

MINUTES**MILWAUKIE CITY COUNCIL
MAY 20, 2003****CALL TO ORDER**

The 1910th meeting of the Milwaukie City Council was called to order by Mayor Bernard at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Councilor Lancaster

Councilor Loomis

Staff present:

Mike Swanson,
City Manager
Gary Firestone,
City Attorney

Paul Shirey,
Engineering Director

PLEDGE OF ALLEGIANCE**PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**

Mayor Bernard read a summary of the minutes from the 6th City Council meeting held on August 13, 1903. Milwaukie Museum Curator Madalaine Bohl is preparing this series of historical notes in honor of the City's Centennial Year.

Mayor Bernard commented on the progress of the Safeway building demolition project and suggested citizens view the significant changes taking place as the North Main Project unfolds.

Mayor Bernard announced that the Centennial Quilt Dedication will be postponed and that organizers are seeking volunteers to help finish the project.

CONSENT AGENDA

It was moved by Mayor Bernard and seconded by Councilor Lancaster to consider agenda items VI.B – *Council Position on the Formation of an Electric People's Utility District (PUD) in Multnomah County* and VI.C – *Public Notice of Change to Council Meeting Dates for June 2003* in the consent agenda. Motion passed unanimously among the members present.

It was moved by Councilor Loomis and seconded by Councilor Lancaster to adopt the consent agenda, which consisted of:

1. City Council Minutes of May 6, 2003;
2. Award Bid for Lava Drive Booster Pump Stations;
3. Award Design Services Contract for McLoughlin Boulevard Improvement Project;
4. Resolution 20-2003: A Resolution of the City Council of the City of Milwaukie, Oregon, in Opposition to the Formation of an Electric People's Utility District (PUD) in Multnomah County; and
5. Resolution 21-2003: A Resolution of the City Council of the City of Milwaukie, Oregon, Providing Public Notice of Changes to Its June 2003 Meeting Dates.

The motion to adopt the consent agenda passed unanimously among the members present.

AUDIENCE PARTICIPATION

George Van Bergen, discussed the house currently stored at 21st Avenue and Lake Road. He owned the land and structures and operated his business out of the subject house for about 25 years before the School District took it over in February 2001. He attended this meeting to satisfy his curiosity on the situation and urged the elected officials to use their discretion to do what must be done in a timely fashion.

Swanson said the City released a request for proposals (RFP) to demolish or deconstruct the building. Responses are due May 27, and the contract will be awarded within 2 days with a notice to proceed. The owners have been notified that the City is proceeding with the abatement process.

Van Bergen, although he does not disregard the feelings of those involved, hopes the building will be moved.

OTHER BUSINESS

City Traffic Code and Minimum Fine – Ordinance

Swanson said the proposed ordinance would adopt the State Traffic Code and Oregon Administrative Rules (OAR) relating to motor vehicle carrier violations as a chapter of the municipal code and establish a 50% minimum fine amount.

Currently, drivers are cited under the state traffic code, and fines are levied pursuant to that code. If the City Council decides to adopt this ordinance, violators would be cited under the municipal code. Further, the City Council would be adopting the fine structure and establishing a minimum fine of not less than 50% of the maximum exclusive of all court costs and levies. It is the City's hope this minimum fine amount will serve to deter traffic violations on Milwaukie streets. For example, speeding in school and construction zones carries a higher

fine amount using the theory that the cost will deter future violations. Swanson estimated this minimum fine amount would only generate \$100,000 - \$150,000 annually and is by no means intended to generate revenue.

It was moved by Mayor Bernard and seconded by Councilor Lancaster for the first and second reading by title only and the adoption of an ordinance adding a new Section 1.12.020 making both the State Traffic Code and the Oregon Administrative Rule pertaining to federal safety regulations of motor vehicle carrier violations of the City code and establishing the minimum fine amount.

Councilor Lancaster commented it is important to point out this action is about deterrence, not revenue. Milwaukie has a lot of pass through traffic, and it is important to make this statement.

Mayor Bernard added that truck drivers must obey the laws, including weight restrictions, to stop deterioration of the already failing statewide road system.

The motion passed unanimously among the members present.

The City Manager read the ordinance for the first and second times by title only.

The City recorder polled the Council: Mayor Bernard, Councilor Lancaster, and Councilor Loomis aye; no nays.

ORDINANCE 1922:

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MUNICIPAL CODE BY ADDING A NEW SECTION 1.12.020 ADOPTING STATE TRAFFIC VIOLATIONS AND WEIGHT RESTRICTIONS AS VIOLATIONS OF THE MILWAUKIE MUNICIPAL CODE AND ESTABLISHING FINES FOR VIOLATIONS OF THE PROVISIONS.

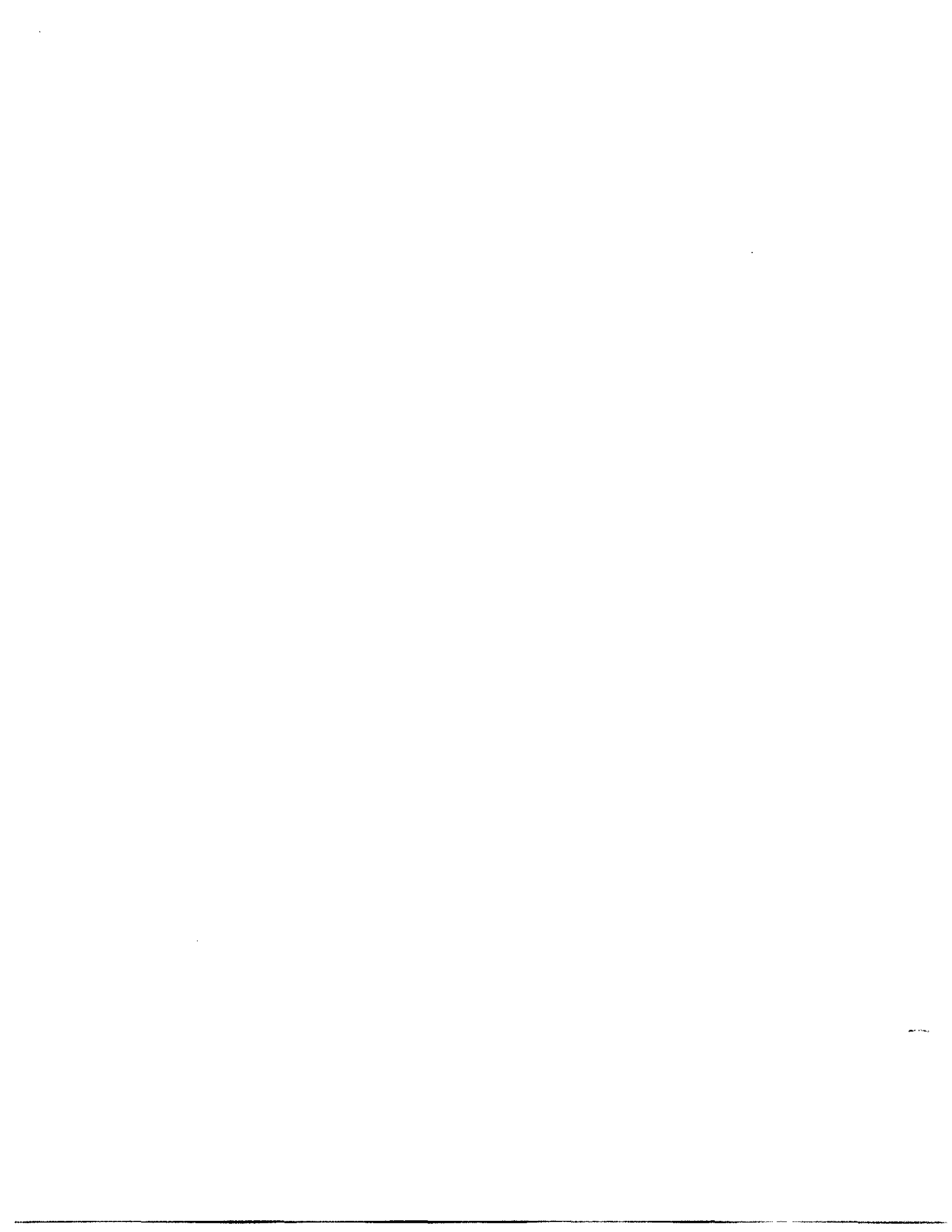
ADJOURNMENT

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

Mayor Bernard adjourned the meeting at 6:20 p.m.

Pat DuVal

Pat DuVal, Recorder



REVISED

AGENDA

MILWAUKIE CITY COUNCIL MAY 20, 2003

MILWAUKIE CITY HALL

10722 SE Main Street
Council Chambers

1910TH MEETING

REGULAR SESSION - 6:00 p.m.

**I. CALL TO ORDER
Pledge of Allegiance**

**II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND
AWARDS**

Centennial Quilt Dedication (Gregory) Postponed

III. CONSENT AGENDA *(These items are considered to be routine, and therefore, will not be allotted Council discussion time on the agenda. The items may be passed by the Council in one blanket motion. Any Council member may remove an item from the "Consent" portion of the agenda for discussion or questions by requesting such action prior to consideration of that portion of the agenda.)*

- A. City Council Minutes of May 6, 2003**
- B. Award Bid for Lava Drive Booster Pump Station (P. Roeger)**
- C. Award Design Services Contract for McLoughlin Boulevard Improvement Project (Barnett)**

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

V. PUBLIC HEARING *(Public Comment will be allowed on items appearing on this portion of the agenda following a brief staff report presenting the item and action requested. The Mayor may limit testimony.)*

None scheduled.

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

- A. Adoption of City Traffic Code and Minimum Fines – Ordinance (Swanson)**

OTHER BUSINESS, continued

- B. Council Position on the Formation of an Electric People's Utility District (PUD) in Multnomah County – Resolution (Mayor Bernard)**
- C. Public Notice of Change to Council Meeting Dates for June 2003 – Resolution (Mayor Bernard)**

VII. INFORMATION

- A. Riverfront Board Minutes February 24, 2003**
- B. Center/Community Advisory Board Minutes March 14, 2003**

VIII. ADJOURNMENT

Public Information

- Executive Session: The Milwaukie City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making and final decision. Executive Sessions are closed to the public.
- For assistance/service per the Americans with Disabilities Act (ADA), please dial TDD 503.786.7555
- The Council requests that all pagers and cell phones be either set on silent mode or turned off during the meeting.

Date 5/20/03

I wish to address City Council on Agenda Item # 5B
Name Terry Waddell
Organization North Clackamas Chamber
Address 2531 SE Vineyard Way
Phone Milwaukie OR 97267

Speaking in Support of the resolution Speaking in Opposition
Raising Questions Providing Information

Comments _____

Date _____

I wish to address City Council on Agenda Item # _____
Name George Van Bergen
Organization _____
Address _____
Phone 654-4724

Speaking in Support Speaking in Opposition
Raising Questions Providing Information

Comments old house

Date 5/20/03

I wish to address City Council on Agenda Item # B1-B ^{Council Position} on PUD
Name MARA WOLOSHIN
Organization _____
Address 3786 SW Lyle Ct PORTLAND
Phone 503 241 3834

Speaking in Support Speaking in Opposition to PUD
Raising Questions Providing Information

Comments written testimony will also be submitted

Date 5/20/03

I wish to address City Council on Agenda Item # 5B
Name Annette Mattson
Organization P.G.E.
Address 121 SW Salmon, Portland
Phone 464-2400

Speaking in Support of the resolution opposing Speaking in Opposition
Raising Questions Providing Information

Comments _____

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,
PROVIDING PUBLIC NOTICE OF CHANGES TO ITS JUNE 2003 MEETING DATES.**

WHEREAS, the City Council has determined the June 2003 meeting dates must be changed in order to ensure the ability to constitute a quorum to conduct city business; and

WHEREAS, the Municipal Code Chapter 2.04.070 states that the City Council must provide notice of any changes to its regularly scheduled meeting times and locations;

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

Section 1: The first City Council work session of June 2003 will be called to order at 6:00 p.m. on Monday, June 9, 2003 in the City Hall Conference Room.

Section 2: The first regular City Council meeting of June 2003 will be called to order at 6:00 p.m. on Tuesday, June 10, 2003 in the City Hall Council Chambers.

Section 3: The second City Council work session of June 2003 is cancelled.

Section 4: The second regular City Council meeting of June 2003 will be called to order at 6:00 p.m. on Monday, June 16, 2003 in the City Hall Council Chambers.

Section 5: The City Recorder is directed to provide notice of meetings as required by law.

Section 6: This resolution is effective upon adoption.

Introduced and adopted by the City Council on May 20, 2003.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis, Crew, Corrigan & Bachrach, LLP



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: May 12, 2003
RE: FYI Memo for the Weeks of May 12, 2003 through May 23, 2003

Our regular work session and meeting are scheduled as follows:

MAY 19, 2003 WORK SESSION

The work session will convene at 5:30 P.M. in the City Hall Conference Room. We will have a light dinner and a brief time for any items that Council members wish to bring up. At 6:00 there is an Open Public Forum. I am also adding a brief time to this and future work session agendas for questions/comments you may have on agenda items that appear on the regular agenda the following evening. Major issues are often discussed in work sessions the evening before, but many matters never appear on the work session agenda. This operates more as a reminder that we have the opportunity to ask about them at this time. There is one caveat, however. We cannot discuss quasi judicial matters like land use hearings or liquor license hearings. These are hearings that require you to listen to evidence and apply facts to standards set out in state law or City codes.

1. **Three Bridges Project Update:** This will be an update on the Springwater Corridor/Three Bridges Project. The Three Bridges Project will provide safe pedestrian and bicycle crossing over McLoughlin Blvd., the Union Pacific railroad tracks (just east of McLoughlin Blvd.), and Johnson Creek. There is a lot of public activity right now, with a public design forum scheduled for May 17 (see item 5 under Other Items of Interest).
2. **Centennial Committee Update:** This will be a brief update on the Centennial, issues, and scheduled activities.
3. **Timothy Lake Retreat:** The Timothy Lake Retreat is an annual gathering of local government representatives that has met annually at PGE's Timothy lake conference facility. (PGE makes the facility available to each Portland regional metro county for this purpose.) A topic is selected and

discussed by the representatives. One or (at most) two representatives from each jurisdiction are invited to attend. Who would like to go?

MAY 20, 2003 COUNCIL MEETING

The Council meeting commences at 6:00 P.M. in City Hall.

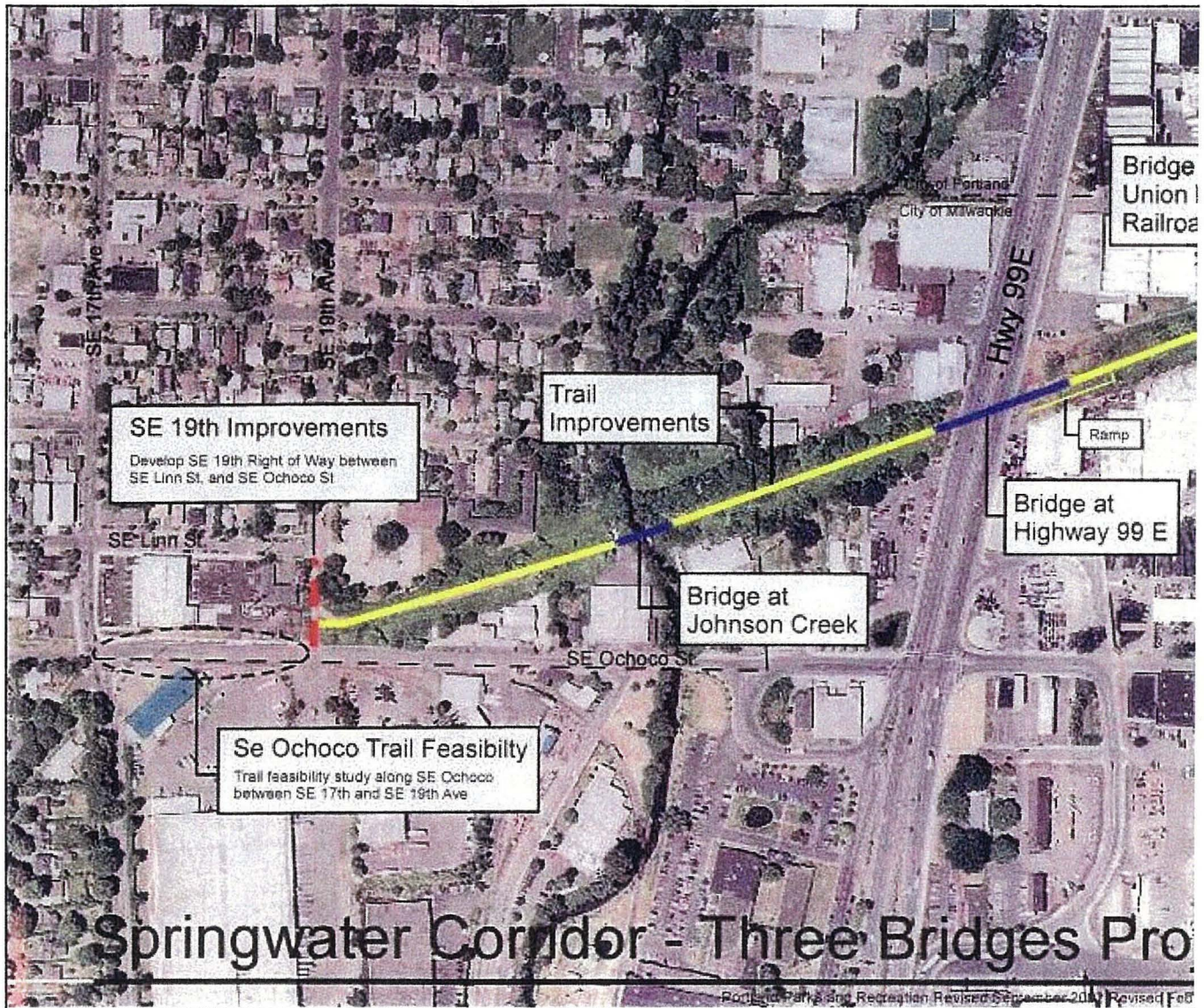
1. **Award Bid for Lava Drive Booster Pump Station:** This proposed action would allow the City Manager to an agreement to replace the Lava Drive Pump Station. The amount of the contract is \$234,221.90, which includes a ten (10) percent contingency.
2. **Award Design Services Contract for McLoughlin Boulevard Improvement Project:** This proposed action authorizes the City Manager to sign an agreement with David Evans and Associates for an amount not to exceed \$684,000 to provide preliminary and final engineering and design services for the McLoughlin Boulevard Improvement Project. This project is the result of the federal and state grant funding.
3. **Adoption of City Traffic Code and Minimum Fines:** This is an ordinance that adopts the State traffic code and a State administrative rule regarding federal motor carrier safety standards as violations of the City's Municipal Code. This will allow the City's Police Department to cite violators under the City's Code. The proposed ordinance also establishes a minimum fine of not less than fifty (50) percent of the maximum fine exclusive of all costs and assessments. The purpose of the minimum fine is to establish a real deterrent to traffic violations in the City of Milwaukie.
4. **Council Position on the Formation of an Electric People's Utility District (PUD) in Multnomah County:** A petition has been filed in Multnomah County seeking to create a People's Utility District. Council has been requested to take a position on the formation of the District,

OTHER ITEMS OF INTEREST

1. Reminder: The NAMI Walk is scheduled for May 18. JoAnn Herrigel is organizing a City team. Thus far JoAnn, myself and my family are participating. Be there under the Hawthorne Bridge (pledges and/or checks in hand) no later than 9:00 A.M.
2. You might have noticed that I have changed the language with respect to executive sessions on the agenda. I stole it from Tigard.
3. On April 15, 2003 you had a presentation from Jeff King on two Regional Investment Fund Grant Applications. One was to partially fund the 21st

Avenue access road extension. The request was for \$35,000. The other was to partially fund a number of economic development activities. Examples include a site inventory, business survey, and an initial phase of an economic development strategic plan. The amount requested was \$35,000. On Friday, May 9, 2003 the City was awarded \$25,000 for each. Jeff did a great job and in chasing these down and is to be congratulated.

4. On May 18 there will be an historic walk in Downtown Milwaukie. Tours will begin at 1:00 in City Hall, with additional tours every hour thereafter. That is also the opening day of the Farmers' Market. The Market opens at 10:00 A.M.
5. On May 17 there will be an open house to discuss design themes for the Springwater "Three Bridges" project. It is at the Moreland Presbyterian Church, 1814 SE Bybee. See the attached information.



AGENDA

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MILWAUKIE CITY HALL

10722 SE Main Street
Council Chambers

1910TH MEETING

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II. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Centennial Quilt Dedication (Gregory)

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None scheduled.

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**CITY OF MILWAUKIE
CITY COUNCIL MEETING
MAY 6, 2003**

CALL TO ORDER

The 1909th meeting of the Milwaukie City Council was called to order by Mayor Bernard at 6:00 p.m. in the City Hall Council Chambers. The following Councilors were present:

Deborah Barnes
Larry Lancaster

Joe Loomis
Susan Stone

Staff present:

Mike Swanson,
City Manager

John Gessner,
Planning Director

Gary Firestone,
City Attorney

Jeff King,
Project Manager

Alice Rouyer,
Community Development/
Public Works Director

Tom Larsen,
Building Official

Larry Kanzler,
Police Chief

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

NAMIWalks for the Mind of America

Stephen Loaiza, NAMI Oregon Executive Director, 1130 SE River Forest Road, Milwaukie, explained NAMI is an acronym for the National Alliance for the Mentally Ill. As a non-profit organization, it offers education, support, and advocacy to the mentally ill, their families and friends. Statistically, about 1 out of every 5 families in the United is impacted by mental health issues, so NAMI provides an important resource to Oregon residents.

Loaiza read a proclamation naming Sunday, May 18 2003 as *NAMIWalks for the Mind of America Day* in the City of Milwaukie and urged residents to support the event.

Centennial Commemorative

Police Chief Larry Kanzler presented the Mayor and Council with replicas of the first Milwaukie Marshal's badge mounted on individual plaques commemorating Milwaukie's Centennial Year.

III. A. 2

Workplace Safety Awareness Day

Mayor Bernard read a proclamation naming Wednesday, May 14, 2003 as *Workplace Safety Awareness Day* in the City of Milwaukie.

History Notes

Mayor Bernard read notes prepared by Milwaukie Museum Curator Madalaine Bohl on the 6th Milwaukie City Council meeting held August 13, 1903.

CONSENT AGENDA

Mayor Bernard announced that Consent Agenda item B -- Resolution Setting Fees for City Services for Fiscal Year 2004 would be moved to "other business."

It was moved by Councilor Stone and seconded by Councilor Barnes to adopt the consent agenda that included:

- A. City Council Minutes of March 10 and April 15, 2003; and
- B. Moved for discussion in other business; and
- C. Resolution 16-2003: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City of Milwaukie to Apply for a Local Government Grant from the Oregon Parks and Recreation Department for the Development of Phase 1 of Lewelling Community Park and Authorizing the City Manager to Sign the Application; and
- D. Resolution 17-2003: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the Oregon State Police Emergency Management Division to Directly Send the City of Milwaukie's Share of the 9-1-1 Quarterly Telephone Tax Distributions to the City of Lake Oswego Communications Department (LOCOM); and
- E. Resolution 18-2003: A Resolution of the City Council of the City of Milwaukie, Oregon, Authorizing the City Manager to Sign an Intergovernmental Agreement Renewing the Current Agreement between the Cities of Portland and Milwaukie for Portland Police Data System (PPDS).

The motion to adopt the Consent Agenda passed unanimously.

AUDIENCE PARTICIPATION

None.

PUBLIC HEARNIG**Liquor License Change of Ownership Application for Kimmy's Market and Teriyaki Located at 3141 SE Harrison Street**

Mayor Bernard called the public hearing on the change of ownership application for Kimmy's Market and Teriyaki to order at 6:15 p.m.

The purpose of the hearing was to consider written and oral evidence regarding the application followed a City Council decision based on the criteria set forth in Milwaukie Municipal Code Section 5.40.060. The City Council action is not final. It is the City Council's responsibility to make a recommendation only to OLCC for final disposition. Mayor Bernard reviewed the order of business.

There were no actual or potential conflicts of interest declared.

Staff Report

Police Chief Larry Kanzler presented the staff report in which he requested the City Council recommend denial of the change of ownership application to the Oregon Liquor Control Commission (OLCC).

As part of his duties and responsibilities, Kanzler reviews all liquor licenses that come to the City of Milwaukie to consider whether applicants are qualified or if there is a history that would preclude them from having a license. For this application, the police department recommends the City Council deny the change in ownership application.

Kanzler stated the reasons for his recommendation. In 2000, the Min's were operating the Newberg Food Market, and on June 30, 2000, an employee served alcohol to a minor. According to Oregon liquor law, licensees are responsible for training their employees on how to properly check identification, which in this case was not done. OLCC, in an effort to negotiate a resolution, required the Min's to install age verification equipment. In April 2001, Mr. Min, who was working as an employee of the new owner of the Newberg Market, was cited for selling alcohol to a minor acting as an OLCC decoy. This decoy had been dispatched because of neighbor complaints about the market. Mr. Min did not use the identification verification equipment although it was installed and operational. Kanzler believed this showed an unwillingness to follow the rules. Now this person is applying for a license in Milwaukie. The police department is too understaffed to constantly monitor the operation, and the chief is concerned about further exposing Milwaukie youth to alcohol and exacerbating existing community problems. Kanzler recommended the City Council deny the application based on the Min's past history.

Councilor Barnes asked Kanzler if it would be different if Mrs. Min owned the business, and the husband had no involvement at all.

III. A. 4

Kanzler said Mrs. Min expressed regret about her husband's past actions, but he understands it is their intent to operate the store together. They made application together for the license.

Councilor Loomis sees only 1 application in the material submitted for Council consideration. He asked if the first violation was a result of the Min's not being at the business, or if it was a training issue.

Kanzler said either the Min's had not met their training obligations, or the employee chose not to verify the buyer's age. In the second violation, the equipment was not used.

Councilor Stone asked if the Min's had lost their liquor license in Newberg.

Kanzler said the Min's sold the business prior to the violation, and he does not know the current owner's name. Mr. Min was working as an employee of the market when he sold alcohol to a minor. He voiced some concerns about how applicants use the license transfer process.

Councilor Stone asked Kanzler if he had any details about the employee's selling alcohol to a minor and if false identification was used. She could not imagine a person would willingly sell to a minor since that is against the law.

Kanzler said OLCC conducted the investigation, and he has only those details included in his report. He would only assume since the minor was not cited that false identification was not involved. The other minor was a decoy under the supervision of the OLCC.

Councilor Stone asked how often the Milwaukie police department would have to deploy officers to Kimmy's Market to monitor operations and would being across the street from the Public Safety Building make it more feasible.

Kanzler said monitoring is task driven, and one cannot assume it will happen because the police department is across the street. There are a lot of young people in the housing authority area, and it only takes a minute to buy alcohol. The police department does not have the resources to catch people in the act or generally supervise store activities. It takes some kind of catastrophic issue such as a fight or a crime involving alcohol to find out where and when underage sales took place. That is the point at which the police get involved, but the damage has already been done. He has been successful in other cities by taking a hard line. It sends a message to all the alcohol retail outlets that the city will not tolerate putting the kids in jeopardy. There is a demonstration in the Min application that did not take place.

Councilor Stone asked if the Milwaukie police department would be responsible for monitoring the store or if OLCC has some responsibility as well. Is monitoring routine if the licensee has a history, or does there have to be an incident to trigger it?

Kanzler said OLCC funding has been cut, and there is no longer an enforcement unit. The Milwaukie police department will respond to incidents unless a complaint is filed directly with OLCC. Milwaukie police does not have the resources to go to retail outlets and check for violations as part of the officers' regular duties. It is a complaint driven process from a parent, guardian, or school. The department tries to find out where the alcohol was purchased, but it creates a level of commitment from the police department it does not normally have to provide. Since the work load is going up and resources are going down, he is trying in his recommendation to mitigate potential future problems.

Councilor Stone commented on the number of stores in Milwaukie that sell liquor, and certainly minors can go to any of these. Police do not routinely go into those stores, and minors are probably buying alcohol there. She is concerned the Min's would be put out of business if the license were not granted.

Councilor Lancaster understands the Min's are the applicants. He referred to a letter dated April 21 to Mr. and Mrs. Bong.

Kanzler explained Bong is Mrs. Min's first name.

Councilor Lancaster said there seems to be 2 violation events, and he was curious if they occurred at the same time. One was serving a visibly intoxicated person, and the other was selling liquor to a minor.

Kanzler said these were separate issues and both resulted in a stipulated convictions.

Applicant Presentation

Bong Ki Min, 16648 SW Henderson Court, Beaverton, 97007. She applied for the license and will operate the store. She used money from her husband's and her account, so OLCC wanted history on both of them.

Councilor Barnes asked Min why she chose to open a business in Milwaukie when she lives in Beaverton.

Min replied she has run grocery stores for 23 years, and she wants to stay in that business. She is able to handle this one, and it did not matter if it was in Milwaukie or Beaverton. She would buy one anywhere. She has had stores in Estacada, Albany, and other locations.

Councilor Lancaster asked Min why her husband did not come to the hearing.

Min said he would not be running the store, so she did not think he had to be at the hearing. He is not interested.

III. A. 6

Councilor Stone understands the husband will not be running the store, and he will not be there on a day-to-day basis. Where will he be if this is a family-run business?

Min said he has his own business, AC Janitorial Service.

Councilor Stone understands only Min will be running the business and asked if there would be other employees.

Min replied her nephew and his wife would help her. She has not had an OLCC violation in 23 years.

Councilor Stone asked how much monthly revenue is generated by alcohol sales.

Min said many stores sell beer and wine. If her store does not have beer and wine, she will lose other sales in snack foods. The percentage of sales is not that great but will result in fewer sales of other items. She has alcohol in all of her other stores.

Councilor Lancaster asked if she and her husband were running the business together when the other violations occurred.

Min replied they were. The time OLCC sent the minors to the store, he became very nervous. She saw him check the identification, so she thought it was all right. The OLCC people confused him, and he read it wrong. The other time, about 15 – 17 years ago, the temporary employee was not trained well. He was an owner of another grocery store, so she thought he knew everything. He was a temporary for summer vacation.

Councilor Barnes understands the store is open.

Min explained she has a temporary license.

Councilor Barnes asked the ages of people coming into the store now.

Min said all ages come in, but not many young people try to buy beer any more. There used to be more. She owned Eric's market about 12 years ago and a lot of young people tried to buy alcohol but not so much now.

Councilor Stone asked Min is she would have the equipment that verifies identification?

Min said she does not intend to have that equipment. If young people try to buy alcohol with other identification, the machine does not help. The photo identification is more important. If OLCC requires her to have it, she will.

Correspondence – None.

Testimony in Support – None.

Testimony in Opposition – None.

Neutral Testimony – None.

Staff Rebuttal

Kanzler said as a point of clarification OLCC laws indicate a person must be 26, and if the seller thinks the person might be under that age, he must ask for verification of identification. That is 3 pieces of identification. If there is a question about the identification, the person is supposed to be refused service. The obligation is on the seller, not the buyer. Kids will go to a place they know they can get away with buying liquor. This applicant has a history of liquor sales to minors. It is his obligation to bring this to the City Council's attention in making the decision.

Applicant Rebuttal – None.

Close Public Hearing -- **Mayor Bernard** closed the public hearing at 6:40 p.m.

Council Discussion

Councilor Lancaster made a point of clarification that the municipal code section cited at the beginning of the hearing should have been 5.40.060.

Councilor Loomis has been in the Min's store on several occasions, and they have done a nice job. He thought it was an asset because the building had been run down. He referred to Stone's question on the income from alcohol, and from his experience in working part time in a convenience store, he knows cigarette and alcohol sales are the mainstay. In his opinion, Min will not be in business without those sales. His concern is the police department's opinion that minors will be illegally served. He is wavering between putting stipulations on the application because they have already invested a lot of time and money. He knows how tricky kids can be, and he has never seen anyone ask for 3 pieces of identification. Maybe that needs to be enforced more. It is difficult for him to hold Min accountable for the temporary employee, although she should have trained him better even though he had been in the business. He is open to ideas from the rest of Council.

Mayor Bernard is leaning toward denial because a professional recommends it. He feels it is the responsibility for a person purchasing property to find out if it is feasible to open the business by checking the codes. The person, not the seller or the City, is responsible. There are violations in the past, and he finds it difficult to believe a husband that has a janitorial service would not hang around the store during the day.

III. A. 8

Councilor Lancaster will oppose the application. If the chief says “no” that it is good enough for him. In looking at the facts, the things that stand out to him are. The violations occurred in 2001. The campaign and importance of liquor and minors has been well known for decades, so in those terms, this is a very recent violation. It should be a no-compromise policy for any business. There are 2 distinct violations that demonstrate a complete disregard not only for the intent but the letter of the law. Min indicates she has been doing this business for 23 years, and after that time a person should know how to do it right. You know when and how, if you chose, to cut corners in the interest of more revenue versus upholding the law. He does not find it credible that a husband and wife would not involve each other in each other’s business even if legally separate. He is troubled the he chose not to be at this meeting. That says something to him about the whole character of the way this business is conducted.

Councilor Barnes thought the chief made an excellent case. Her only concern with what Councilor Lancaster said was that she and her husband have separate business entities. Although they discuss things, she never gets involved in his business. She believes that a wife and husband can run a business separately. Councilor Barnes’s concern is that, as Min herself stated, could come to the business. With her background as a teacher, if she has any opportunity at all to saying “no” to serving alcohol to teenagers in this community, she will deny it. Because of her concern with the young people she cannot open the door.

Mayor Bernard commented that OLCC is the final decision maker, and it may still allow the license. As a City official, he feels it is his responsibility to protect the citizens. If OLCC would like to take on that responsibility it is welcome to do so.

Councilor Stone agreed with a lot of what has been said but was still concerned about putting someone out of business if the Council’s recommendation is to deny. Mr. Min’s conduct has caused this problem, and why should this woman be subjected to that when she did not break the law. The neighborhood was notified of this application, and there has been no public opposition. This makes her feel better about approving this; however, she would recommend the application with stipulations. She might even go so far as to say the husband could not be in the store. She further suggested requiring that the identification verification equipment be installed and used. No one wants to see Min go out of business, and liquor sales are important in keeping the business thriving. In light of the poor economy, she is leaning toward approving the application with conditions.

Firestone advised the City Council if the motion is to deny the application, it must adopt findings of fact to support the denial. If the City Council is going to deny, it should have discussion of the findings of fact or be part of the motion. These would be the facts upon which the decision is made. For example, the Council might say there have been past liquor license violations in businesses the applicant has manager; or the applicant’s husband provided money to purchase the business and he has a history of liquor

license violations. These findings must be facts that were the basis of the decision. A simple motion may be made if the City Council wishes to recommend approval. If the motion were to recommend approval with conditions, then The City Council would need to state those conditions.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to recommend OLCC deny the application because of the applicant's record of violations of state alcohol liquor laws.

Councilor Barnes understands the applicant, Mrs. Min, did not violate the laws.

Kanzler said, since Mr. Min is what might be called a hidden partner, OLCC also investigates him as well as Mrs. Min. She did not violate the laws. He is a contributor to the license application process, and he was found to have 2 separate stipulated convictions. In effect, they are co-applicants.

Firestone if the City Council wants to make the motion along the lines of the one made, the findings would need to be something to the effect that, there have been past liquor license violations in businesses the applicant has managed. One could also state based on the applicant's husband that applicant's husband provided the money to purchase the business, and he has a history of liquor license violations.

Councilor Barnes understands Mrs. Min managed the facility and is the person named on the application. Since she is applying to run this facility and sell liquor from her stores, Barnes would focus on the fact the Mrs. Min managed the facility.

Councilor Lancaster moved to make friendly amendment replacing the findings that: (1) there have been past liquor license violations in businesses the applicant has managed; and (2) that the applicant's husband provided the money to purchase the business, and he has a history of liquor license violations. Mayor Bernard, who made the motion agreed, and Councilor Lancaster re-seconded.

Councilor Barnes would support the denial if based on Mrs. Min's history only. She does not see his name on any of the paperwork.

Councilor Lancaster pointed out the chief say there is a piece of paper missing, and the Min's, in fact, are legally co-applicants.

Min said OLCC looked at Mr. Min's history, but she is the one who will be responsible.

Councilor Lancaster said because he financed it, the Min's are co-applicants.

Firestone said according to OLCC procedure information must be provided on other persons who are not direct applicants. He believes the City Council would have to take the application at face value as to who the applicant is, but that is not to say others somehow involved in the business should not be considered. The City Council may

III. A. 10

consider the situation of someone who would have at least some involvement in the business. The OLCC required the personal information on that person, and that may be taken into account. To be conservative, he did not believe Mr. Min should be referred to as the applicant. Firestone understood the motion was to recommend denial to OLCC based on the following findings of fact: (1) there have been past liquor license violations in businesses applicant has managed; and (2) applicant's husband provided money the money to purchase the business, and he has a history of liquor license violations.

Councilor Loomis was in favor of Stone's suggestion of approving the application with stipulations that the identification verification equipment be installed, the husband is not allowed to operate the register or sell alcohol, and any future violations would result in the license being revoked.

Councilor Stone felt strongly this is a case of a husband committing the violations and the wife is being penalized by perhaps not being allowed to operate a viable business. She would recommend not allowing the husband on the on premises.

Councilor Lancaster thought that would be unenforceable. He is not unsympathetic to promoting business in Milwaukie, but the machine is useless if a person with valid identification but is visibly intoxicated also gets served. He sees across the board disregard. As the chief says, past behavior is the best predictor of future performance.

The group discussed documentation of Mr. Min's history.

Swanson said Kanzler provided testimony to the effect that Mr. Min sold alcohol to a visibly intoxicated person.

Councilor Stone understands Mrs. Min did not sell alcohol to an intoxicated person.

Min responded she never had.

Firestone added there is no evidence that she has ever done so.

The motion failed with the following vote: Mayor Bernard and Councilor Lancaster aye, and Councilor Barnes, Councilor Loomis, and Councilor Stone nay.

It was moved by Councilor Barnes and seconded by Mayor Bernard to deny the application based on the fact she was the manager that had OLCC violations on 2 separate occasions.

Councilor Loomis said a lot of licenses would be pulled if that were the reason for denial. This happens in a lot of establishments, and to hold Min to that standard did not seem fair. He felt there should be stipulations, and if there are violations, the license would be revoked. He is concerned since Mrs. Min is the applicant, and she is being punished for his crime.

Mayor Bernard understands OLCC, not the City, would have to pull the license. This could go on and on if OLCC adds stipulations, and he believes that if an employee sells alcohol the owner is responsible.

Firestone explained the licensee is responsible for the violation. If there are enough violations, the OLCC can decide to pull the liquor license. OLCC has a variety of enforcement options that depends on egregiousness of the offense and how often it happens. There is a procedure for warnings, fines, suspensions, and terminations.

Kanzler said on the first violation, Min negotiated the fine with OLCC and installed the age verification equipment. Less than a year later, while that equipment was in place and operating, alcohol was sold to a minor, and there was another OLCC action. Kanzler added this is the first time he brought an application before Council recommending denial.

Councilor Stone asked if employees were typically investigated with background checks.

Kanzler said if a licensee is cited, it goes on their record with the OLCC and criminal court system as a stipulated conviction because it is a violation of state statutes. If a person reapplies for a license after receiving a citation it is on the record. The owner and licensee is also responsible for employees' conduct, and that appears on a persons record.

Firestone said as part of the license application, the applicant could be an individual or any other form of business entity. Regardless of the type of applicant, there is a list of people who are investigated. Personal information on people like Mr. Min is typical.

Councilor Stone understands the OLCC license was not revoked because of the violations in Newberg.

Kanzler responded the business had been sold. Min sold the business and then worked as an employee. The second license violation occurred after Min sold the business, so it was not his license to lose.

Councilor Stone asked if Min's license would have been revoked if he had stayed the owner.

Kanzler said that would have been OLCC's decision.

The motion to recommend denial of the application for an OLCC license for Kimmy's Market and Teriyaki based on the finding that the applicant was the manager of facility at which there were 2 OLCC violations. Motion passed 3 – 2 with the following vote: Mayor Bernard, Councilor Barnes, and Councilor Lancaster aye; Councilor Stone and Councilor Loomis nay.

III. A. 12

OTHER BUSINESS

Repeal Municipal Code Chapter 1.20 – Compensation for Reduction in Property Value – Ordinance

Swanson said at the November 2000 general election Oregon voters appeared to approve Measure 7 – the constitutional amendment that provided for compensation to private property owners for the cost of restrictive regulations that reduce the value of real property. The City Council immediately in preparation for implementation of Measure 7 adopted Ordinance No. 1882, which was incorporated into the municipal code as Chapter 1.20. It provided procedures to implement Measure 7. Two years later Measure 7 was voided in its entirety, so this chapter of the code is moot. If the proposed ordinance were adopted, it would repeal Ordinance No. 1882 and Municipal Code Chapter 1.20.

It was moved by Mayor Bernard and seconded by Councilor Barnes for the first and second reading by title only and for adoption of an ordinance repealing Ordinance 1882 and Municipal. Code Chapter 1.20.

Councilor Lancaster thought it was likely a similar measure would come before the voters in the future. The City should be prepared to address the issue again.

Motion passed unanimously. The city manager read the ordinance twice by title only.

The city recorder polled the Council: Mayor Bernard, Councilor Barnes, Councilor Lancaster, Councilor Loomis, and Councilor Stone aye; no nays.

ORDINANCE NO. 1921:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REPEALING ORDINANCE NO. 1882 AND MILWAUKIE MUNICIPAL CODE CHAPTER 1.20.

Electric People's Utility District (PUD) in Multnomah County

Mayor Bernard brought forward a resolution being considered by area counties and cities stating opposition to the formation of an Electric People's Utility District (PUD) in Multnomah County. He has been asked to testify, and he felt it was appropriate to ask the Milwaukie City Council if it supported the draft resolution. He would like to see PGE stay as a business if possible. He would be in favor of a regional organization if that were needed. Several cities including Hillsboro and Gresham have voted against the formation of the PUD. PGE has asked him to testify. He asked the Clackamas County Commissioners if they were interested in his participation and is waiting for their response. He is open to comments from the rest of the Council.

Councilor Lancaster thinks the proposed resolution accomplishes the intent at this stage, and he is willing to move forward with it.

Councilor Stone would like to have a brief discussion of the pros and cons of PUDs.

The group agreed to discuss this at a later meeting.

Resolution Setting Fees for City Services for Fiscal Year 2004

Project Manager Jeff King presented the staff report. Periodically, staff considers fees based around cost recovery and reviewing fees in neighboring community. This year there are several updates including building, planning, billable rates, and library past due charges.

It was moved by Mayor Bernard and seconded by Councilor Barnes to adopt the resolution setting fees for fiscal year 2004 in its amended form.

Councilor Loomis asked if these fees were in line with other municipalities.

King said these fees are comparable to other cities. He discussed the desire to make the building department self-sufficient from the general fund transfer. He noted the billable rates have gone down and better reflect actual costs of services.

Motion passed unanimously.

RESOLUTION 16-2003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON SETTING FEES FOR SERVICE; CLASSIFYING THE FEES IMPOSED BY THIS RESOLUTION AS NOT SUBJECT TO ARTICLE XI, SECTION 11B OF THE OREGON CONSTITUTION;

Councilor Loomis invited people to join long time Milwaukie residents on a tour of the downtown on May 18 to get a perspective of what Milwaukie was like in the 1930's and 1940's. Representative Tomei and other honored citizens will be in the Council Chambers to talk about the City and answer questions. That is also opening day for the Sunday Farmer's Market.

Adjournment

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

Mayor Bernard adjourned the meeting at 7:25 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

Through: Mike Swanson, City Manager
Alice Rouyer, Director of Community Development and Public Works
Paul Shirey, Director of Engineering

From: Paul Roeger, Civil Engineer

Subject: Lava Drive Pump Station Replacement
Bid Award

Date: May 7, 2003 for May 20, 2003 City Council Meeting

Action Requested

Authorize the City Manager to sign a contract for the Lava Drive Pump Station Replacement Project with Western Underground, Inc., in the amount of \$234,221.90 (includes a ten percent project contingency).

Background

This project is in the 2002/2003 Capital Improvement Plan (CIP) and has been identified as a priority improvement project. It will eliminate a confined space entry problem and provide a pressure regulator for the fire pumps, thereby preventing over-pressurization of water lines during a fire and protecting connected properties from water damage.

An easement has been negotiated with ODS, owner of the property at the southeast corner of Lava Drive and Riverway Lane, where the City intends to install the pump station.

The existing pump station at the northeast corner of Lava Drive and Waverly Court (across the street from the new location) will be demolished by cutting the top off

III. B. 2

port -- Lava Drive Pump Station Replacement, Bid Award

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three feet below ground, punching holes in the bottom, and filling the hole with dirt and topsoil.

The Planning Commission reviewed and approved a Community Service Overlay for the facility at its May 13, 2003 meeting.

A project vicinity map is attached. Project bid advertising was completed as required. Nineteen sets of plans were sent to potential bidders. Sixteen contractors attended a mandatory pre-bid meeting. Eleven bids were received for the April 17, 2003 bid opening. A brief bid summary follows, including the engineer's estimate.

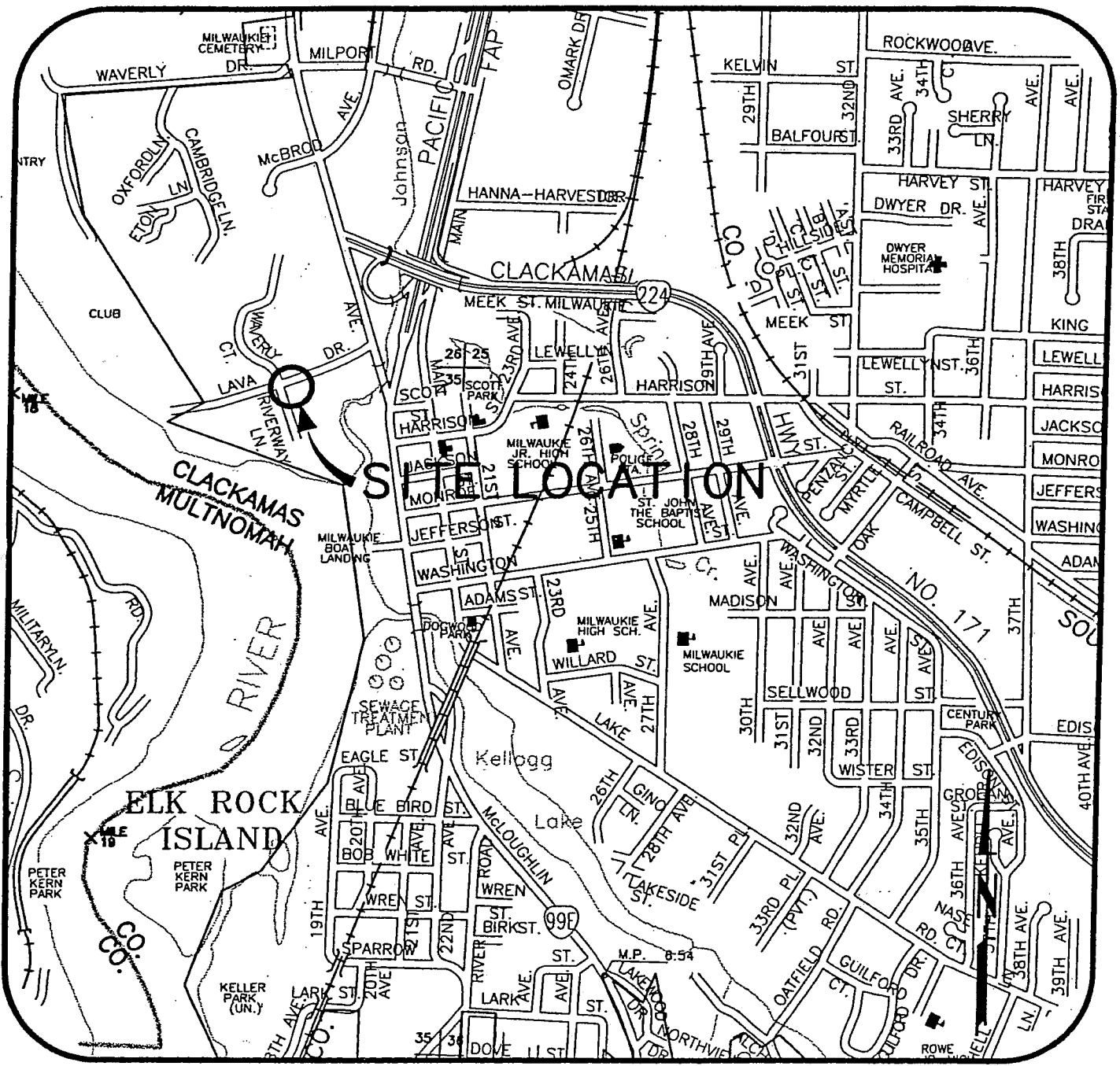
The engineer's estimate was less than the low bidder's price. This is due in part to the fact that the engineer's estimate was not updated following a decision to increase the pump size from 75 horsepower (HP) to 100 HP and to changes made in the control center.

The low bid was received by Western Underground, Inc. Western Underground has not worked for the City before. Staff checked references and is satisfied with this contractor's performance.

Fiscal Impact

\$150,000 is budgeted in the FY 2002-03 Water Fund for these improvements. The additional costs will be covered with unexpended capital funds of approximately \$150,000 in this year's capital budget in the Water Fund. Contingency funds are also available in the Water Fund budget.

Contractor	Bid
Western Underground, Inc.	\$212,929.00
DM Excavating	\$229,196.00
Landis & Landis Construction	\$232,160.00
Clackamas Construction	\$243,000.00
DaNeal Construction	\$244,615.00
Range of Other Bids	\$249,353.00 to \$308,725.00
Engineer's estimate	\$192,100.00





To: Mayor and City Council

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

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

Subject: Design Services Contract with David Evans and Associates for
McLoughlin Boulevard Improvements Project

Date: May 5, 2003, for May 20, 2003, City Council meeting

Action Requested

Authorize the City Manager to execute a contract with David Evans and Associates (DEA) for an amount not to exceed \$684,000 (\$621,500 for preliminary engineering plus a 10% contingency) to provide preliminary engineering and design services for the McLoughlin Boulevard Improvement Project.

Background

The City of Milwaukie received a federal grant of \$1.9 million to acquire right-of-way and to provide preliminary engineering for the McLoughlin Blvd. project in 2001. An RFP for engineering design services was published in March 2003. Six qualified design teams submitted proposals, and the top two firms were interviewed by a team comprised of City staff and an outside representative. DEA was selected as the most qualified team.

Because most of the project is funded with State and federal dollars, the City is required to follow strict federal and State contract administration processes. ODOT will review the contract between the City and the consultant and insure that federal

III. C. 2 Design Services Contract/McLoughlin Boulevard Project

requirements are being met throughout the design and engineering process. The project schedule is as follows:

<u>Project Phase</u>	<u>Beginning Date (month, yr.)</u>	<u>Ending Date (month, yr.)</u>
Preliminary Engineering	June 2003	Dec. 2003
Right-of-Way Acquisition	Nov. 2003	May 2004
Final Engineering	Jan. 2004	July 2004
Construction	Sept. 2004	Sept. 2005

Concurrence

Community Development, Planning, Engineering, Finance, and Neighborhood Services staff all support moving forward with the project. A staff team from these departments will participate in the project along with a Technical Advisory Committee that includes representatives of ODOT, Federal Highway Administration, and others. A public outreach program will be implemented during the design process to incorporate interests of stakeholders including downtown businesses, residents, the Riverfront Board, and others.

Fiscal Impact

The federal grant for this project provides nearly ninety percent (89.73%) of the cost, and the City is required to provide a local match of approximately ten percent (10.27%). A State grant has been approved for construction of the project that also requires a local match contribution. City of Milwaukie match for both grants will come from the Streets Fund and will be paid in phases over the next two fiscal years. About \$47,000 in match funds has been deposited to date. Another \$87,000 in match funds is included in the 2003/2004 budget. The remaining match of \$120,000 will be proposed in the 2004/2005 budget.

Local match requirements could change based on potential credits for past right-of-way acquisitions, or repayment for right-of-way not used for the project. Staff will keep the Council informed if any local match requirements are changed throughout the process.

Work Load Impacts

The Engineering Department will manage the project consultant with support from Neighborhood Services, Community Development, Planning, and Finance during the public involvement process. The project is part of the work program for all departments.



TO: Mayor and City Council
FROM: Mike Swanson, City Manager
DATE: May 7, 2003
RE: Adoption of City Traffic Code and Minimum Fines

Action Requested

Adoption of an ordinance making both the State Traffic Code and the Oregon Administrative Rule pertaining to federal safety regulations of motor vehicle carriers violations of the City code and establishing the minimum fine for a violation of each as not less than fifty (50) percent of the maximum fine possible.

Background

The City's policy has been to vigorously enforce the traffic laws in order to better provide for the safety of the public. Both those who are traveling and those who live within Milwaukie's neighborhoods benefit from a more strict enforcement. In addition, our aging infrastructure demands that we pay closer attention to the punishment that our roads and bridges take from vehicles that carry too much for the structures to bear.

But enforcement is effective as a deterrent only if it can be backed up by real consequences. Penalties that do not have a significant impact do not change behavior. Thus, we see many states doubling the fines in school and road worker zones. The policy underlying both recognizes that there are vulnerable parties present who may well be harmed by traffic violators. If you impose real financial pain through fines, the deterrent effect may prevent loss of life or serious injury.

It is the same with the City's traffic enforcement. At present the City cites violators pursuant to the State Traffic Code. Fines are levied pursuant to that Code, and the City may not exercise its discretion to establish a stricter fine structure in order to further deter traffic violations. It is necessary for the City to adopt its own traffic code in order to control the fine structure. Thus, the ordinance proposes adoption of the State Traffic Code. Citations for traffic violations will now be violations of the City's Municipal Code and not of State law.

VI. A. 2

Adoption of the Oregon State Administrative Rule adopts the federal safety regulations for motor carriers, including the weight restrictions. This ensures that those who drive trucks between states have knowledge of the violations.

Finally, by adopting the above as violations of the City's Municipal Code, the City can adjust the fines. Therefore, each of the fine structures that are adopted are adjusted by establishing a minimum fine not less than fifty (50) percent of the maximum established, exclusive of all court costs and levies. This is the point at which the deterrent effect will take effect.

Financial Impact

There will be a financial impact in increased revenues to the General Fund. However, I have not been able to project an additional revenue. Until we have some actual experience.

Concurrence

The City Manager, City Attorney, and Police Chief concur with this proposed action.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADDING A NEW SECTION 1.12.020 ADOPTING STATE TRAFFIC VIOLATIONS AND WEIGHT RESTRICTIONS AS VIOLATIONS OF THE MILWAUKIE MUNICIPAL CODE AND ESTABLISHING FINES FOR VIOLATIONS OF THE PROVISIONS

WHEREAS, the City Council of the City of Milwaukie recognizes that two major policies underlying the State traffic codes and administrative rules requiring limits on vehicle weights are ensuring the safety of the public and preserving the investment in the public infrastructure; and

WHEREAS, major regional and State traffic routes flow through the City, and those routes generate traffic through City neighborhoods; and

WHEREAS, the said major traffic routes generate truck, bus, and other vehicular traffic, placing a great demand on the local infrastructure; and

WHEREAS, the City Council of the City of Milwaukie recognizes the interest of the City in ensuring both the safety of its citizens and the driving public; and

WHEREAS, the City Council of the City of Milwaukie recognizes the interest of the City in ensuring the protection of the public's investment in the transportation infrastructure; and

WHEREAS, ORS 221.410 provides that "[e]xcept as limited by express provision or necessary implication of general law, a city may take all action necessary or convenient for the government of its local affairs;" and

WHEREAS, Chapter II, Section 4, Milwaukie Charter of 1975 grants to the City "all powers which the constitutions, statutes, and the common law of the United States and of this state now or hereafter expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers;" and

WHEREAS, local enforcement of all aspects of the traffic system will ensure that the City can better serve to satisfy the dual interests of protecting the public safety and investment in the public infrastructure; and

WHEREAS, a minimum fine or deterrent will create a greater deterrent to code violations.

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

Section 1. Section 1.12.020 of the Milwaukie Municipal Code is added to read as follows:

1.12.020 Traffic Violations

- A. Violation of Oregon Revised Statutes, 2001 Edition, Chapters 153 and 801 through 826 is a violation of this code and an offense against the city.

- B. Any person violating subsection A of this section shall be subject to a fine as set forth in Oregon Revised Statutes, 2001 Edition, Chapters 153 and 801 through 826. In all cases in which a violation is found, the fine or penalty imposed must be at least fifty (50) per cent of the maximum penalty or fine, exclusive of all costs and assessments.

- C. Violation of Oregon Administrative Rule 740-100-0010 is a violation of this code and an offense against the city.

- D. Any person violating any provision of subsection C of this section shall be subject to a fine as set forth in Oregon Administrative Rule 740-100-0010. In all cases in which a violation is found, the fine or penalty imposed must be at least fifty (50) percent of the maximum penalty or fine, exclusive of all costs and assessments.

Read the first time on _____, 2003, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the Council on _____, 2003.

Signed by the Mayor on _____, 2003.

James Bernard, Mayor

ATTEST:

Pat Duval, City Recorder

APPROVED AS TO FORM:
RAMIS CREW CORRIGAN &
BACHRACH, LLP

City Attorney

Ordinance No. _____



TO: Mayor and City Council

FROM: Mike Swanson, City Council

DATE: May 7, 2003

RE: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON IN OPPOSITION TO THE FORMATION OF AN ELECTRIC PEOPLE'S UTILITY DISTRICT (PUD) IN MULTNOMAH COUNTY

Possible Action

Discussion of and a possible motion on whether to adopt a proposed resolution urging disapproval of the formation of an electric PUD in Multnomah County.

Background

ORS 261.007 provides that a PUD may "supply public utility service, including water, water power and electric energy for all uses and users."

A petition to form the Multnomah County PUD was filed with the County pursuant to ORS Chapter 261 governing People's Utility Districts. ORS 261.151 requires that the Office of Energy conduct a hearing on the proposed district formation and issue a report. A copy of that report dated April 18, 2003 is attached. It makes no recommendation as to the feasibility of the proposal, but it does provide some valuable background on PUD issues.

The original draft resolution submitted has been changed in a couple of respects:

- The draft resolution cites the loss of "property taxes and franchise fees paid by PGE and Pacific Power," as a reason for opposition. However, the PUD would not be exempt from the liability for franchise fees, so that reference has been deleted.

VI. B. 2

- The draft resolution concludes with a resolution opposing both “the formation of the PUD and subsequent condemnation and forced government takeover of the Portland General Electric’s distribution system assets in Multnomah County.” At this point the process is one of formation of the PUD. Anything beyond that assumes more than can reasonably be assumed. As the report from the Office of Energy concludes, the issues surrounding this and many other questions “are complex issues requiring extended review and analysis.”

**REPORT ON THE PROPOSED
MULTNOMAH COUNTY PEOPLES' UTILITY DISTRICT
BY THE
OREGON OFFICE OF ENERGY
APRIL 18, 2003**

**Report on the
Proposed Multnomah People's Utility District**

**By the
Oregon Office of Energy**

April 18, 2003

Introduction

This is the Oregon Office of Energy's report on the proposed Multnomah County People's Utility District (PUD). Under ORS 261.151, the Office of Energy must hold a hearing and issue a report not less than 30 days and not more than 60 days after receipt of a petition to form a PUD.

The statute provides that the report should be concise and should address the availability and cost of power or water resources, potential tax consequences and any other information relevant to the proposed formation of the PUD. In preparing the report, the Office of Energy is to obtain the advice and the assistance of the Public Utility Commission. A copy of the report is to be provided to the county governing body.

This report is not intended to take the place of a detailed feasibility or engineering study. The time provided by law for the Office of Energy to conduct a hearing and to issue a report precludes a more in-depth analysis which an engineering study or a detailed feasibility study could provide. Upon completion of this report the Office of Energy has no further role in this process.

The Office of Energy consulted with the Public Utility Commission in the preparation of this report as required by law. The contents and conclusion of the report, however, are solely those of the Office of Energy. The Public Utility Commission did provide a letter through its Assistant Attorney General. The letter discusses the role of the Commission to protect regulated ratepayers in the event of an attempted condemnation by a publicly-owned utility of utility property owned by an investor-owned utility. A copy of that letter is included as an attachment to this report.

Background

A petition to form the Multnomah County PUD was filed with Multnomah County, certified by the county and received by the Office of Energy on February 21, 2003.

The proposed area of the PUD would include all of Multnomah County except the areas within the boundaries of the existing Interlachen PUD and the Rockwood Water PUD. Currently, the electricity providers in Multnomah County covered by the proposed PUD are Portland General Electric (PGE) and PacifiCorp.

Pursuant to ORS 261.113, the PUD chief petitioners also propose the question of whether the proposed PUD would be authorized to impose a one-time special levy of 3 mills per one thousand dollars of assessed valuation (equal to \$3 per million of assessed valuation) to finance an engineer's report and the election under ORS 261.355(1)

Summary of the Hearing

The Office of Energy held a hearing on April 7, 2003, at the State Office Building in Portland, Oregon. Approximately 100 people attended the hearing. More than thirty people testified at the hearing. A list of those who testified is attached.

In addition, written comment was accepted through Friday April 11. Sixty written comments were received. A list of those who provided written comments is also attached.

Supporters of the proposed PUD explained the purpose of forming a PUD and their reasons for supporting it. These reasons included among others the following:

PUD supporters believe that there are many advantages which would result from local control over electricity service which a PUD would provide; there are potential advantages in the price of electricity through access to BPA power; there are reduced operating costs by a PUD being a non-profit governmental entity; and there are tax savings to the customers of a PUD from the absence of corporate income taxes which a PUD would not have to pay. In addition, the PUD supporters believe that the PUD could acquire through condemnation any generating and distribution assets it needed to serve its load. They also believe that the absence of privately-held stock would assure that decisions made by a PUD on electricity service are made only with the interests of consumers in mind.

The PUD supporters also believe that the PUD would have financial advantages over an investor-owned utility by being able to issue tax-exempt bonds and to acquire resources through condemnation at "book value". In addition, they believe that removing PGE ratepayers from the Enron corporate entity is in the interests of electric ratepayers and consumers. In the case of PGE, PUD proponents believe that a bankruptcy court could order sale of PGE assets to pay off Enron creditors and that the interest of ratepayers would not be considered in such a sale. They also believe that questions of funds withheld for income taxes but not paid by Enron provide additional reasons to form a PUD.

VI. B. 6

Opponents of the proposed PUD also provided a number of reasons for their opposition. These reasons included, among others the following:

PUD opponents expressed concern about the impact of forming a PUD on PGE and PacifiCorp customers who are not in Multnomah County; the impact on the local economy of replacing a private business with a governmental entity including loss of tax base, elimination of private sector jobs, loss of charitable contributions, loss of public purpose funding and other adverse impacts. PUD opponents also believe that forming a PUD sends an anti-business message by replacing a private business with a governmental entity; and the PUD would lack independent regulatory oversight which the Oregon Public Utility Commission currently provides over investor-owned utilities.

Those opposing formation of the PUD also stated that they believed it was unlikely that a new PUD would have access to BPA power; that the PUD would need to incur a large amount of indebtedness to acquire utility assets from PGE and PacifiCorp; and that the ability of the State of Oregon to continue to use tax-exempt financing for housing, economic development and other purposes would be adversely affected if a new PUD issues tax-exempt bonds. They also expressed concern about the loss of two corporations with a large presence and their corporate headquarters in Portland, the loss of many skilled and dedicated workers, and the likelihood that a new PUD would have to acquire resources on the volatile open market, which could result in higher rates. They also believe that a PUD does not have condemnation authority over generating power facilities.

Discussion of Major Issues

Access to BPA Power

Consumer-owned utilities in the Northwest, including PUDs, have traditionally had access to wholesale power from the Bonneville Power Administration (BPA). In the past, such utilities have usually had the option to contract with BPA for as much power as they have needed. However, negotiations are currently underway for a major revised agreement between BPA and the region's utilities for future access to BPA power because of the limits of BPA's resources compared to demands of the region's utilities.

The proposed "slice agreement" currently under discussion would begin in 2006 and limit the amount of power available to new publicly-owned utilities. It is not clear whether the proposed slice agreement will be adopted by BPA, but it is likely that BPA will have difficulty in acquiring additional low-cost resources to serve a new large load formed by a new PUD. Moreover, BPA's wholesale rates have increased substantially in the last few years as a result of supply and price problems in the wholesale market. These factors make it difficult to determine whether any substantial rate benefit would occur if a new PUD had access to BPA power for a substantial part of its resource load.

Access to BPA power at BPA's lowest cost-based rate is also uncertain even under the status quo. Currently until October 1, 2006, any new publicly-owned utility would have access to BPA power at prices above BPA's lowest cost-based rate. The higher rate charged by BPA is intended to reflect the additional costs of serving new utility customers. BPA is also considering alternative pricing policies that could affect the price at which a new PUD could buy power from BPA.

Acquisition of Other Resources

ORS 261.305 provides that people's utility districts have the power "...to acquire, develop, and otherwise provide for a supply of water for domestic and municipal purposes, waterpower, and electric energy, or electric energy generated from any utility, and to distribute, sell, or otherwise dispose of water, water power, and electric energy within or without the territory of such districts."

While a PUD can provide either water or electricity service, the PUD proponents indicated that their intent at this time is to provide electric service. The information provided by people who spoke at the hearing both in favor and against formation of a new PUD dealt only with issues regarding electric service.

Both PGE and PacifiCorp oppose the formation of a PUD in their service areas. Both PGE and PacifiCorp indicated that they would not willingly sell or transfer their facilities, including generating resources and distribution assets, to a new PUD. Thus, the PUD would be required to acquire assets from PGE and PacifiCorp through condemnation. In the absence of agreement between the new PUD and PGE or PacifiCorp a court would need to determine the value of any property acquired by the new PUD through condemnation.

Valuation of such assets would require a detailed engineering and appraisal study. In addition, while the PUD proponents believe that a PUD would have authority to acquire power generating resources through condemnation, both PGE and Pacific dispute that the PUD would have such authority. Resolution of the limits of PUD condemnation authority would likely also require a determination by a court.

If the new PUD did not try to acquire PacifiCorp's or PGE's generating assets it could purchase power on the open market or finance new generating facilities. The open market is very volatile and the price of power, especially for long-term contracts, is very uncertain. The costs of financing new generating resources directly by a PUD are also uncertain. Issuance of bonds by a PUD poses a number of questions requiring further study. These include whether bonds would be tax-exempt or taxable, at what cost such bonds could be issued, the impact on other public debt issued by state and local governments in Oregon and other issues.

To assure that energy conservation and renewable resources play a key part of resource acquisition by Portland general Electric and Pacificorp, Oregon's restructuring law provides that these two investor-owned utilities pay a 3% public purpose charge to

fund energy conservation, renewable resources and other public purposes. A new PUD would not be obligated to pay this 3% public purpose charge. However, the PUD may choose to fund through its rates an equivalent amount of energy conservation and renewable resources, although it would not be required by law to do so.

These uncertainties and questions cannot be easily answered without a detailed financial analysis of different scenarios, and an analysis of which scenarios are most likely to bound the range of uncertainty. The analysis required to answer these questions cannot be undertaken in the time provided by law to complete this report.

Tax Consequences

Under Oregon law, a PUD has the power to issue revenue bonds (ORS 261.355) and general obligation bonds (ORS 261.360) upon receiving voter approval. Revenues from the bonds may be used for any purpose authorized by law. General obligation bonds must not exceed two and one-half percent (.025) of the real market value of all taxable property within the district.

ORS 261.385 provides that a PUD may also levy and collect property taxes prior to receipt of operating revenues. In any one year, the tax cannot exceed one-twentieth of one percent of the true cash value of all taxable property within the PUD. Over 10 years, the tax cannot exceed in the aggregate one-fourth of one percent of the true cash value of property within the PUD.

A PUD may have access to tax-exempt bond financing for capital acquisition and possibly for some operating costs. Current federal limits on state and local tax-exempt financing make it difficult to determine to what extent a new PUD could use tax-exempt bonds for its financing. Moreover, the U.S. Treasury continues to seek further restrictions from Congress on the use of tax-exempt bonds by state and local governments, making the future access to this form of financing uncertain.

Taxable bonds, which incur higher interest charges than tax-exempt bonds, could also be issued by a new PUD, but whether they would be less expensive than the current costs of capital of PGE and PacifiCorp is uncertain, given the long history of access to the capital markets of both utilities with a variety of financial instruments.

A PUD pays no state or federal income taxes, but a PUD is subject to property tax assessment under ORS 261.050 to the same extent as property of an investor-owned utility is taxed.

Conclusion

In order to fully analyze the economic advantages and disadvantages of forming a new PUD, many questions must be analyzed thoroughly. There are also factors which could vary greatly and have significant impact on whether a PUD would have access to a supply of power at reasonable rates. For example, whether a new PUD would have

access to significant amounts of BPA power, how much BPA rates will increase, whether a PUD could condemn PGE's or PacifiCorp's generating resources and if so, at what price, what the cost of financing capital for a new PUD would be and to what extent tax-exempt bonds could be used are all factors which could impact the cost of electric service by a new PUD compared to the cost of service currently provided by PGE and PacifiCorp.

In addition, non-economic questions, such as the value of local control, the benefits of private enterprise, the role of government and other issues involving value judgements as well as economic considerations must be examined. Many of these issues were raised and discussed at the hearing and in the written comments filed in this record.

The resolution of the questions raised and the differing perspectives and differing opinions cannot be readily resolved, without more extended study and analysis of these issues. Questions such as the valuation of utility property, what utility property is subject to condemnation, access to BPA power, and the availability or lack of tax-exempt financing are all complex issues requiring extended review and analysis.

Because these issues require extensive investigation and analysis to resolve, no definitive conclusion as to the impact on rates of forming a PUD can be made under the limited time provided by state law to issue this report. In addition, other questions such as the role of private businesses compared to a publicly-owned utility system present value judgements for the voters.

The Office of Energy makes no recommendations as to whether the proposed Multnomah County PUD should or should not be formed. That is a decision for the voters to make, after evaluating many issues including the issues raised in this report.

HARDY MYERS
Attorney



PETER D.
SHEPHERD

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

April 11, 2003

Michael Graine, Director
Office of Energy
625 Marion Street NE, Suite 1
Salem, Oregon 97301-3742

Re: Oregon Office of Energy Report on PUD Formation in Multnomah County

Dear Mr. Graine;

The Public Utility Commission of Oregon has asked me, as its chief counsel, to submit comments in the Oregon Office of Energy's report regarding PUD formation in Multnomah County. The Commission made its request to me because members of the Oregon Legislative Assembly asked the agency for comments.

The Commission does not have a position regarding the formation of a PUD in Multnomah County, but it has asked me to discuss PUC statutes that may come into play and positions the Commission has taken in the past regarding condemnations by consumer-owned utilities of property owned by investor-owned utilities. The condemnations have involved distribution and generation assets. I will discuss each separately.

Distribution Assets

A Multnomah County PUD would need to acquire the distribution assets that Portland General Electric Company and PacifiCorp now use to serve their customers within the county. In cases in which a consumer-owned utility is condemning distribution assets of a utility regulated by the PUC, and thereby is also taking responsibility to serve some customers, the Commission's duty is to protect remaining customers of the regulated utility.

Under ORS 757.480, a public utility, such as PGE or PacifiCorp, may not dispose of property with a value in excess of \$100,000 unless it has the consent of the Commission. If a Multnomah County PUD condemns assets of an investor-owned utility, then the statute may not apply, as the court's award may supercede the Commission's authority. On the other hand, if there is a settlement, then it would be up to the Commission to approve the price.

There have been two recent court cases involving condemnation by consumer-owned utilities of distribution assets of PacifiCorp, one case in the Halsey area and the other in Hermiston. The Commission was involved in both cases, taking the position that fair market

value, not book value, is the appropriate standard for courts to apply in such cases. In both cases, the market value of the distribution assets was in fact well above book value. When the utility receives more than book value, the Commission's policy is to award the vast majority of the excess (i.e. the capital gain) to the remaining customers. That is precisely what the Commission did after PacifiCorp received settlements well in excess of book value for the Halsey and Hermiston assets.

The Commission gives the vast majority of the capital gain on sales of distribution assets to customers because they pay rates based on the utility's book value. If market value is below book value, customers "lose" because they return the higher book value to the utility, as well as a return on the higher book value. Conversely, when a utility sells an asset that has a market value that is above book value, customers "win" by having the Commission use the capital gain to reduce rates.

Generation Assets

The PUC was also an intervenor in a case in which Emerald People's Utility District attempted to condemn four PacifiCorp hydro-electric facilities on the North Umpqua. The Commission intervened in that case, and along with PacifiCorp, successfully prevented the condemnation. *Emerald People's Utility Dist. v. PacifiCorp*, 100 Or App 79, on reconsideration, 101 Or App 48, review denied 310 Or 121 (1990). The Commission opposed the condemnation because PacifiCorp would have had to replace low-cost hydro-electric resources with more expensive resources, thereby raising the company's rates. The Court prohibited the condemnation, finding that it was not in the public interest, as it would have lowered Emerald's already low rates and would have increased Pacificorp's comparatively high rates.

If a Multnomah County PUD is formed, and it wishes to condemn generation assets that either PGE or PacifiCorp uses to serve its customers, and if the utilities have to replace those resources with more expensive ones, then the Commission will likely oppose such a condemnation because it would not be in the interest of customers whom the Commission must protect.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Paul A. Graham
Attorney-in-Charge
Regulated Utility & Business Section

cc: Lee Beyer, Commission
Roy Hemmingway, Commission
Joan Smith, Commission
John Savage, Utility Director – PUC
Lee Sparling, Utility – PUC
Marc Hellman, ERFA – PUC

List of Those Who Made Statements at the Hearing

Denise Antoniadis, Cap, Gemini, Ernst & Young
Hank Ashforth, Ashforth Pacific, Inc.
Robin Bee, Oregon Public Power Coalition
Steve Buckstein, Cascade Policy Institute
Richard P. Burke, Libertarian Party
Liz Callison
Jean DeMaster, Human Solutions
Jay Formick, Oregon Heat
Peggy Fowler, Portland General Electric
Don Furman, Pacific Power
Frank Gearhart, Oregon Public Power Coalition
Larry Glassock, Salem Economic Development Corporation (SEDCOR)
Stephen R. Hawke, Portland General Electric
Bruce W. Hollen
Joan Horton, Oregon Public Power Coalition
Judi Johansen, PacifiCorp
Robert F. Lanz
Wayne Lei, Portland General Electric
Pamela Lesh, Portland General Electric
Bill Lindblad
Jim Litchfield, Litchfield Consulting Group
Lloyd Marbet, Oregon Public Power Coalition
Patti McCoy, Columbia Corridor Association
Dan Meek, Oregon Public Power Coalition
Lisa Melyan
Bill Miller, I.B.E.W.
Gregory R. Mowe, Stoel, Rives LLP.
Nancy Newell
Walter Pollock
Eulia Quanmishima, Oregon Public Power Coalition
Netta Mae Rymal, Oregon Public Power Coalition
Liz Trojan, Oregon Public Power Coalition
Linda Williams, Oregon Public Power Coalition
Matt Wingard, Oregonians for Jobs and Power

List of Those Who Provided a Written Statement to the Office of Energy

American Public Power Association
Denise Antoniadis, Cap, Gemini, Ernst & Young
Hank Ashforth, Ashforth Pacific, Inc.
Betty Atteberry, Westside Business Alliance
Bill Bakke, Native Fish Society
Robin Bee, Oregon Public Power Coalition
Barbara Block, Tektronix
Bernie Bottomly, PacifiCorp
Samuel Brooks, Brooks Staffing Inc.
Steve Buckstein, Cascade Policy Institute
Richard Butrick & Julie Brandis, Associated Oregon Industries
John Charles, Cascade Policy Institute
Dave Covington
Rob DeGraff, Portland Business Alliance
Jean DeMaster, Human Solutions
Rob Drake, Mayor of Beaverton
Christine Dunn, Portland General Electric
Jim Edwards, Britcher Commercial Development
Randall Edwards, Oregon State Treasurer
Kritistine Fagler
Lynn and Linda Ferrin
Peggy Fowler, Portland General Electric
Don Furman, Pacific Power
Brian Gard, Citizens Against the Government Takeover
Larry Glassock, Salem Economic Development Corporation (SEDCOR)
Carl Grossman, Public Private Partnerships
Barbara Halle, Portland General Electric
Patti Hansen
Stephen R. Hawke, Portland General Electric
Ken Hector, City of Silverton
Joan Horton, Oregon Public Power Coalition
Dmitri Jermeljanov
Judi Johansen, Pacificorp
Scott A. Lawrence
Wayne Lei, Portland General Electric
Pamela Lesh, Portland General Electric
Bill Lindblad
Jim Litchfield, Litchfield Consulting Group
Marion County Board of Commissioners
Terry McCall,
Mike McCoy, NW Natural
Mike McLaran, Salem Area Chamber of Commerce
Dan Meek, Oregon Public Power Coalition

VI. B. 14

Warden M. Minor, American Lung Association
Gregory R. Mowe, Stoel, Rives LLP.
PacifiCorp Integrated Resources Plan
Greg Peden, Portland Business Alliance
James J. Piro, Portland General Electric
Rainier H. Poersch, Leupold & Stevens, Inc.
Walter Pollock
Regional Financial Advisers Inc.
Bob Repine, Director Office of Oregon Department of Housing and Community Services
Jerry Smith, Clackamas County Economic Development Commission
Curtis Sommer
T. Michael Tallman, City of Boardman
Janet Taylor, Mayor, City of Salem
Linda Williams, Oregon Public Power Coalition
Matt Wingard, Oregonians for Jobs and Power
Gary Withers, Portland State University
Louise P. Yarbrough, Equity Foundation

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON IN OPPOSITION TO THE FORMATION OF AN ELECTRIC PEOPLE'S UTILITY DISTRICT (PUD) IN MULTNOMAH COUNTY

WHEREAS, a petition to form a Multnomah County Electric PUD has been filed with Multnomah County; and

WHEREAS, the PUD petitioners have stated that they intend to provide electric energy within the proposed Multnomah County PUD in part with assets currently owned by Portland General Electric (PGE); and

WHEREAS, partitioning the current PGE system into smaller units will cause increased costs to remaining customers outside of Multnomah County; and

WHEREAS, a PUD will create uncertainty in an economy that is already strained, promoting the view that the Metro area is "anti-business," thus sending a negative message to businesses considering the Willamette Valley area a place to locate or expand at a time when the Oregon economy is struggling; and

WHEREAS, local governments face the loss of millions of dollars annually in property taxes paid by PGE and Pacific Power; and

WHEREAS, the new proposed PUD will not have access to lower-priced BPA preference power in the foreseeable future, and, even when available, BPA rates have increased forty-five (45) percent in the last two years and are due to increase another fifteen (15) percent this year; and

WHEREAS, a start-up government utility would almost certainly commence operations with no power generation and would be dependent on the volatile wholesale market for nearly all power supply. It would sever Multnomah County from the integrated generating, transmission and distribution systems of PGE and Pacific Power;

NOW, THEREFORE, BE IT RESOLVED, that the Milwaukie City Council opposes formation of the Multnomah County PUD.

VI. B. 16

Introduced and adopted by the City Council of the City of Milwaukee on the 20th day of May 2003.

James Bernard, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis, Crew, Corrigan & Bachrach, LLP

**Riverfront Board Meeting
February 24, 2003**

Minutes

Attendees: Wall, Verbout, Martin, Green, Klein, Stacey
Staff: Herrigel, Siders

Absent: Loaiza

Minutes were approved 6-0 with a modification recommended by Wall.

Herrigel distributed copies of a grant application submitted by Michelle Gregory to Active Living By Design for funds to support a staff person to do fund raising for the Riverfront project. The funds would be channeled through Celebrate Milwaukie Inc.

Follow-up on Discussion of Boat Ramp with Oregon Marine Board

Herrigel reported on questions raised at the last meeting:

- The Road to the treatment plant is owned by the City
- The Comprehensive Plan would need to be changed if a new or upgraded boat ramp were planned for the Riverfront.
- Areas for parking on the east side of McLoughlin would be limited to areas that are not designated as retail use in the comp plan. The Cash Spot location and the Kellogg property owned by the City might be possibilities.
- The two grants that the City would (possibly) need to repay include one for \$20,000 and one for \$26,000. The latter grant was signed in 1985. All other grants are over 20 years old

The group discussed whether they felt the City should pursue a grant from the Oregon Marine Board for modifying and upgrading the Jefferson Street boat ramp.

Verbout started the discussion off with a summary of what he felt would motivate the Riverfront Board to pursue a grant. He noted that if the OMB's terms were acceptable to the group and if the boat ramp design fit into the vision for the Riverfront then the Board might pursue a grant. He suggested that he didn't feel that either of these conditions were met. He said, if the Riverfront is a catalyst to change in the City, a parking lot in the center of it doesn't do it. He acknowledged that boaters do have a right to use the boat ramp, and he didn't want to take that away, but he just doesn't want the pavement. He said we've always sold out the Riverfronts such as Oregon City and West Linn where treatment plants and paper mills consume the natural riverfront. He said he felt the ramp should stay where it is but he doesn't think it should be a huge parking lot.

VII. A. 2

Green: parking lot doesn't fit his idea of what we want the river to look like. The decommissioning of the treatment plant does have some momentum and the economics of the future use of that site wouldn't work well if a parking lot the size proposed by the OMB was in the current ramp site. He said it sounded like the OMB was looking for a long term deal and that parking and boating are a package deal.

Wall asked who paid for the maintenance for the Jefferson St facility. Herrigel and Stacey responded that the OMB would continue to pay the City for maintenance for the facility as long as it remained there and the North Clackamas Park District is responsible for doing the actual maintenance of the facility.

Verbout said he felt there was no downside to leaving the existing facility there "as is". He didn't want to see a larger parking lot down there – not the size proposed by the OMB.

Wall said he felt that time was on our side and if we didn't have to do anything at this time, we shouldn't. He felt we'd come too far to give up now. He said if we can get past the terms of all the contracts maybe the City would be in a better bargaining position.

Stacey said he certainly didn't want less than what we have now. He also stated that he was in favor of pursuing a grant with the OMB. He said he feels that there is adequate land on the Riverfront to accommodate both an open space and a boat ramp.

Martin said he'd like to see parking diminished at the current site but he'd like the ramp to stay. He said he'd like to move the parking up away from the water and over behind the tavern and would like it to be something other than pavement. He said there is too much parking now. He noted that there was really no hurry to do anything as far as he was concerned.

Martin suggested that the actual ramp that goes into the water might be fixed. Others asked if the ramp was really a problem. Stacey noted that it drops off severely and can't really be used in the drier times of the year.

Klein said the current location for the facility is not good and he felt it would be better located further south. He said he would just leave it as is for now. He didn't think it would be wise to sign a 20-year contract for anything there right now. He noted that if the City got rid of the facility there would be financial and political problems as a result. He suggested that instead of ever closing the facility we find an alternate location.

Verbout noted that the boat ramp does attract human attention to the River.

Green said he wouldn't recommend applying for a grant right now that would lock us in for several years. He said he didn't feel parking and green space both fit into the Riverfront property. He thought if we could move it south that would be great. He said he didn't really feel that the facility had a very great utility to Milwaukie residents but rather served the entire region and many outside the community. He suggested that the

(motorized) boaters were a rather small part of Milwaukie's population and that all the community should be served by the riverfront.

Stacey noted that there were 5,000 registered boaters in the 97222 zip code.

Verbout noted that the challenge is to balance the needs of the boaters with the rest of the 20,000 people in the City.

Verbout made a motion that the city apply for grant funds from the OMB in the upcoming funding cycle. Stacey seconded. The motion was defeated 5-1 (Loaiza absent).

Dave Green asked that this action be brought to the City Council's attention.

Martin stressed that it was important to convey along with their recommendation NOT to pursue grant funds, their reasons for their recommendation. Herrigel noted that the criteria the Riverfront Board had developed for a boat ramp were not met by the designs proposed by the OMB. The discussion with Ron Rhodhammel at the January Riverfront Board meeting reinforced the OMB's inflexibility on some of the Riverfront Board's major areas of concerns. The criteria were as follows:

Criteria for Boat Ramp Modification

- *The term of any project should be no longer than 5 years to allow city flexibility with the site*
- *Needs to be pedestrian friendly*
- *Needs to accommodate multiple uses (non-motorized craft, maybe a dock etc)*
- *Need a large walk along the water edge*
- *Ramp site should compliment connectivity with downtown as described in Riverfront Plan*
- *Integrate a dock so people can tie up temporarily to access lot or use facilities*
- *Move trailer parking uphill away from water to open up prime open space areas*
- *Allow parking to the north of existing boat ramp*
- *Have new parking area be constructed of pervious materials rather than pavement*
- *Treatment Plan drive should be used for parking*
- *Add green space near river*
 - *Restrict parking to upper part of property (uplands – east of river)*
 - *Minimize visual impact of paved area using mounding or landscaping*
- *Use specifications from Riverfront and downtown plan for types of lighting, landscaping etc.*
- *Develop open space to the south and west of existing ramp and area between parking lot and water for recreational uses (picnicking, play structure)*
- *Limit parking to 30 spaces (20 of which should be on the existing site and 10 of which would be sited to the north).*

VII. A. 4

- *Sign should be installed stating that the boat ramp is open 24/7 but camping is prohibited.*

Herrigel noted that the Oregon Marine Board had not seemed willing to accommodate several of these criteria. Specifically, the number of parking spots and their size and the term of an agreement seemed non negotiable.

Herigel asked the group if they felt that the City should apply for a smaller grant simply to fix the boat ramp. The consensus was that until it became clear that it was a problem, the City should not apply for a grant.

The group discussed the Washington Street access to the boat ramp (as part of the McLoughlin Project). Herrigel noted that a fully signalized intersection at Washington was being favorably considered and that the OMB might be asked to help fund the wet side approach to that.

Green asked the group if, separate from the OMB, did the Riverfront Board have an opinion on this intersection. The group was unanimous in their support of this intersection development. They said that if the City could get funding from the OMB without making any obligations regarding the boat ramp and parking facility, they recommended moving forward.

Wall asked if the group wanted to affirm that there should be a boat ramp at all. After some discussion, Verbout made the following motion:

The Riverfront Board supports the existence of a boat ramp to be located in the City of Milwaukie on the Willamette River.

Stacey seconded the motion and the group voted 6-0 in favor. (Loaiza absent)

In explaining the Board's motivation for this motion, members noted that if there are, in fact, as many boaters in the City as Stacey suggests, then the Board wants to acknowledge them and convey the message that they and their interests are valued.

The next meeting was set for April 28 at 6 pm. (Gary Klein offered to pay for dinner in April and gave Herrigel money in advance). No March meeting is to be held.

The meeting adjourned at 7:50.

**North Clackamas Parks and Recreation District
Milwaukie Center/Community Advisory Board
Minutes of March 14, 2003**

Members present: Eleanor Johnson, Sharon Phillips, Kim Buchholz, Joan Staley, Jane Hanno, Carol Storment, Jim McCready, Ben Tabler, Janet Witter, Joan Newman, Molly Hanthorn

Member excused: Alice Neely, Lynn Wright

Staff: Cheryl Nally, Pat Kennedy

Call to Order: Eleanor Johnson called the meeting to order at 10 am. Colleen Sinsel asked the Board to look over a letter and fact sheet the Friends were planning to mail. The Board thanked Colleen for sharing this information with them. The minutes were approved as corrected. Molly presented a draft of a letter to be sent to the C/CAB's three governing bodies. After some corrections and additions by the group, the Board unanimously approved the letter.

Guest and Speakers: Janet Witter and Pat Kennedy presented the book which was the result of the Center History Committee project for the 20th Anniversary. As planned, the material has been assembled in a three ring binder. Several copies of the binder will be made available for loan until such time as funds can be secured to publish copies for sale. The Board accepted the book with many thanks to Janet Witter, Pat Kennedy and the History Committee for all their hard work.

Board/Committee Reports

NCPRD Board: Eleanor reported that the Eagle Landing developer spoke, a film on the Trolley Trail was shown and Mike Henley's resignation was announced.

Budget/Finance: No meeting.

Programs and Services: No meeting.

Nutrition/Transportation: Ben reported the Providence car had been sold.

Building Review: No meeting.

History: See above.

Centennial update: Sharon reported plans are being made for a Historic Walk through downtown Milwaukie in May.

Director's Report: None.

Meeting adjourned at 11:20 am.

m. hanthorn, secretary