paving, lighting, and landscaping).
- Long-term (more than two years) - infrastructure, new supply (\$5,000-\$7,000 per space for ground level parking, \$18,000 - \$25,000 per space for structure parking) and monitoring of the residential permit zone (\$10,000 per year in extra staff time/expenses).

**Work Load Impacts**

The Engineering Department continues to manage the project consultant. If directed by Council, the Engineering and Planning Departments would work together to adopt policies to manage parking and traffic and create a special traffic management area for the downtown area and neighborhood east of downtown.

**Alternatives**

The Council has the following alternatives:

- Endorse the proposed project Operating Principles, the recommended neighborhood traffic management methods, and the parking management strategies.
- Modify the proposed project Operating Principles, the recommended neighborhood traffic management methods and the parking management strategies.

**Attachments**

- A – Draft Operating Principles for Downtown Parking and Traffic Management Plan
- B – Potential Treatments to Address Traffic Volumes
- C – Draft Technical Memo #3

## ATTACHMENT A

### Draft Operating Principles for Downtown Parking

#### **Parking Infrastructure Operating Principles**

- On-street and off-street parking will be safe, convenient, economical, and strategically linked to the pedestrian system to ensure user-friendly access.

#### **Central Business District (CBD) Operating Principles**

##### *On Street Parking*

- The purpose of, and priority for, on street parking in the CBD is to support and enhance the vitality of the retail core.
- On street parking in the CBD will be prioritized for short-term parking. Short-term parking is defined as parking with time-stays less than or equal to four hours.
- Parking will be provided to ensure convenient, economical, and user-friendly access for customers, clients, and visitors to downtown.
- There will be no un-regulated on-street parking in the CBD. Over time, on-street parking will be transitioned to serve exclusive short-term visitor parking.

##### *Off-Street Parking Public*

- Off-street parking in the CBD will be regulated and managed to provide a balanced mix of short-term and long-term stay opportunities for visitors, residents, and employees of Downtown Milwaukie.
- Over time, public off-street parking will be transitioned to server a higher mix of short-term visitor parking demand. Alternative mode options will be developed to support this transition.

#### **Non-CBD Operating Principles**

- Parking outside of the CBD is intended to meet demand generated within the zone. Parking in this zone is unregulated. As such, no time stay restrictions are in effect. Future management strategies assumed for this area would be contingent on the parking activity, capacity, and utilization of the CBD zone.
- If parking spillover from the CBD Zone results in inadequate parking availability for land uses within the Non-CBD Zone, Residential Permit Zone programs may be desired and implemented.

## ATTACHMENT B

### Potential Treatments to Address Traffic Volumes

#### ***Ramp Connection: Northbound McLoughlin Boulevard to Southbound Highway 224***

The best way to eliminate cut-through traffic is to provide an efficient arterial system thereby drawing traffic out of neighborhoods instead of pushing it out. To effectively draw it out of the neighborhoods a shorter travel times are needed on the arterial system. One solution would be to construct a direct connection (ramp) between northbound McLoughlin Boulevard and Highway 224. Given the expense of this solution, and the competition for transportation dollars in the region, it is not likely that this solution would be constructed in the near future.

Short of this, there are other transportation solutions that would “push” traffic out of the neighborhoods:

#### ***Convert Monroe Street or Washington Street between Main Street and McLoughlin Boulevard to one-way westbound.***

- *Advantages:* This concept would prevent traffic from entering downtown Milwaukie from McLoughlin Boulevard on either Washington and/or Monroe Streets (the collector streets); thus effectively preventing the cut-through movement in the eastbound direction.
- *Disadvantages:* Implementing this concept on one or both of these streets would likely increase traffic volumes on the other streets.
- *Considerations:* This alternative would push traffic from Monroe Street to Washington Street or Harrison Street; possibly overloading these facilities. This alternative also may or may not be consistent with the Downtown Framework Plan. The Oregon Department of Transportation would have to be consulted prior to implementing this alternative.

#### ***Convert the intersection of Monroe Street/Highway 224 to right-in-right-out only for motorists traveling southbound on Highway 224.***

- *Advantages:* This would preclude motorists traveling northbound on Highway 224 from entering downtown Milwaukie via Monroe Street.
- *Disadvantages:* This treatment would not preclude motorists traveling northbound on McLoughlin Boulevard from entering Downtown Milwaukie and the adjacent neighborhood. The eastbound cut-through traffic would continue. This alternative would likely cause increases in traffic volumes

on Harrison Street and Washington Street as well as 28<sup>th</sup> and 29<sup>th</sup> Avenues, and may have a negative influence on traffic operations at the intersections of Highway 224/Harrison Street and Highway 224/Washington Street.

- *Considerations:* The Oregon Department of Transportation would have to be consulted prior to implementing this alternative.

***Convert the intersection of Monroe Street/Highway 224 to right-in only for motorists traveling southbound on Highway 224.***

- *Advantages:* This would preclude motorists traveling northbound on Highway 224 from entering downtown Milwaukie via Monroe Street. This alternative would eliminate traffic traveling from northbound McLoughlin Boulevard to southbound Highway 224.
- *Disadvantages:* This alternative would likely cause increases in traffic volumes on Harrison Street and Washington Street, and may have a negative influence on traffic operations at the intersections of Highway 224/Harrison Street and Highway 224/Washington Street.
- *Considerations:* The Oregon Department of Transportation would have to be consulted prior to implementing this alternative.

## ATTACHMENT C



### **KITTELSON & ASSOCIATES, INC.**

TRANSPORTATION PLANNING/TRAFFIC ENGINEERING

610 SW ALDER, SUITE 700 • PORTLAND, OR 97205 • (503) 228-5230 • FAX (503) 273-8169

## **DRAFT TECHNICAL MEMORANDUM #3**

### **Downtown Milwaukie Parking and Traffic Management Plan**

#### **Traffic Calming Strategies, Near-Term and Long-Term Parking Management Strategies**

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**Date:** February 27, 2003

**Project #:** 4713.0

**To:** Brion Barnett, City of Milwaukie

**From:** Elizabeth Wemple, Dan Seeman, Shaun Quayle, Kittelison & Associates, Inc.  
Rick Williams, Melvin Mark Companies

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#### **SECTION 1: INTRODUCTION**

The purpose of this technical memorandum is to provide final project recommendations for traffic and parking management in Downtown Milwaukie. Based on subsequent field work, and meetings with Kittelison & Associates, Inc., City of Milwaukie staff developed the traffic calming recommendations for certain downtown streets. Kittelison & Associates, Inc developed the parking management recommendations for the downtown based on the agreed to Guiding Principles, Operating Strategies, and the field work conducted in February 2003.

The information included in this memo will be reviewed at Stakeholder Meeting #3. Based on recommendations from that committee the strategies will be refined and finalized. Ultimately, the information included in Technical Memoranda #1-3 will be combined into a project final report and submitted to the City of Milwaukie for final review and adoption.

#### **SECTION 2: TRAFFIC MANAGEMENT STRATEGIES**

Overall, the traffic volumes and travel speeds on Harrison, Monroe and Washington Streets are consistent with conditions that can be typically expected on arterial and collector streets. Should additional traffic volume or speed data be desired, it is recommended that twenty-four hour speed and traffic volume data be collected for a one-week period. Short of a full week, a three-days mid-week would be acceptable. If directed by Planning Commission and City Council, traffic calming measures to reduce vehicle speeds and increase pedestrian safety could be implemented in the downtown area.

**Potential Traffic Calming Measures**

Recognizing that extensive public involvement was beyond the scope/budget for this project, City staff and Kittelson & Associates, Inc. worked together collaboratively to develop the following traffic calming recommendations for consideration:

- Washington and Monroe Streets - Construct traffic calming treatments every 300-600 feet (curb extensions, raised landscaped medians, etc.) from 21st Avenue to just east of 29th Avenue. Cost of these types of treatments range from \$5,000 to \$10,000 each.
- Harrison Street - Construct a roundabout (100-130 feet in diameter) at the intersection of 21st Avenue (this would be a long-range treatment costing approximately \$200,000 to \$300,000). Short-term improvements at 21st could include the use of colored and/or textured crosswalk treatments; re-alignment of the 23rd Avenue approach to Harrison Street; potential construction of curb extensions near Waldorf School at 25th Avenue.
- Lake Road – Construct a curb extension at the intersection of 21st Avenue.

Depending on the type of treatments selected, it may cost between \$35,000 - \$100,000 per street, to construct traffic calming devices. Staff recommends implementing treatments on Monroe Street first because it is more residential in nature. Calming treatments should be placed every 300-600 feet and phased such that a single street is completed (Monroe Street from 21<sup>st</sup> Avenue to Highway 224) prior to beginning to “calm” a second street (Washington Street).

*Policy issues to be considered prior to implementation include:*

- Currently, traffic calming treatments can only be considered on streets that meet the specific screening criteria contained in the city’s Neighborhood Traffic Management Program (NTMP). If a street meets the NTMP screening criteria, it is placed on a list with other candidate projects and must compete for available funding. Based on the existing NTMP screening criteria, only Washington Street is likely to qualify for treatment. Application of traffic calming treatments on Monroe and Harrison Streets would require revision of the existing NTMP and/or a “special area” designation that distinguishes the downtown area as different from the rest of the city.
- The City’s Transportation System Plan designates Harrison, Monroe, and Washington Streets as bikeways. However, due to insufficient existing street widths (curb to curb), none of these streets can accommodate a dedicated bike lane if curb extensions and/or median islands are constructed. Bike accommodation would simply occur by bikes sharing the travel lane with vehicles.
- Coordination with TriMet transit operations, Milwaukie Lumber supply/delivery operations, and nearby school district bus operations is necessary to insure that the placement of potential treatments does not impact business operations.

**Potential Treatments to Reduce Traffic Volumes**

Construction of a dedicated ramp between northbound McLoughlin Boulevard and Highway 224 would have the greatest chance of reducing traffic volumes in the greater downtown area (see Appendix A). This project is currently not included in any regional or local transportation plans. Other treatments that either restrict access from state highway facilities (ORE 99E and ORE 224) into the downtown area, or restrict access from the downtown area onto state highway facilities, are likely to “push” traffic volumes onto adjacent streets.

*Policy issues to be considered prior to implementation include:*

- The City would need to first endorse potential treatment projects by adopting them into local plans.
- Once local/city support has been established, support would be needed from Clackamas County, Metro, and Oregon Department of Transportation.
- Due to funding competition for regional transportation projects, a long-term regional transportation study encompassing proposed treatment concepts would be necessary.

City staff in Community Development, Planning and Engineering has indicated their support to implement traffic calming treatments to reduce vehicle speeds and increase pedestrian safety in Downtown Milwaukie (should funding become available). Staff will explore alternative funding opportunities for traffic calming treatments (leveraging existing neighborhood grant monies, working with existing and potential property owners/developers).

Staff received feedback from Planning Commission members at their February 25 work session indicating support for creating an “overlay zone” for the Downtown area, and general support for traffic calming measures to control vehicle speeds. This overlay zone would set up a process for implementing traffic calming and/or volume reducing measures on streets which would otherwise not qualify under the existing Neighborhood Traffic Management Program.

**SECTION 3: PARKING MANAGEMENT IMPLEMENTATION STRATEGIES**

Parking management strategies were identified to optimize the use of existing parking and prepare for future parking conditions in Milwaukie. The strategies range from recommendations for policy statements in the zoning code to time-stay conversions of specific spaces. The recommendations are organized as follows:

- Policy Recommendations
- Near-Term Management Recommendations
- Mid-Term Management Recommendation
- Long-Term Management Recommendations

## **POLICY RECOMMENDATIONS**

The following policy elements have been included to ensure that the goals of the parking management plan can be achieved by incorporating parking system management into the City's development policy. It is recommended that these policies be adopted into the appropriate City code.

### **Application of the 85 Percent Full Standard**

The *85 percent full* standard, identified in the Guiding Principles as the threshold for decision-making, becomes the unifying monitoring device connecting the various policy elements. Whenever peak hour parking utilization reaches 85 percent, an evaluation of strategies is automatically triggered.

The 85 percent standard is first and foremost a benchmark that causes an evaluation of the system to occur. One possible consequence could be that no strategies need to be implemented if the utilization level is deemed acceptable. However, the trigger provides a proactive system of review and provides time to implement parking management strategies before overly constrained conditions occur.

Because Downtown Milwaukie is relatively small, the 85 percent full standard should be applied effectively on a "hot-spot" basis. That is, as small areas of downtown redevelop or become more popular, consideration should be given to parking utilization within the specific area. For example, if a specific block or block face exceeds 85 percent, nearby parking utilization should also be considered. If nearby parking is available and it is determined that it would address the identified deficiency, then no action may be required even though the 85 percent full trigger has been tripped.

### **Create Parking Manager**

A key component of any effective management plan is the designated *point person*. The City should appoint an existing staff member as Parking Manager to ensure that the parking in downtown is monitored and adopted strategies are appropriately implemented to pro-actively manage parking in Milwaukie.

### **Adopt Guiding Principles for Parking Management**

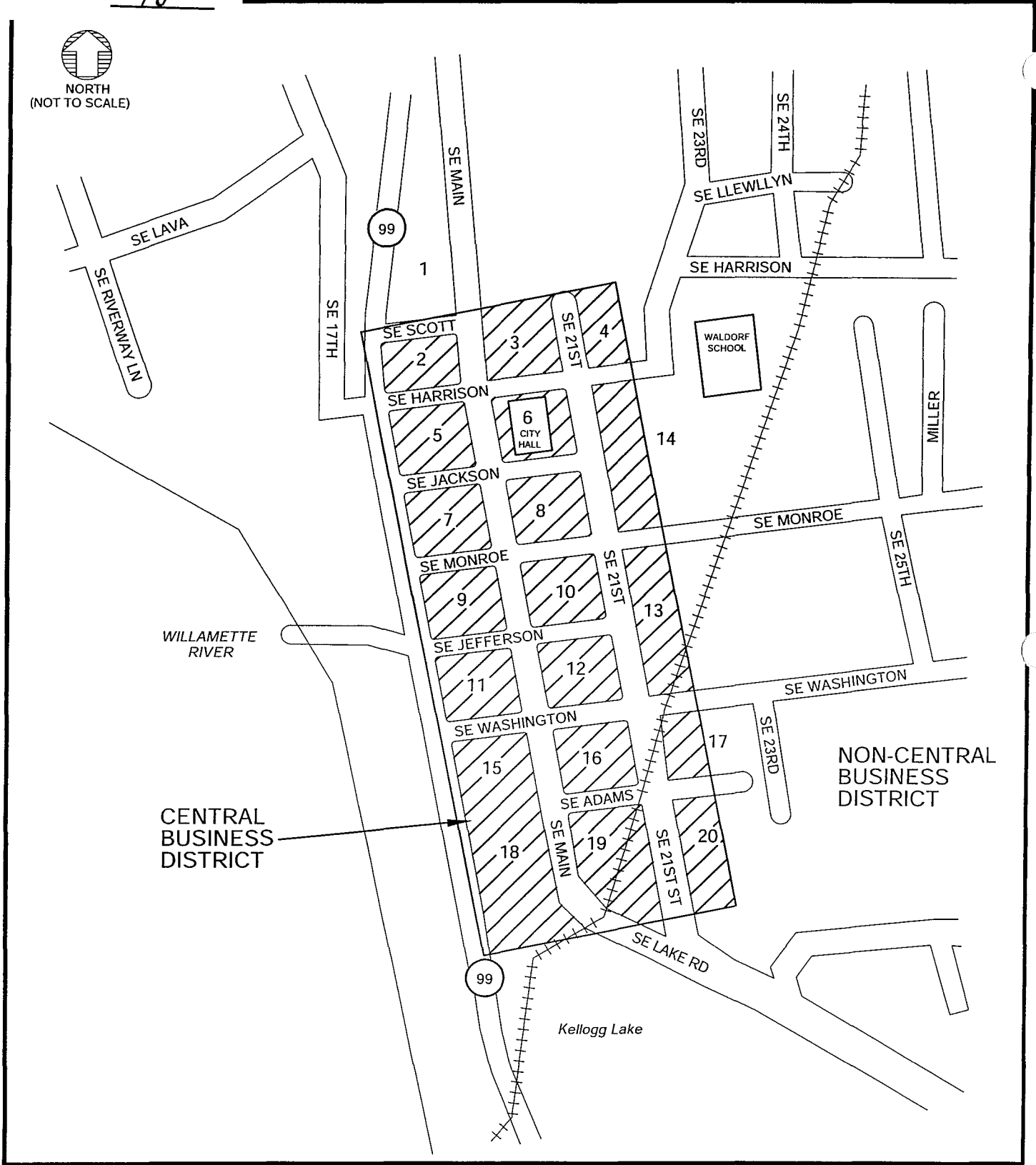
The Guiding Principles provide a framework for managing parking and decision-making in the downtown over time. Once established, Guiding Principles for Parking Management should be adopted by the City of Milwaukie as a policy element of the parking code to inform future management of parking as well as development of future public facilities. Incorporating the Guiding Principles into City policy assures that the intent and purpose for parking management, established through consensus in this study, is carried out over time.

### **Adopt the Management Zones and Operating Principles**

The recommended Parking Management Zones should be established and adopted as shown in Figure 1. The Operating Principles should be used to guide the evaluation and management of



NORTH  
(NOT TO SCALE)



### DOWNTOWN MILWAUKIE PARKING MANAGEMENT ZONES

DOWNTOWN MILWAUKIE PARKING  
& TRAFFIC MANAGEMENT PLAN  
MARCH 2003

FIGURE  
1



day-to-day dynamics of parking activity. Operating principles are established to describe the primary purposes for parking within each parking management zone and to compliment and reinforce the Guiding Principles established for Downtown Milwaukie. Figure 1

#### **NEAR-TERM MANAGEMENT RECOMMENDATIONS**

The following strategies are recommended to address existing parking issues. These strategies can be initiated in the near term (0 to 12 months).

##### **Parking Permit System**

It is recommended that the City of Milwaukie develop a program to more strictly enforce parking permit requirements. This may include ticketing vehicles parked without the appropriate permit. A method to assist in this expanded enforcement program may be gathering residence and employment addresses as part of the parking permit application.

The success of the future parking management program in Downtown Milwaukie depends on the success of the parking permit system today. Under existing conditions, some motorists may be parking in permit parking lots without permits displayed. For example, a quick review of the "Chopsticks" parking lot mid-morning on February 14, 2003 showed that approximately one-third of the parked vehicles were not displaying parking permits

Under existing conditions, with ample capacity available in downtown, this is not a problem at all. However, as capacity becomes more constrained in downtown, and it becomes more critical to transition park & ride parkers out of downtown, it will be important for the permit program to already be strictly enforced.

The permit program is also a source of data to assist with managing parking. When motorists register for a downtown-parking permit, mandatory information should include resident address and business address. This information will allow Milwaukie to develop data related to the number of downtown employees and park & riders parking with permits in downtown. This data will be useful to the City as parking management decisions are made relating to changing supply, changing parking time etc. As time goes on and it becomes necessary to transition park & ride parkers out of downtown, this information will also make it clear as to who should be allowed to receive a permit. Or if a separate fee structure is developed for park & riders, this information will also be valuable. If this data is currently available the City should begin to review and assess the implications of the data. If the data is not available, the City should modify the permit program to make it available.

##### **Signage Changes**

Distinctive, customer-friendly and clear signage should be installed on Highway 99E that informs motorists that Downtown Milwaukie is east of Highway 99E. The signs should be located at the north end and south end of downtown and provide directions for motorists to gain access to Downtown Milwaukie.

Signage should also be installed to reflect the parking space management changes recommended in Table 1. Over time, distinctive, friendly and clear customer/visitor parking should be designed and installed at all short-term public parking lots. The signs should be “blade” signs with information on both sides so that downtown patrons can read the signs from either direction.

**Parking Space Management Reassignment**

It is recommended that the following site-specific changes to the management of on-street parking spaces be evaluated. These suggested changes are based on existing parking management policies, existing peak hour utilization analysis and the adopted parking management plan guiding principles. Table 1 describes the proposed changes.

**Table 1: Proposed Parking Management Changes**

Street	Location	Block Face	Action	Net Change	
				Short-Term	Long-Term
SE 21 <sup>st</sup> Street	SE Adams Street to SE Lake Road	East side of street	Convert seven of the southernmost stalls from 2-hour to 8-hour parking	- 7	+7
SE 21 <sup>st</sup> Street	SE Adams Street to SE Washington Street	East side of street	Convert all 2-hour spaces to 8-hour spaces	-4	+4
SE Adams Street	SE Main Street to SE 21 <sup>st</sup> Street	North side of street	Convert all 2-hour spaces to 8-hour spaces*	-0	+0
SE Adams Street	SE 21 <sup>st</sup> Street to SE 23 <sup>rd</sup> Street	South side of street	Convert all uncontrolled spaces to 8-hour spaces*	-0	+0
SE Main Street	SE Washington Street to SE Lake Road	West side of street	Convert all 4-hour spaces to 8-hour spaces	-24	+24
City Hall Lot			Convert middle block of lot to customer/visitor parking	+18	-18
<b>Total Net Change</b>				<b>-17</b>	<b>+17</b>

\* Uncontrolled spaces previously assumed as long-term parking

The net impact of converting 17 short-term spaces to long-term parking is an increase in the availability of long-term parking supply. The specific changes involve an increase of 35 spaces at the south end of downtown for employees of the south end of downtown, and 18 spaces for customer/visitor parking in the vicinity of City Hall. Conversion of these spaces on the south end should also reduce the need for employees to “move to evade” as all day parking will now be more readily available.

All of these changes are subject to the 85 percent rule. In the event that the recommended monitoring program reveals future shortages of short-term parking, many of these spaces could be converted back to short-term parking exclusively or short-term parking with long-term permitted parking also allowed.

#### **Transit**

To recapture on-street parking devoted to temporary TriMet bus parking (e.g. north side of Jackson Street from Main Street to McLoughlin, and on the east side of SE 21<sup>st</sup> Street), City of Milwaukie staff should work with TriMet staff to identify alternate locations for temporary bus parking/staging. With bus parking moved to another location (e.g. bowling alley parking lot), the City should re-stripe and sign what once was bus parking as short-term on-street parking. This will result in additional on street customer parking.

Similarly, in the event that the Transit Center does move out of Downtown Milwaukie restripe and sign what once was bus parking as short-term parking.

#### **Initiate Plan for New Supply**

The current flexibility in downtown parking stems from the availability of permit parking in the Safeway lot. As downtown employee parking demand grows, park & riders can be transitioned out of this lot, thus making additional downtown parking available for downtown employees. However, when this property redevelops it will be necessary for the City of Milwaukie to have additional parking supply available for the downtown employees currently parking in the Safeway lot. Therefore, it is recommended that the City of Milwaukie undertake a program now to identify location and funding, if necessary, for additional downtown employee parking.

Current City plans indicate that the existing Safeway property could be redeveloped within two years. In the event that the property is redeveloped and the existing long-term parking supply is not replaced, 113 parking spaces would be lost. Under *existing* parking demand characteristics, total peak hour public parking utilization in Downtown Milwaukie would grow from 61 to 75 percent. For the long-term only portion of publicly managed supply, peak hour parking utilization would grow from 68 percent to 100 percent, assuming all the long-term demand for the Safeway lot remains in Downtown Milwaukie.

If the City does in fact redevelop the Safeway site, *and* implements the proposed parking management changes as listed in Table 1, peak hour long-term parking utilization would decrease from 100 percent to 96 percent – still exceeding the 85 percent threshold. Therefore, if when the Safeway property redevelops and park & riders are still parking in Downtown Milwaukie, additional long-term parking supply will be needed in order to achieve the 85 percent threshold. Currently, data quantifying the number of downtown employees or park & riders parking at the Safeway lot or elsewhere in downtown is not available.

However, converting large amounts of short-term parking to long-term parking (to meet potentially a large amount of non-Downtown Milwaukie user needs) is contradictory to Guiding Principle #1 which states "...management of the on-street parking system should promote customer/visitor accessibility by making the priority user the short-term patrons of Downtown

Milwaukie.” The City of Milwaukie should follow the Guiding Principles, Operating Strategies, and Parking Management Strategies when addressing any parking challenge or dilemma in the downtown, such as this one.

Additional supply is possible through shared use agreements with private property holders (e.g. Pietro’s or the Waldorf School), to a limited extent converting more short-term parking to long-term parking, or by constructing new supply. In the long-term, both the City Hall lot and the Chopsticks lot are ideal locations for a small parking structure with ground floor retail. Per the City’s adopted Downtown Riverfront and Plan, both of these locations are targeted for storefront retail and mixed-use development.

In the near-term, City of Milwaukie staff should begin working to identify locations and funding for downtown employee parking supply to replace employee parking demand currently accommodated<sup>1</sup> in the Safeway lot. It is further recommended that City of Milwaukie staff initiate a program to develop shared use agreements with owners of off-street private parking. The agreements should be developed for both downtown employee parking and for special event parking. In the event that the Safeway lot is redeveloped shared use parking agreements are the first lines of defense to ensuring adequate parking supply for downtown employees.

The City and/or designated representative, such as the downtown business association, can take the lead in developing incentives and initiating contacts with existing property owners. Shared parking arrangements could be initiated between two private developments, or between the private owner and the City. Some options/incentives to facilitate shared use parking agreements include: facility upgrades (e.g. lighting, striping, pavement, landscaping); leasing arrangements; revenue sharing; or purchasing.

#### **MID-TERM MANAGEMENT RECOMMENDATIONS**

Over the next one to two years, the City of Milwaukie should be prepared to implement the following recommendations.

##### **Signage Changes**

Distinctive, friendly and clear customer/visitor parking sign should be designed and installed at all short-term public parking lots. The signs should be “blade” signs with information on both sides so that downtown patrons can read the signs from either direction.

##### **Parking Space Management Reassignment**

All 8-hour parking should be converted to 10-hour parking. This is in recognition that spaces currently designated for 8-hour parking are intended for employee use. In most cases employees are at their place of employment nine or ten hours in a day. Therefore, with 8-hour parking and strict enforcement, employees would have to move their cars once during the course of the day. By converting all 8-hour parking to 10-hour parking, this can be avoided. This would involve an investment in parking signage throughout downtown.

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<sup>1</sup> Strict implementation of the permit program will provide information as to the number of downtown employees parked in the Safeway parking lot.

The Chopsticks lot is ideally located to be a customer/visitor parking lot. It is located just off Highway 99E and is near the center of Downtown Milwaukie. City staff should continue monitoring the demand for short-term versus long-term parking to evaluate the potential for converting this lot to short-term parking. It is anticipated that this conversion would only be feasible if the park & riders are out of the downtown parking system.

#### **Infrastructure**

The City of Milwaukie should plan a program for upgrading and maintaining off-street public parking facilities, including pavement, lighting and landscaping. Consistent with the Downtown Framework Plan, landscaping should be well maintained and not create visual barriers between the parking lot and adjacent sidewalk - instead landscaping should be visually "open".

In addition, the lighting at all public off-street lots should be evaluated to make sure that lighting meets minimum industry accepted standards. Those locations that do not meet minimum lighting standards should be identified as a priority for the long-term lighting improvement program. This concept has also been identified as part of the Downtown Framework Plan.

#### **Parking Utilization Monitoring Program**

In order to monitor the need for action, a parking utilization monitoring program should be developed. No more than every two years, City staff should count the parking supply and peak hour parking utilization. At the same time, City staff should query the parking permit database to find out the number of employees and park & riders parked in downtown.

With the results of this information, the Parking Manager should convene the parking committee to review the findings, compare results to the 85percent trigger rule and evaluate the need for any actions (e.g. re-designating short-term or long-term parking, modifying short-term parking duration from two to four-hour, limiting the number of permits for park & riders).

#### **Transit**

In the event that the TriMet transit center is relocated out of Downtown Milwaukie, City of Milwaukie Staff, interested citizens and stakeholders and TriMet staff should work together to develop a formally adopted set of transit stop locations for downtown. The existing transit stops should be reviewed and modified as appropriate to ensure that the transit stop locations maximize transit use and access to downtown and minimize impacts to on-street parking supply.

#### **LONG-TERM MANAGEMENT RECOMMENDATIONS**

Over the long-term (more than two years), the City should be prepared to implement the following measures.

**Infrastructure**

Consistent with the Downtown Framework Plan, a lighting program should be developed so that as the community is redeveloping the downtown can have distinctive pedestrian-level lighting on the streets and in all public off-street parking.

**New Supply**

In the event that the Safeway lot has redeveloped, the City of Milwaukie should be prepared to develop new long-term parking supply for downtown employees. Ideally, parking for employees of the northern half of Downtown Milwaukie should be provided on the north end of downtown and parking for employees of the southern half of downtown should be supplied at the south end of downtown. Parking in the middle of downtown would be available for customers/visitors.

**Residential Permit Zone**

The last line of defense for managing parking in Downtown Milwaukie is a Residential Permit Zone (RPZ). If, in the long-term, it is determined that too many downtown employees are parking in the surrounding neighborhoods, a RPZ should only be implemented if there is confidence that once implemented there is parking supply available for downtown employees within the downtown area.

A RPZ could be implemented to control the number of park & riders parking in the surrounding neighborhoods; however, the City would need to be certain that the motorists parking in the surrounding neighborhoods are park & riders and not downtown employees.

Based on work performed as part of the South Corridor Project, potential parking impacts could occur within a 1,000-foot radius of the proposed park and ride facility located near McLoughlin Boulevard south of Washington Street. The South Corridor Traffic Consultant, DKS Associates, projects that the potential increase in trips to local neighborhood streets (primarily related to park-and-ride activity) is nearly off-set due to the potential to reduce trips by use of transit.

In the event that light rail does go to Downtown Milwaukie it is recommended that in advance of this, City of Milwaukie Staff develop a detailed understanding of parking utilization in the area in the vicinity of the proposed station, prior to opening of light rail. Once light rail opens, City Staff should continue to monitor parking utilization in the area surrounding the station to ensure that utilization does not exceed the 85percent rule in downtown or exceed acceptable levels in the surrounding neighborhoods.

Should parking utilization in the neighborhoods exceed acceptable levels, it is recommended that the City of Milwaukie implement a residential parking zone to manage parking in the neighborhoods. It is further recommended that City of Milwaukie staff provide information to residents and businesses of the area surrounding the proposed station regarding residential parking zones. The information should include:

- Parking monitoring and data collection that would occur to determine if implementation is necessary

- Triggers for implementation
- Policies and fees that residents would be subject to if a RPZ were implemented.
- Parking monitoring that would occur if the program were implemented.

#### **SECTION 4: REVIEW OF DOWNTOWN FRAMEWORK PLAN PARKING RECOMMENDATIONS**

The Milwaukie Downtown and Riverfront Plan (MDRP) is a long-term framework plan for Downtown Milwaukie that includes major re-development and infrastructure changes throughout downtown. Section 1.13 of the plan includes a recommended parking plan.

The MDRP includes significant changes to the public infrastructure north of Harrison Street; therefore this analysis focuses on the off-street parking south of Harrison Street. South of Harrison Street, implementing the MDRP parking recommendations would yield a *net loss* of approximately 85 public parking spaces. Subject to the 85 percent rule at the time, additional public parking would possibly be required as the MDRP is implemented and activity in Downtown Milwaukie increases. To the extent possible, public parking should be maximized as part of the infrastructure redevelopment north of Harrison Street.

#### **SECTION 5: CONCLUSION**

With modifications from the Stakeholders, the previous project technical memoranda and the final project findings and recommendations will be consolidated into the final project report. City of Milwaukie staff will work with the Planning Commission and City Council to carry this work through the City's adoption process.



**TO: Mayor and City Council**  
**FROM: Mike Swanson, City Manager**  
**DATE: April 16, 2003**  
**RE: Update on Nuisance Abatement of Property Located at 21<sup>st</sup>  
Avenue and Lake Road**

### **ACTION REQUESTED**

No Council action is requested. The purpose of this memorandum is to update Council on the status of this issue and the pending abatement action.

### **BACKGROUND**

At its January 21, 2003 regular meeting the Council determined that a nuisance existed, but the "judgment" was stayed until April 27, 2003. (Page 16, Council Minutes of January 21, 2003.)<sup>1</sup> Further, if the nuisance was abated by that date, the finding would be vacated. However, if the nuisance is not abated by April 27, 2003, that finding would stand. (Page 16, Council minutes of January 21, 2003.) The April 27 date was selected based on projections presented by Emmert representatives.<sup>2</sup> (Page 3 of Council Minutes of January 21, 2003.) The April target was also included in material submitted by Emmert representatives at the January 21, 2003 Council meeting. (See Attachment B.)

Since that date I have sent letters and material to Mr. Emmert because of my concern about the approaching deadline. (See Attachment C.) Planning and Code Enforcement have also been in contact with him or his representatives.

In the past week the fence surrounding the house was removed. It had been originally installed by Mr. Peterson, the original owner of the structure, and his contract with the fence company had expired. Code Enforcement contacted Emmert International, and a new fence was installed. Other than that, there has been nothing done at the site. The house appears to be suffering some deterioration from its exposure to the elements. I continue to receive periodic phone calls complaining about the unsightliness of the structure.

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<sup>1</sup> The page numbers are those found in the Council Minutes attached as Attachment A.

<sup>2</sup> Milwaukie Municipal Code Section 8.04.180(D) normally requires that an owner abate a nuisance within ten days after a finding by Council that a nuisance exists.

Emmert representatives have been in periodic contact with Planning Department representatives about possible land use options, but nothing achievable has been concluded to date. .

While the date of this memorandum precedes the April 27 date by almost two weeks, I am becoming increasingly concerned that the nuisance will continue past the deadline established by the January 21, 2003 Council action.

Giving the most liberal interpretation to the Council's action and Milwaukie Municipal Code Section 8.04.104(D), the clock starts running for one last time on April 27. That is, "the owner or other person shall within ten days after such council determination abate such nuisance." If this nuisance is not abated by May 7, 2003, Milwaukie Municipal Code Section 8.04.190(A) vests authority in the City Manager to "cause the nuisance to be abated." Costs of abating the nuisance are eventually charged back to the responsible parties pursuant to Milwaukie Municipal Code Section 8.04.190 and Milwaukie Municipal Code 8.04.200. (Copies of the relevant Code sections are attached as Attachment D.)

Once again, the City became involved only to save the structure. It could have chosen to stand by and let things run their course. The School District had not made arrangements to preserve the house. Without City intervention the structure would most likely have been destroyed more than a year ago as the District moved forward with its expansion plans.

While the City chose to adopt an interest in preserving the building, it has always had the responsibility to enforce the law. Every effort has been made to adjust required Code deadlines to provide the flexibility two separate private parties requested in order to enable them to preserve this structure. The future of the house would be secure today if either of those private parties had taken advantage of the City's actions. (If preservation is as critical to either of the private parties as has been claimed, it could also have been accomplished—and without significant City intervention--by relocation to a storage area outside of the City. This option has the advantage of both preserving the structure and serving the City's interest in faithfully executing its laws.)

Absent abatement of the nuisance by the date required, we will move forward in compliance with the Municipal Code. Our options appear to be either a deconstruction or demolition of the structure, neither of which preserves it. The costs will be assessed against the property as provided in the Municipal Code.

I will forward a copy of this memorandum to Mr. Emmert and other interested persons who have testified in previous meetings on this matter.

CITY OF MILWAUKIE  
CITY COUNCIL MEETING  
JANUARY 21, 2003

**CALL TO ORDER**

The 1902<sup>nd</sup> 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  
Gary Firestone,  
City Attorney  
Alice Rouyer,  
Community Development/  
Public Works Director  
John Gessner,  
Planning Director

Paul Shirey,  
Engineering Director  
Jay Ostlund,  
Associate Engineer  
Steve Campbell,  
Code Compliance Coordinator  
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. 40<sup>th</sup> Avenue and 43<sup>rd</sup> Avenue Stormline Project Bid Award;
3. Intergovernmental Agreement (IGA) with Oregon Department of Transportation for the 42<sup>nd</sup> 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 29<sup>th</sup> 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 21<sup>st</sup> 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 15<sup>th</sup> 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 30<sup>th</sup> 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.

**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 HACC 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 20<sup>th</sup> 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

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 21<sup>st</sup> 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 32<sup>nd</sup> 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 32<sup>nd</sup> Avenue across Housing Authority property. The sewer line already goes to 32<sup>nd</sup> 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.**

**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

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.

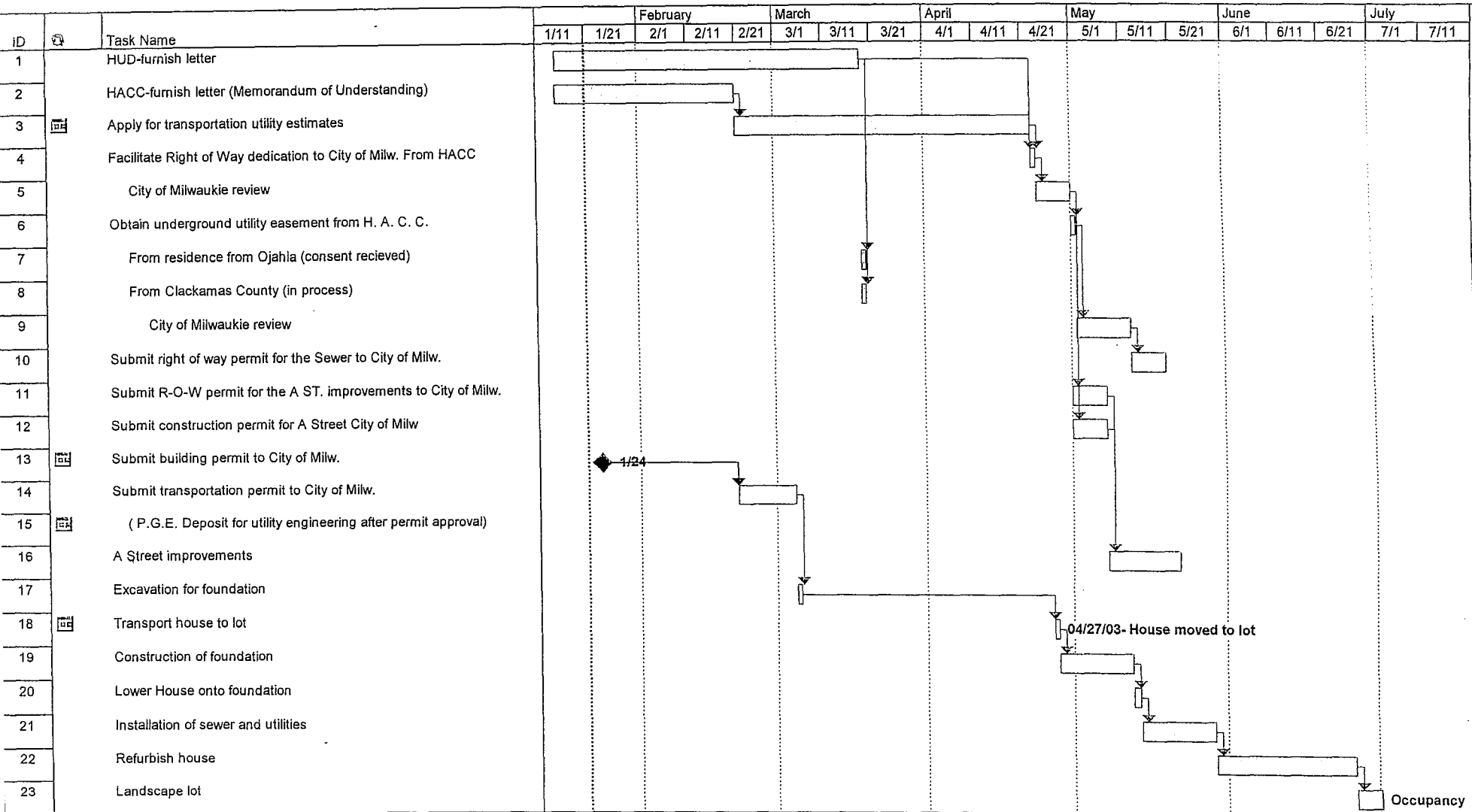
**Mayor Bernard** adjourned the meeting at 9:30 p.m.

*Pat DuVal*

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Pat DuVal, Recorder

# Work in Process Chronology



Project: City of Milw.  
Date: Tue 1/21/03

Task		Milestone		Rolloled Up Split		External Tasks	
Split		Summary		Rolloled Up Milestone		Project Summary	
Progress		Rolloled Up Task		Rolloled Up Progress			

Attachment B  
 WS. 3 23



March 3, 2003

Mr. Terry Emmert  
Emmert International  
11811 SE Highway 212  
Clackamas, OR 97015

Re: House on 21<sup>st</sup> Avenue

Dear Terry:

On January 21, 2003, the Milwaukie City Council considered your protest against the nuisance action relating to continuing storage of your house located on Union Pacific Railroad property on 21<sup>st</sup> Avenue. After hearing testimony from many interested people, the Council declared the code infraction a nuisance, holding that declaration in abeyance until after April 27, 2003, and providing that the nuisance declaration be vacated if the house is removed from the site by April 27, 2003.

I would like to take this opportunity to remind you of City requirements for the building's relocation so that you are well positioned to comply with the April 27, 2003 deadline established by the City Council.

Staff has reported that you are considering the site just north of the 32<sup>nd</sup> Avenue Housing Authority property. I am increasingly concerned that the time period within which to both secure approvals from the County and to make application for the house move is growing ever shorter. I have learned that Housing Authority staff will seek direction from the County Board of Commissioners at a March 11, 2003 meeting. The question will be whether or not the County has an interest in granting the requested right-of-way dedication and utility easements.

Based on my conversations with staff, Emmert International has only recently requested application materials for land use approvals needed to place the building at the Bagley property. In Mr. Gessner's January 23, 2003 letter to you and Ms. Katie Daniel he noted that a minimum of 60 to 90 days would be needed to get required land use approvals in order to use the Bagley property. Based on today's date, it appears

MILWAUKIE CITY HALL

10722 S.E. Main Street, Milwaukie, Oregon 97222

Phone: (503) 786-7555 • Fax: (503) 652-4433 • Web Site: [www.cityofmilwaukie.org](http://www.cityofmilwaukie.org)

Mr. Terry Emmert  
March 3, 2003  
Page 2 of 2

that you would not be able obtain approvals within the timeframe needed to meet the ordered removal date.

I wish to stress the importance of meeting the April 27, 2003 deadline for building removal. The failure to remove the building by that date can lead to enforcement penalties against Emmert International. On the other hand, your compliance with the deadline will serve both interests in this matter—namely, removal of the structure from the site and preservation of the structure.

Please do not hesitate to contact me at 503-786-7501 should you have any questions.

Sincerely



Mike Swanson  
City Manager

cc: Alice Rouyer, Community Development and Public Works Director.  
John Gessner, Planning Director  
Gary Firestone, City Attorney  
Steve Campbell, Code Compliance Coordinator



April 8, 2003

Mr. Terry Emmert  
Emmert International  
11811 SE Highway 212  
Clackamas, OR 97015

RE: Sam Marino House

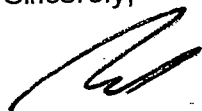
Dear Terry:

I wanted to follow up my last phone call as the time within which to abate the nuisance is fast approaching. When we last talked a couple of weeks ago you wanted to meet but could not until later that same week as you had a meeting with the Governor to attend to. You were going to contact me that Friday, which I believe was March 28.

I haven't heard anything and am concerned as the date by which abatement was to occur is fast approaching. According to Milwaukie Municipal Code Section 8.04.190(A), I am responsible for taking action to abate the nuisance if the property owner has not abated it "within the time allowed." The abatement costs incurred by the City are then assessed against the owner pursuant to Milwaukie Municipal Code Section 8.04.200. Of course, if the structure is moved prior to April 28, the order of abatement is vacated, and no further action need be taken.

If you wish to meet regarding this matter please give me a call at 503.786.7501, and we can schedule a time. If you get a voice mail message, in order to facilitate this please feel free to schedule a time convenient to you on the morning of April 10, any time prior to 11:00 A.M. or after 3:00 P.M. on April 15, or the morning of April 16. We can either meet in my office or yours. Just leave your preference on the message.

Sincerely,



Michael F. Swanson  
City Manager

c: Mayor and Council  
John Gessner  
Steve Campbell

Chapter 8.04 NUISANCES

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**Section 8.04.180 Abatement--By owner.**

A. Within ten days after the posting and mailing of the notice as provided in Section 8.04.170, the owner or person in charge of the property shall remove the nuisance or show that no nuisance exists.

B. The owner or person in charge protesting that no nuisance exists shall file with the city recorder a written statement which shall specify the basis for so protesting.

C. The statement shall be referred to the council as a part of the council's regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the council and the council shall thereupon determine whether or not a nuisance in fact exists and such determination shall be entered in the official minutes of the council. Council determination shall be required only in those cases where a written statement has been filed as provided.

D. If the council determines that a nuisance does in fact exist, the owner or other person shall within ten days after such council determination abate such nuisance. (Ord. 1028 § 19, 1964)

WS. 3 28

Chapter 8.04 NUISANCES

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**Section 8.04.190 Abatement--By city.**

A. If, within the time allowed, the nuisance has not been abated by the owner or person in charge of the property, the city manager may cause the nuisance to be abated.

B. No abatement shall occur under this section unless preceded by issuance of a judicial warrant authorizing entry, search, seizure and abatement, or in the alternative, written consent and release of liability by the property owner or person in charge of the property.

C. The city recorder shall keep an accurate record of the actual cost incurred by the city in abating the nuisance, including any administrative expenses. (Ord. 1722 § 2, 1992; Ord. 1028 § 20, 1964)

Chapter 8.04 NUISANCES

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**Section 8.04.200 Assessment of costs.**

A. The city recorder, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property a notice stating:

1. The total cost of abatement including the administrative overhead;
2. That the cost as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of the notice;
3. That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he may file a notice of objection with the city recorder not more than ten days from the date of the notice.

B. Upon the expiration of ten days after the date of the notice, the council in the regular course of business shall hear and determine the objections to the costs to be assessed.

C. If the costs of the abatement are not paid within thirty days from the date of the notice, an assessment of the costs as stated or as determined by the council shall be made by resolution and shall thereupon be entered in the docket of city liens, and upon such entry being made shall constitute a lien upon the property from which the nuisance was removed or abated.

D. The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of six percent per annum. Such interest shall commence to run from date of entry of the lien in the lien docket.

E. An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property. (Ord. 1028 § 21, 1964)



TO: Mayor and City Council  
FROM: Mike Swanson, City Manager  
DATE: April 21, 2003  
RE: Waiver of City Fees

### ACTION REQUESTED

Review and direction on Council Resolution No. 15-1997 (copy attached) directing staff to collect all development permit fees due to the City.

### BACKGROUND

On April 1, 1997 the City Council adopted Resolution No. 15-1997 directing staff "to collect the full fee due on every application from every applicant."

It is not unusual for requests to be made for waivers or reductions in fees. This Resolution provides specific direction *in the area of development* which is very useful in responding to those requests.

It was enacted during a time of great financial uncertainty in local government. The maximization of revenues and limitations on the shifting of costs to the property tax were issues that were central to everyone's thinking. The issues are strikingly similar to our own time.

If we have strayed from the original intent of Resolution 15-1997 at any time in the past it is only because of changes in staff. Many who were here when it was enacted are gone, and the practice is no longer remembered. It remains good policy.

However, it is simplistic in a couple of particulars. Following are a few areas in which it should be improved:

- ❖ I recommend that it be amended to include all funds due to the City regardless of origin, unless a waiver or reduction is expressly provided to a class of payees by Council policy. An example is the

low income water/sewer fee. Presently, Resolution 15-1997 is limited to "development permit fees."

- ❖ As stated above, I recommend limiting the waiver or reduction to a defined class rather than a single payee or applicant, and any such class should be able to demonstrate a clear policy in favor of the waiver or reduction that stems from the unique nature of their class. Again, the low income water/sewer fee comes to mind.
- ❖ There should be a presumption that there be no waiver or reduction of an amount due to the City.
- ❖ I further recommend that there be no "appeal" to the Council for individual situations.
- ❖ The one exemption that I would add to the low income water/sewer fee would be for the NDAs when acting in furtherance of the goals adopted by the City and when expending City funds. In other words, I would exempt them from payment when it is merely a transfer from one City "pocket" to another, but they still have to apply for all necessary permits. I will not claim staff consensus on this one. Many issues arise here, including adequate compensation for work done between departments.

I would like to briefly discuss this at the May 5, 2003 work session, and I will proceed to draft the necessary resolution(s) to comply with your direction.

CITY OF MILWAUKIE  
RESOLUTION NO. 15 -1997

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,  
DIRECTING STAFF TO COLLECT ALL DEVELOPMENT PERMIT FEES DUE TO THE  
CITY.

**WHEREAS**, various non-profit organizations have asked to have development permit fees waived; and

**WHEREAS**, building permits require payment of a fee to the State of Oregon as part of the amount collected locally; and

**WHEREAS**, granting a waiver results in property taxes or other revenues sources offsetting the costs of staff work to process permits, and

**WHEREAS**, Ballot Measure 47 does not allow the City to shift or increase fees without a vote of the citizens;

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

1. The City of Milwaukie City Council does hereby find and declare that all permit fees are needed; and
2. Staff are directed to collect the full fee due on every application from every applicant.

Introduced and adopted by the City Council on this 1st day of April 1997.

CITY OF MILWAUKIE

By Craig J. Lomnicki  
Craig J. Lomnicki, Mayor

ATTEST:

Pat DuVal  
Pat DuVal, City Recorder

APPROVED AS TO FORM:

[Signature]  
O'Donnell, Ramis, Crew, & Corrigan



**TO: Mayor and City Council**  
**FROM: Mike Swanson, City Manager**  
**DATE: April 24, 2003**  
**RE: Date for Final Adoption of Budget**

Oregon Budget Law requires that the governing body adopt a budget by June 30 for the ensuing fiscal year. Traditionally, the City has scheduled its adoption hearing before Council at the last regular June hearing.

This year presents a special problem (actually, the year doesn't—I do—2003 is quite innocent). The last scheduled Council hearing during June is on the 17<sup>th</sup>. That is also the evening of my daughter's eighth grade graduation. I would like to be there.

At present we are ahead of past years in our scheduling. If the Budget Committee approves a budget by mid-May, we could schedule the adoption hearing for the June 3 Council hearing. Another option is to schedule an additional hearing date for budget action. Of course, another option is not to excuse me for the graduation (but that would be heartless).

We need to discuss this and set the date so that we can prepare the necessary publications.

budgethearing