

MINUTES

MILWAUKIE CITY COUNCIL JULY 1, 2003

CALL TO ORDER

The 1913th 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
Councilor Stone

Staff present:

Mike Swanson,
City Manager
Gary Firestone,
City Attorney
Alice Rouyer,
Community Development/
Public Works Director
Mary Rowe,
Human Resources Director

Paul Shirey,
Engineering Director
Jay Ostlund,
Associate Engineer
Jeff King,
Project Manager

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mayor Bernard read a list of people involved with making the Centennial Festival success. Ed Zumwalt expressed his appreciation to Mayor Bernard and all those who helped put on a very organized event. He briefly discussed the riverfront event being planned for July 26 that will include music, dragon boat exhibition, and fireworks.

CONSENT AGENDA

It was moved by Mayor Bernard to move item VI.C – Cost of Living Adjustment for Non-represented Employees to the consent agenda. The motion died for lack of a second.

Councilor Stone had questions on consent item D – A Resolution Authorizing the City Manager to Sign Annual Purchase Orders Exceeding \$25,000.

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

- A. City Council Minutes of June 10 & 16, 2003;

- B. Bid Award for 2003 – 2004 Waterline Improvements, Phase 1; and
- C. Resolution No. 29-2003: A Resolution of the City Council of the City of Milwaukie, Oregon, Amending Resolution No. 29-2001 and Amending Sewer Service Charges for Properties Receiving Service from the City of Portland; Classifying the Fees Imposed by this Resolution as Not Subject to Article XI, Section 11B of the Oregon Constitution.

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

AUDIENCE PARTICIPATION

There were no participants.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

Sanitary Sewer Volume Based Billing -- Resolution

Ostlund presented the staff report. In September 2001 Council adopted the sanitary sewer volume based rate structure. On January 21 of this year, staff provided an update on the rate structure. At that time, the City was seeing revenues in excess of what had been projected in 2001. Jeannette Hahn, Financial Consulting Solutions Group (FCSG), provided the consultant's report. He pointed out an additional resolution that would increase the minimum lifeline use.

Hahn provided an overview of the study and the 3-year transition to volume based sewer rates. The City started at a rate of \$29 per unit and is now currently at \$22 per unit. The final transition would drop the rate to \$15 per unit, complete the transitions, and have an appropriate proportionality in a volume-based rate structure. In that 3-year transition, there were revenue increases built into the rate changes. Not only did the fixed rate drop and the volume rate increase, but incremental, additional revenues are generated to stay on track with inflation. Residential living units are charged \$22 and \$1.40 per ccf of metered water volume. The earlier adopted rate of \$15 would go into effect on July 1, 2003 with a variable charge of \$2.10. Reliance is shifting to volume revenues. Implicit in that change is a 4.5% increase in revenues, so rates would generate more revenue than currently being collected.

FCSG conducted an analysis that looked at preliminary budgeted operating expenditures for the utility, ongoing capital expenditures through 2008, fiscal policy requirements, and any projected debt requirements to complete the capital program. FCSG recommends the Council not adopt the 4.5% rate increase. The sewer fund has a healthy balance with about \$2 million cash on hand. The user charges are consistent

with the ongoing operating costs, labor, treatment, and maintenance. In the future, the City should assess how that fund balance is being used and how added levels of service and inflation are impacting operating costs. As costs increase, the City may see the need for annual inflationary increases which may in the future be 2% - 4%.

In terms of rate structure, Milwaukie already has the mechanism in place, and Hahn recommended the City complete its transition to a volume-based structure by assuming the \$15 fixed charge and calibrating the volume charge. She recommended after that to continue monitoring customer volumes. The 2001 projections were under what the City is actually collecting at this time. The billing system was audited and there did not seem to be any problem in the software. It turns out the customer volumes are actually higher, so the City is collecting more revenue. Currently, the City collects about 41% of its revenues from the residential class volume charges, and when the final step is taken, the number will increase to 59%. There will be a similar increase in the commercial sector. Monitoring customer patterns will continue to be important in this utility.

FSCG recommends a \$15 bi-monthly charge for a single-family house with \$1.96 per ccf. Low income residential would continue to see that discounted by half. The commercial rates would also be recalibrated slightly to make sure revenues would not increase. She provided a table showing how residents would be impacted. The average customer uses about 12 ccf, so under the current rate the bill would be about \$38.80. Under the recommended rates she just discussed, the bill would be about \$38.52. The average customer will not see a substantial change in his/her bill because the change is supposed to be revenue neutral. Completing the transition continues to have a positive impact on low volume users, and high volume users will see an increase in their bills. This will put the rates in the right proportions with a lower fixed rate and complete what was begun in 2001.

In summary, the recommended action is to forego the previously adopted 4.5% increase and amend the adopted rate structure; complete the rate restructuring; and continue to monitor the cash reserves. The upcoming master plan will identify capital improvements and replacements to be made to the system. The fund balance is a benefit to the customers as long as the City uses it to reinvest in and proactively maintain the infrastructure. Over time those cash reserves will fall as needs are identified. In summary the proposed rate structure is to drop the fixed rate to \$15 and to amend the previously adopted volume rate.

Councilor Lancaster said Hahn characterized the sewer fund as being healthy with a \$2 million balance for capital projects. He asked what projects are planned and what can be reasonably anticipated for future projects. These would be in respect to the decommissioning costs for the Kellogg Treatment Plant. There may be some accelerated costs, and Lancaster wanted to know if those were incorporated in future planning.

Ostlund said the capital projects were adopted in the capital improvement plan. The master plan will address those needs mentioned by Councilor Lancaster.

Swanson said the City is at the front end of a process that will take about eight months to determine wastewater treatment options in the entire north area. One of the three options being considered is the decommissioning of Kellogg. The problem is an entire process must be gone through to decommission a plant. The honest answer to Councilor Lancaster's question is probably "no", but those costs will be developed over the next year.

Councilor Lancaster raised the issue because there will be some significant costs related to decommissioning Kellogg. He recalled a healthy, unexpected treatment bill in excess of \$1 million. In terms of what is being considered additional revenue, perhaps the City should pay itself back for that unexpected bill before considering a rate cut. If he understands, the increase is not a function of the rate structure itself but a function of an unexpected increase in consumption. It still seems revenue neutral to him since usage is higher than expected. This is what generated the additional revenue. He sees no fault in the structure itself. Hahn said the average for the average for all users is 12 ccf, and Councilor Lancaster asked if there was any data that speaks to what the average is for customers with no history.

Hahn replied customers are charged a minimum of 4 ccf until history is established.

Councilor Lancaster understands the recommendation is to change the minimum to 12 ccf for all users.

Ostlund said the average for all users is approximately 14 ccf. The Citizens Utility Advisory Board (CUAB) recommended adopting 12 ccf as the rate people would pay under the old system with the flat rate. The City initially established the 4 ccf because it did not want to overcharge those residents. Staff is now finding actual consumption is higher. The 12 ccf is a compromise.

Hahn said it is common to set the minimum consumption at the average. The 4 ccf was done at the time in lieu of having better data. The 12 ccf is closer to typical usage.

Mayor Bernard said Councilor Lancaster brought up a good question about the surprise bill from the Service District for the update of the Kellogg Treatment Plant. He asked Rouyer how that was funded.

Rouyer said the City has an intergovernmental agreement (IGA) with Clackamas County that allows up to a 10-year repayment. The schedule is about \$135,000 annually. This year, since there was a little extra revenue, staff accelerated the payment up to \$400,000 while making a healthy transfer into the reserve account. As Councilor Lancaster indicated, Milwaukie needs to think about the future and what might happen to Kellogg. There are between 2 and 5 years left to pay on that extra capital payment.

Mayor Bernard understands this rate anticipates paying that bill off in 2 – 5 years at a lower rate. He asked the interest.

Rouyer said it is very low. This is an important question to ask each year -- should the money be put in the reserve and continue paying the low interest? This year, staff decided to accelerate the payment and put some in reserve.

Councilor Lancaster said it seems to him the rate structure is good and going in appropriate direction. The only differential is that people's utilization increased, and they are being charged for that additional volume. He thinks it is appropriate to keep the structure and use the additional revenue to accelerate the payoff of the unexpected bill, and anything beyond that is put in reserve for anticipated use. Milwaukie's economic future literally depends on moving that treatment plant, and the City needs to have funds to make sure that happens.

Mayor Bernard tended to agree with Councilor Lancaster. He has heard concerns from people that their bills are so much higher while the fact is they are actually being billed for what they use. Milwaukie's water rates are substantially lower than Portland. He suggested not changing the rates and putting money aside in the reserve fund to help aid in decommissioning the sewage treatment plant.

Councilor Loomis said during the Centennial Festival he heard complaints about the sewer charge and how it had increased. The whole idea was revenue neutrality. If more is coming in, and the City is trying to save money to get rid of a plant that is working, he does not think the citizens should have to pay extra without being asked. He would like to see Kellogg gone too. That money should be used to maintain the system, and citizens should not have to pay extra.

Councilor Lancaster said customers are not paying extra. They are paying for what they use. Based on the data he has seen, high users have been subsidized by everyone else. All that has been done is to restructure the billing process. The minimum charge covers those who use little water, and those who do not conserve and use high volumes indiscriminately are now going to pay for their share of this very precious commodity. Customers are not being charged more; they are being charged for what they use. If usage had been the same as tracked in the past, there would have been no additional revenue. It is strictly a result of increased utilization. That is appropriate revenue generation in his opinion.

Councilor Stone said they are indeed paying more; their bills are higher. She totally agrees that they are paying for what they use. They have a certain amount of control over that to offset their bills if they chose to be conservation minded. She actually likes the idea of volume-based rates. It is more fair, and she supports it.

Mayor Bernard called for a motion, and none was made. The sanitary sewer rate schedule will not be revised.

It was moved by Councilor Lancaster and seconded by Councilor Stone to adopt the resolution altering the ccf rate for customers with no history based on the Citizens Utility Advisory Board recommendation to a rate of 12 ccf. Motion passed unanimously among the members present.

RESOLUTION NO. 31-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING RESOLUTION 29-2001 AND 37-2001 RELATING TO SEWER RATES AND MINIMUM LIFELINE USAGE.

Mayor Bernard suggested applying the additional cash flow to the debt with funds reserved for future efforts to decommission the Kellogg Treatment Plant.

Councilor Lancaster suggested an article in *The Pilot* reminding people their rates are based on water use and encouraging them to conserve.

Firestone asked for a matter of clarification that Councilor Lancaster's motion was to adopt the resolution included in the packet relating to customers with no water data.

Councilor Lancaster said that was correct.

North Main Mixed Use Redevelopment Project Update

King provided the staff report updating the City Council on the status of the North Main Street Redevelopment Project. In April, the citizen selection committee recommended Peak Development for the project. Council accepted that recommendation and directed staff to proceed with negotiations. There are several components to the process: design, financing, and the memorandum of understanding that gives exclusive negotiating rights and outlines the duties and responsibilities of both parties.

At this point, staff has been meeting with Peak Development twice a month, and progress is being made on the design aspects. Several sessions are scheduled for July during which three or four design options will be considered. Staff is proposing to reconvene the North Main Developer Selection Committee in early August to provide input.

The City Council concurred with that proposal.

King said staff further proposes a community outreach program, including an open house, in September and October. The timetable is to carry out the legislative process from October through March with the Planning Commission, Design and Landmarks Commission, and City Council with construction starting about May 2004. Construction is anticipated to take about one year. King briefly discussed the retail elements of the project and potential for Metro grants.

Councilor Stone asked in terms of a marketing strategy if Peak development is going to be doing the marketing for the retail space or will the City invest time and money to seek appropriate retail?

Mayor Bernard spoke with Peak Development about this issue because the community is clear in its desire to have the development include a specialty grocery store. There is no agreement with Peak yet. Peak indicated in all of its developments, retailers come in at the beginning, but few of the original people stay with the project. Usually the retail transitions to higher quality. It is a fluid process. Mayor Bernard offered City help by putting up a sign. He has heard a lot of interest at the Sunday Market from people interested in the residential portion of the development. While the market study shows a specialty grocery would work, it is rather early to get involved.

Councilor Stone understands the answer to her question is Peak is more responsible for marketing strategy than the City.

King said the City did provide Peak with a market study done last year, so that offers some value. The City is also offering signage. Most of the cost in the specific recruiting will be borne by Peak who will be the long-term owner. Peak is here to stay and is putting in some of its own equity and reinvesting its development fee. Peak reiterated at this very early stage a retailer may provide a letter of intent, but this is a very lengthy process in which things can change. There is always the concern that a single user taking up most or all of the retail space will drive the project. Peak will keep the City apprised every step of the way. One possibility that has been discussed is a very nice restaurant and microbrewery that could be a nice fit. The City may tour a similar business in Gresham.

Consider Cost of Living Adjustment for Non-Represented Employees

Swanson said the proposed action is to adopt that portion of the pay table that applies to non-represented employees which includes management, confidential, and seasonal employees, with 3% cost of living increase. He discussed the negotiations with MPEA and AFSCME that resulted in contracts that reflect a 3% increase in these bargaining units effective July 1. That means represented employees receive a 3% salary increase effective today. The non-represented employees are essentially management or confidential employees or employees who are not full time to the extent that they are represented by one of the bargaining units. None of these employees are eligible for the cost of living adjustment negotiated on behalf of the two bargaining units. He recommends the non-represented employees be granted the same 3% cost of living effective July 1.

Swanson discussed the reasons for his recommendation. To be competitive, the City tries to maintain a pay system that maintains some equity with other local governments of similar size and similarly situated. Additionally, the City tries to maintain an internal equity between positions. For example, one would not want the police captain's salary to be static when officers consistently receive a 3% increase through the MPEA

contract. This tends to reduce incentive for someone to be in management. The second reason is over the last few years members of the management group have been asked to assume different roles. At the same time, positions are being reduced. For example, this year a management position was lost at the library. The job duties did disappear; others had to pick them up to provide service. The library lost a \$90,000 employee, and he is looking at increasing the two remaining senior librarians by 3%. The community development director, for example, has been asked to assume a significant role in the North Main Redevelopment Project. Everybody has responded.

Swanson asked in order to maintain internal equity and to recognize that additional effort is being asked as the organization downsizes that the non-represented employees be granted this 3% cost of living adjustment similar to that granted to the represented employees. The money has been budgeted but will not be released until the Council approves the pay table. If not spent, it would go into the balance of the various funds. He estimated this would cost about \$40,000 which includes salaries, FICA, etc. The expense is not just out of the general fund.

Councilor Loomis asked if this cost of living is standard? Does it happen every year, or has it been a while since these people got a raise?

Swanson said Council approved the recommendation last year. For some reason in the past the police chief and community development director were not included, but his recommendation includes those positions.

Councilor Loomis does not disagree these people are doing more, and it sounds like they are deserving. We are going through budget cuts. Just being on Council a short time and being involved in School District budget, there seems to be a real trust issue between the public on both counts. Citizens do not trust us; and we do not trust them to do the right thing. He hears they will never vote for the tax increment, road maintenance, and things like that. It is not a whole lot of money, but Councilor Loomis believes it chips away at that trust. How can you give a raise when you say you don't have any money? That is the thing he hears a lot, "I'm going to vote no because they have the money." It is a little thing, but he knows from the time he has spent on Council a time will come when the City has to ask for money. The citizens are in charge and then the people. He has heard Councilors talk about representing the people who voted for them. He thinks Council needs to look at representing everyone, not just the people who voted for them. He thinks long and hard about this all the time. He wants to vote yes, but it is really hard for him to believe the people want him to do that.

Councilor Lancaster appreciated Councilor Loomis's comments. The reason he asked to pull this item from the consent agenda was to ensure key directors were included. From his perspective, which is typically both a business and citizen point of view, there are two issues. There is merit pay, and there is cost of living. The whole intent of cost of living is to create some sort of compensatory index that does not cause buying power to erode. The merit pay speaks more to Councilor Loomis's comments about saying on one hand there is no money while giving employees big raises. That is

not what we are doing here. We are keeping the current employees somewhat level with today's economy. They are being asked to do more and are doing so with fewer resources. To him it becomes a critical issue of retaining quality employees. Milwaukie does not pay the highest salaries in the region already. The City tends to be a training ground for people to get experience and then move on to a better paying job doing the same thing. For him, adequate cost of living and addressing the compression issue is critical to retaining quality employees. In his mind, it is essential it is done and make sure the management team is part of that. The city manager chose not to take a pay increase last year, and Councilor Lancaster will not accept his not taking a cost of living increase. From his perspective it is critical to the City's staying sound as a business entity.

Swanson understands what Councilor Loomis is saying. Trust was the thing he saw as most in the need of repair when he took this position. When he comes before the City Council and recommends an increase, he also realizes this is not a wealthy community. He understands 36% of Milwaukie residents are elderly and probably on some kind of fixed income that means their purchasing power goes down. He is not making this recommendation without a great deal of feeling for those facts. Part of trust is that the City has committed to doing everything it can, even in the face of difficulties, to maintain a service level and spend time with those in the community seeking help. We are not the highest paid employees in local government; however, Milwaukie is retaining some very good people. They are not making the top salaries for their positions. He realizes, too, that part of this trust is that he has to look people in the eye and say this increase is needed. He wants to keep the team because he has really good people who could go elsewhere and make more money. He believes they are staying because they get to do some different and exciting things, and this is a good place to work. The payoff is keeping people's morale and keeping service level and response where it is. The city manager's position here is far lower paid than others, but there are things in this community he wants to see happen. This community is a jewel. He asks people to do a lot, and they are responding. He finds it difficult to make this recommendation because he knows what Councilor Loomis is talking about. He feels it is necessary because the return is there, and he needs to recognize it.

Mayor Bernard estimated the City probably saved between \$400,000 - \$500,000 with retirements. This recommendation would cost about \$40,000. That is quite a savings. He used his business's waste oil analogy in which he made an investment to save money in the future. Milwaukie has lost a lot of people and has added a tiny portion back to keep those people whose job duties have increased. Before Swanson, Milwaukie had two assistant city managers, and now there are none. The City has made some significant reductions. JoAnn Herrigel, for example, has many jobs, and each day she gets another one. Swanson is doing Michelle Gregory's neighborhood services job now. He wanted to talk about two of Councilor Loomis's comments. The first was citizen's mistrust. Being on Council and having really studied the budget, the levy failure had nothing to do with mistrust. The problem was not being able to communicate with enough people about the need and the value of Milwaukie's services. People who "voted for me" – that is a terrible thing to say. He works for the citizens of

Milwaukie. He was standing on a downtown street corner pulling weeds. A person walked up to him and said he sure wished he could have a City employee weed his yard. Mayor Bernard responded he was not a regular City employee and gets \$200 a month from the citizens. People who vote for him are the citizens of Milwaukie whether they voted for him specifically. He works for the citizens, not the people who vote for him. Swanson refused his 3% last year hoping to communicate to the people how important the levy was. That was a big sacrifice.

Councilor Loomis asked where this argument was last night when someone was being laid off.

Mayor Bernard said the City Council was adopting a budget, not laying off a person. The work is still there even though people have left the organization. His argument is that the same management is doing a lot more work. The chief, captains, sergeants, and officers will have to pick up the delivery clerk's work.

Swanson said he got lucky doing this year's budget because he was able to reduce personnel costs through retirements and resignations. Oftentimes in a freeze, it does not fall the right way. In this case he only had to cut one position. It is no reflection on that person; she is a wonderful person he has known for several years. It is the function. During a harder time, the position is difficult to justify. He could not recommend that function because when times are good it is probably affordable but not in these times. That is the reason that cut was made. Even if this non-represented COLA is not approved, Swanson could still not recommend that function.

Councilor Loomis assumed the job was important and did not realize that was a luxury job.

Swanson reiterated the action was no reflection on the person; she is wonderful. It is the function.

Councilor Stone understands this potential 3% COLA would amount to about \$40,000 and asked how many employees this covered.

Rowe said it would cover fewer than 30 management, confidential, and seasonal employees.

Councilor Stone asked if these employees received raises other than cost of living.

Swanson replied some receive merit increases based on annual evaluations while others have been with the City for a number of years and are no longer eligible for merit increases.

Councilor Stone asked how many of these people are peaked out on their salaries.

Rowe said most of these employees have reached the top step in their classifications.

Councilor Stone said these people are PERS recipients and understands the City is paying significantly more this year for PERS. She recalls it was \$300,000.

Swanson believed the original number was \$112,000 or \$250,000 but would have to confirm that.

Councilor Stone is sensitive to what Councilor Loomis is saying as well as Mayor Bernard and Councilor Lancaster. We have downsized a little bit like everybody in the public and private sector. We are doing more with less. She thinks public employees are getting pretty well paid, and retirement packages are very good if you look at the entire compensation package. She is not opposed to giving people cost of living increases to keep up with inflation as interest rates fall. She is also sensitive to the fact the City is in a budget crunch. Like Councilor Loomis said, we are seeing positions lost but continue to give increases. They have had increases thus far through PERS and their benefits packages. She is torn about this. On one hand, they are compensated by years of service and several have gotten merit increases as well.

Swanson said there are two issues relating to PERS. He was asked about that during the election. One gentleman asked how much the City spent as a total bill for PERS. After doing manual calculations, Swanson got back to this person and told him it would be a lot of money. The City administers PERS; it does not create it. He is close enough to the age of collecting PERS and knows it is a good program. He further knows many expectations, including his own, have been changed because of what is going on in Salem. It had to happen. Thinking back to what he told this gentleman, it is a good program, and he will not argue anything other than that. He also told the gentleman each time he and other employees get up in front of the community, remembering its demographics, they feel the difference. He is working for people who are not wealthy and are on fixed incomes, and he gets a much better retirement than they ever had a chance of getting. He and others who work for this organization understand they do owe people in this community a lot. Swanson does feel gratitude, but at the same time he is competing with other cities that have the same thing. He does not want them to take away some of the people the City employs right now. Milwaukie is in a good position, and it is moving forward. The reason the City is moving forward is twofold. In addition to the regular volunteers like Aschenbrenner, Ball, Michel, Howell, and Zumwalt, the community is supportive. The second reason is the City has people who are willing to translate that into positive action. Swanson desperately wants to keep that momentum going, and this is one way to do it. He knows other city manager positions pay more money, but there are exciting things here to be accomplished.

Rowe addressed questions and comments about the total compensation package. The cost to employers for PERS is increasing, but the PERS system is also being restructured. The PERS package at retirement will not be what was anticipated when employees came into the system. It is difficult to give it a dollar amount and what it means to total compensation. The City received notice from PERS yesterday that the rates would be lower than previously identified; however, another new rate will be out in

three months. The City of Milwaukie has the same health insurance package it has had for a number of years, and increased costs are shared between the employee and the employer. City employees at all levels have taken a 5% increase on both medical and dental insurance premium costs. The total compensation picture is not necessarily increasing relative to inflation because of these shared costs in the collective bargaining agreements. Non-represented employees follow those agreements.

Councilor Lancaster made a final comment on Councilor Loomis's remarks about trust. Trust is something we can never stop working on. He got into City government 5-1/2 years ago. Where Milwaukie was then and where it is today are two completely different organizations in terms of its relationship with the community and the trust issue. There will always be some level of mistrust, and to a degree nothing can be done about that. What we can do is do the right thing, demonstrate it, and be open and honest with everything at all times. That is where we are now. Councilor Lancaster's sense is compared to five years ago in the recall scenario, the majority of citizens do have trust in this body, and a lot of credibility has been established. By continuing to do what we are doing right now will make it better over time.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to adopt the City of Milwaukie 2003 – 2004 pay table with salary schedules effective July 1, 2003 for non-represented employees. Motion failed 2 – 1 – 1 with the following vote: Mayor Bernard and Councilor Lancaster aye; Councilor Loomis nay; and Councilor Stone abstained.

Authorize the City Manager to Sign Annual Purchase Orders Exceeding \$25,000

Councilor Stone earlier requested this item be pulled from the consent agenda. She understands these are annual contracts and asked how these have been handled in the past.

Swanson said typically these are handled the same way each year. He does not have authority to sign these individually, so Council must authorize him to do so. He discussed the types of purchase orders. Some, such as the one with Clackamas County Fire District #1, is an established amount. Others, such as Office Depot, are open purchase orders that can be used, with authorization, for supplies during the fiscal year.

Councilor Stone asked if the city manager has a limit on what he can spend.

Swanson said his limit is \$25,000.

Councilor Stone asked if that is something the Council increases periodically if it sees fit.

Swanson said it seems to be working right now and does not anticipate any need to amend the amount at this time.

Firestone said his experience has been most jurisdictions have set the amount at \$25,000.

It was moved by Mayor Bernard and seconded by Councilor Lancaster to adopt the resolution authorizing the city manager to execute certain contracts for fiscal year 2003 – 2004. Motion passed unanimously among the members present.

RESOLUTION NO. 30-2003:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, AUTHORIZING THE CITY MANAGER TO EXECUTE CERTAIN CONTRACTS FOR FISCAL YEAR 2003 – 2004.

Other Discussion Items

Mayor Bernard requested the cost of living adjustment for non-represented employees be on the next agenda when there is a full Council.

Mayor Bernard appreciated Councilor Lancaster's comments on the sewer billing and paying down the debt and planning for the future

Update on Sam Marinos House

Councilor Stone wanted an update from Swanson on the situation with the Sam Marinos house.

Swanson reported the demolition started today. The person recycling parts of the house started, and the process should be done by the end of the week. He recapitulated e-mail he sent each of the Council members earlier today. He has had the authority for almost two months to act. In order for the City to effect an abatement on a property to which it does not have access, the code requires the City secure a judicial warrant. The warrant allows, among other things, the City to enter the property. Having drawn this out over a couple of months in order to come up with an agreement, the City has had to go back to the court a number of times and request extensions of the warrant. At some point in time, and appropriately so, the court will probably say, "do not use me any more." The judge could exercise his discretion not to extend the warrant. Without the warrant authority the City to enter the property, he cannot do anything. This was Swanson's judgment and his concern; the City would probably find it difficult to extend the terms of the warrant that expires at the end of this week. He was in a position where he either had to do nothing and basically lose any authority to effect a change on the property, or he had to move. It was a judgment call. It is not appropriate to get a read from the judge prior to applying for something; they do not tend to like to do things like that. He got to the point he believed his authority would effectively end this week, and he would have to sit back and let it happen. He does not believe that would be a good idea. The property is clearly a nuisance under the terms of the code.

He could either sit and do nothing and let his power to make a difference wane, or he had to exercise his authority. He chose to exercise it realizing it was probably not a popular decision with some people. He felt the City was at a point where he questioned whether the nuisance provisions of the code were going to mean anything and whether they would have any force and effect. That was the choice he made.

Councilor Stone understood Swanson's dilemma and the warrants to exercise his authority. There has been a lot of testimony to save this structure as recently as last night. She was under the impression there was going to be some dialogue between him and Ogilby. Has there been any dialogue?

Swanson talked to Ogilby last week and told him what would need to be done in an ideal situation. Part of that was the Monday deadline. In order to preserve the City's authority to abate, Swanson needed to have the house gone. He did not give Ogilby a lot of hope last week. At this point, it was a judgment. He could proceed with the abatement or take a chance that something could be put together, but he would not have a lot of power to enforce it.

Councilor Stone asked if that was only if another warrant was not granted.

Swanson said that was correct, but he has no way of predicting if the judge would extend the warrant. In his estimation, it is improper to go to the judge and ask for an extension. Each judicial decision is based on merit, and he would not put a judge in that position because he feels it is not proper use of resources. He respects the court too much. It was his call.

Councilor Stone understands this is Swanson's call. This is an extenuating circumstance, and she does not know if the judge knows all the ins and outs of this. She said it last night and will say it again -- she really believes the Council needs to live by the words of the mission statement and the community goals. Demolition is in direct conflict with both of those things. We are not preserving our built environment. We are not living up to saving structures that are either historically or architecturally significant. We had a lot of people testify at one of the May Council meetings. A lot of people came forth. The greater majority of them, she counted approximately 20 different pieces of testimony, were for saving the house. We have yet one more person stepping up to the plate, and he seems to be a very credible, professional fellow. She read through the material he presented to Council last night, and the City probably does not have another choice. Because we have a batter stepping up to the plate and ready to swing, she believes the City needs to take that risk and say, "isn't this a piece of our history worth preserving? Isn't this a structure that could potentially be someone's home?" It has a history. It is part of our past, and she really feels the City should look at that. This is Milwaukie's centennial year. She knows there are a lot of things that would make everybody probably on this Council agree the structure should be saved. We have gotten ourselves into a real tight corner. She really thinks the City Council has a choice. She has no reason to believe Mr. Ogilby would not move the house. He has moved the Frank Lloyd Wright house to Silverton. He has moved several houses recently including

an historical home near 39th and Hawthorne. He can do it. She would at least like to see some talk happen between Swanson, Ogilby, and the demolition contractor, Mr. Obrist, before this takes place. It may change Swanson's decision.

Swanson knew this would put him in direct conflict with some of his bosses. The City's preservation report card cannot be created on just this one structure. The report card has to be written with a look at what has been done overall. As an organization, the City has lived up to its mission statement and community goals because, again, one structure cannot determine pass or fail. We may have failed to do it on the structure but on the system as a whole, he believes there is evidence of the City's having done a pretty good job. His decision to go ahead with the demolition is not a comment on this particular contractor. It is merely a realization we are at a certain stage in the process. He started the nuisance process because he believed there was a nuisance. If he were to let it wither away and die, which would have been the effect, then he did not make a very considered judgment when the petition was originally filed. It is not a comment on this gentleman. This thing has had a history. There are people who want to save the house and have expended energy toward the deadlines, but the energy has not been consistent over these two years. The City issued a request for proposals (RFP) that would have allowed Ogilby to come in and take the house. There were opportunities. The history has been there is always one more chance, one more answer at the eleventh hour. In some ways the question that should be asked of him is, "what have you been doing?" He believes it is more a comment of where we find ourselves in the process. He felt the choice was to either move ahead with the abatement or forget the nuisance. He feels that is what it has come down to and admits part of it is a judgment on his part.

Councilor Stone asked a logistical question. If the warrant did not end on Friday but in two weeks, would Swanson be more apt to talk to the preservationist who wants to move the home? Might he feel more comfortable about the end result? She senses a lot of his decision is because of the time deadline of the warrant expiring on Friday. She asked if she was correct in sensing that.

Swanson said that, in part, was correct. He also suggested making sure people understand that the timeline exists not because we have not been diligent in trying to solve the problem. If we have come to this place and find ourselves in a time crunch and review what has gone on over the past year, again, he thinks one would find very little activity until there is a pressure point. Then everyone gets moving right away.

Councilor Stone wanted to speak to that comment. In reference to the RFP that went out initially when the house was still owned by the School District, Swanson speaks of "the person." She assumes he means a member of the Wisner family or the people who are really trying to save the house now. In the work session, it was stated they did not have the means to move the house, but they were involved. They actually campaigned at that point, because she recalls the School District was going to demolish it. The house has seen the ball and chain coming before, so the family was very active. When Peterson took it, the activity stopped because the family thought it was in good

hands. Then it revs up when Emmert takes it and goes down because they think it is in really good hands because Emmert is internationally known. She does not want people to think that the parties interested in saving this house had done nothing. She thinks we are being a little bit negligent, too, as a City. The goal is to try to save this house, and she thinks everyone on Council wanted to see that happen. She could be wrong but believes she has heard that from at least most of the Council people. She thinks the Council is being negligent if it does not consider this third batter up to move the home. He really wants to move it, and he has the means and track record to do it. In terms of this being characterized as this being just one house, it is not just one house. Milwaukie has lost several houses over the years. In January of this year, there was a presentation by Patty Wisner that alluded to that. She gave the Council a whole packet showing all the homes in Milwaukie that have been destroyed or moved. This is not the only one. It feels to her like we are just letting pieces of our history leave us either by being floated down the river or being demolished. At some point, it has to stop. We hardly have anything left.

Mayor Bernard requested Councilor Stone to stop because demolition has already started. According to what he has been told, when it is time to take the windows out, the contractor takes a saw and cuts them out. At that point the structure is no longer sound. If she drives by, she would see that.

Councilor Stone said she was not through making her comments and would appreciate as a member of this Council being allowed the time to do that.

Mayor Bernard appreciated that but was concerned Council is wasting its time because he understands demolition has begun. It is too late. The City has a contract for which it is responsible for upholding.

Councilor Stone said she had one more question for Swanson. In terms of what has been done, she understood him to say the people who take things out of homes have completed the interior work.

Swanson believes that is correct and understands the window removal has been started. The contractor has made some progress today.

Councilor Stone asked it was truly not possible to stop this. She is an eternal optimist, and it "ain't over 'til the fat lady sings." She thinks the City is making a mistake. The Council has heard from a lot of citizens who want to see this house preserved. It is not just one or two people. It is a piece of our history. She has no reason to believe Ogilby will not follow through. It is a gamble, and one would have to be willing to take it. Swanson is obviously not.

Swanson said he has been gambling for the last two months with authority that he received on May 7. The decision he made is to exercise his responsibility. He has spent two months throwing the dice, and now is the time to stop. Councilor Stone is correct. He made a decision not to gamble at this point in time, but he made it because

he felt he had a track record of two months, and probably more, of gambling. He feels personally he is among the people who want to see the house saved. He has given a great deal of effort over the past couple of months to try and make that happen. At some point he also has to look at maintaining the integrity of the code, the nuisance provisions, and the decision that was originally made which would basically, in his judgment, disappear at the end of this week. He thinks it is improper, but someone could talk to the judge and ask him if he would extend the warrant. Maybe he would say yes. In his judgment, he does not believe that is something that should be pushed again. Once again, this is not a comment on the person who wants to move the house. It is merely a comment on finally getting to the point where he felt he had to take some action. He personally feels comfortable with his decision and that he did everything he could up to that point. He feels the answer he came up with is appropriate.

Councilor Stone had questions about legal matters regarding the I-beams supporting the house and that there may be some problems about damaging that equipment belonging to someone else if the house is demolished.

Firestone understands the contract with the demolition contractor made it clear certain things belong to a third party and are to be preserved.

Councilor Stone had heard the owner of those pieces of equipment was concerned and was looking into it legally.

Firestone said it was his understanding there had been direct contact with the demolition contractor.

Councilor Stone is not happy with the decision, and it is sad a piece of history will be destroyed once again. She does not think it reflects well on the Council and the City because the mission statement and community goals are not being upheld. It does not make her proud at this moment to be sitting on this Council to know this is going to happen. She asked Swanson if he was given the information Ogilby provided at last night's meeting.

Swanson said he had.

Councilor Stone understood Swanson had chosen not to call Ogilby because he had made his decision before.

Swanson talked to Ogilby last week and basically informed him this would be the outcome. He informed Ogilby as he was driving from Rhode Island to Massachusetts in a phone conversation that he would be exercising his responsibility to proceed with the abatement if the house were not moved by Monday. If Ogilby is suggesting anything else, then Swanson will reverse his former statement. He and Ogilby had a conversation between 3:00 p.m. and 4:00 p.m. EDT. Swanson said he would produce his cell phone records. Ogilby at that time was told the chances were probably not great because he had already committed that Monday was the drop-dead date.

Monday was also the drop-dead date that was set in a conversation he had with Patty Wisner on that Monday as he was proceeding from one spot in Florida to another to visit relatives. The request was made for him to hold off for another week because a contact had been made with Mr. Emmert about an option that would have him take off the top of the building and move it within the week. He said fine and that he would hold off to Monday, June 30. He stated that if it was not removed by that date, he would proceed. They may not have heard that today, but they heard it on Monday and Tuesday of last week. He knew at that point in time that his time was running out. He actually extended the time to make the last Emmert option work.

Mayor Bernard said the City Council voted 4 – 1 to support the city manager's decision at the June 10 meeting. He felt the City Council needed to stand by that. The decision has been made. He thought the City has been gambling for about 2-1/2 years hoping to save the house. Currently, the City does not know who owns the property. There is no title. It is personal property that has been abandoned on a piece of land with no ownership assured anywhere. That is part of the big problem. Who do you talk to about taking it over when no one claims it?

Councilor Stone asked if there was a determination on who is the rightful owner of the house.

Firestone said at one time it was Mr. Peterson. It depends on how one reads the agreement between Mr. Peterson and Emmert International. He has not seen the agreement and would not hazard a guess as to who owns it. If Mr. Peterson is the owner, he certainly has abandoned the house. If the owner is Emmert International, the company has had plenty of opportunity.

Councilor Loomis is disappointed the house is going to be destroyed, but he supports Swanson. The thing that really bothers him is that the City has really stepped up and tried to save the structure, and in the end some will feel the City is responsible for its destruction.

Councilor Stone agreed with Councilor Loomis. She would not have a problem throwing in the towel and saying the City has done all it can. Now there is a third batter at the plate, and the third time is a charm. He should be given a chance, but the City is not doing that. She understands Swanson's position completely, but she thinks it is worth taking the risk. It is worth taking the gamble to see the house moved and not demolished.

Mayor Bernard announced the City Council would meet in executive session immediately following adjournment of the regular session to discuss real property transactions pursuant to ORS 192.660 (h).

ADJOURNMENT

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

Mayor Bernard adjourned the meeting at 8:30 p.m.

Pat DuVal

Pat DuVal, Recorder



AGENDA

MILWAUKIE CITY COUNCIL JULY 1, 2003

MILWAUKIE CITY HALL
10722 SE Main Street

1913TH MEETING

REGULAR SESSION - 6:00 p.m.

- I. **CALL TO ORDER**
Pledge of Allegiance
- II. **PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS**
- 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 June 10 & 16, 2003**
 - B. **Bid Award for 2003 – 2004 Waterline Improvements, Phase 1**
 - C. **Limited Sewer Rate Adjustment for Small Area of Milwaukie -- Resolution**
 - D. **Authorize City Manager to Sign Annual Purchase Orders Exceeding \$25,000 -- Resolution**
- 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. **Sanitary Sewer Volume Based Billing – Resolution (Ostlund)**
 - B. **North Main Mixed Use Redevelopment Project Update (King)**
 - C. **Consider Cost of Living Adjustment for Non-Represented Employees (Swanson)**

VII. INFORMATION

- A. Ledding Library Board Minutes, May 2003**
- B. Center/Community Advisory Board Minutes, May 9, 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.

MINUTES

III. A. 1

MILWAUKIE CITY COUNCIL JUNE 10, 2003

CALL TO ORDER

The 1911th 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 Barnes
Councilor Lancaster

Councilor Loomis
Councilor Stone

Staff present:

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

Paul Shirey,
Engineering Director
Tom Larsen,
Building Official

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mayor Bernard read a summary of the minutes from the 10th City Council meeting held on October 8, 1903. Milwaukie Museum Curator Madalaine Bohl is preparing this series of historical notes in honor of the City's Centennial Year.

CONSENT AGENDA

It was moved by Mayor Bernard and seconded by Councilor Barnes to consider agenda items VI.B – *Certification of May 20, 2003 Election Results* in the consent agenda. Motion passed unanimously.

It was moved by Councilor Barnes and seconded by Mayor Bernard to adopt the consent agenda, which consisted of:

- A. City Council Minutes of April 14, May 5, 19, & 20, 2003;
- B. Award Contract for Stormwater Master Plan;
- C. Final Acceptance of 40th Avenue/43rd Avenue Storm Project;

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- D. Intergovernmental Agreement with the City of Portland and Oregon Department of Transportation to Increase Federal Funding Level by \$800,000 for Johnson Creek Boulevard Improvement Project
- E. Purchase Order for Sewer Rate Adjustment for City of Portland Customers in Milwaukie;
- F. O.L.C.C. Applications for:
 - 1. 7-Eleven, 10435 SE 42nd Avenue
 - 2. City Grill, 11050 SE 21st Avenue
 - 3. Miller Brewing Company, 9696 SE Omark Drive; and
- G. Resolution 22-2003: A Resolution of the City Council of the City of Milwaukie, Oregon, Recording the Certified Election Results for the May 20, 2003 Special Election.

Councilor Stone asked if the resolution certifying the election results needed to be formally adopted.

Mayor Bernard said it would be adopted as part of the consent agenda.

The motion to adopt the consent agenda passed unanimously.

AUDIENCE PARTICIPATION

Rick Bantz, 4439 SE Pennywood Drive, Milwaukie, spoke regarding the house currently stored at 21st Avenue and Lake Road. He is tired of the house and wants it gone. It is an attractive nuisance, and he is concerned someone will be hurt. He is sick of it and what it looks like. There has been plenty of time, and more, to get it out of there.

Ernest J. Bisio, 3695 SE Lake Road, Milwaukie, spoke on behalf of saving the Marinos house. Everyone regrets that the old St. John's Church was torn down. He urged not doing that with the Marinos house. It is well-built, architectural house, and it should be kept. The process that has to be done to get it moved should be done right away. The house should be kept to remind us we are not losing all the good artifacts we have had.

Sharon Phillips, 11028 SE 28th Avenue, Milwaukie, spoke regarding the Marinos house. She looked at the lot on Jackson Street where Emmert is proposing to move the house, and it looked fine to her. It would fit with the neighborhood. The older homes should be kept for the history of Milwaukie, and she urged giving Emmert time to move it. She thanked JoAnn Herrigel and Joe Loomis for their work on the May 18 Historic Downtown Walk that attracted about 70 participants. She also thanked Steve Campbell for getting a property owner to repair a section of sidewalk where she had fallen.

Councilor Lancaster thanked Phillips for her work on the Historic Walk.

Julie Wisner, 3325 SE Wister Street, Milwaukie. She read the City Mission Statement to the audience because she believes it directly applies to the Marinos house. Emmert should be allowed the time it takes to move it. She believes recent events relating to this house fly in the face of this Mission Statement. This troubles her as a citizen. She would like to see the Council uphold its own Mission Statement and not destroy a house because a parade is coming through town. The house is obviously in transit. Let Emmert put it up on wheels with a sign stating this house is moving as part of the Centennial. Tell people we preserve our older structures and are honoring them by moving them as part of the Centennial. Rejuvenation House Parts has built a multi-million dollar business around the arts and crafts bungalow. The Marinos house is an arts and crafts bungalow design, and that is exactly what Rejuvenation House Parts exists for. It is one of the largest businesses in the nation for that house style, and it is a very desirable house that should be preserved and moved. Anything short of that, she feels, would be a horrible mistake by the City of Milwaukie and a bad public relations move. Just because Milwaukie Festival Daze is coming through town does not mean an 81-year old house is possibly a temporary nuisance. This has not been proven by crime reports. Crime and vandalism are happening at the Milwaukie Marketplace and the transit center. The property values have not gone down in that area as local businessmen have contended. Tax assessments have all gone up in the period of time the house has been on that site. She encouraged giving Emmert the time he needs to move the house. He has moved the Spruce Goose, the Simon Benson house, and the list goes on and on. Put aside the issues, which she feels are other than just the house, which to her seem petty. Do not sacrifice a structure for personal issues. She wants to see the house moved. It would be typical of Milwaukie to get rid of its historic homes. It sent St. John's Episcopal Church down the river to Sellwood, the Crystal Lake Church was shipped out to North Clackamas Park, the Seth Luelling house was destroyed, and the Adams homes were destroyed to put up the health spa. The Texaco station is where the Seth Luelling home stood, and the pioneer catholic church was torn down. It should stop now; we have little left to preserve. She hopes Council will preserve this house in light of its own Mission Statement – our Mission Statement, the citizens of Milwaukie

Larry Secor, 11774 SE 32nd Avenue, Milwaukie, went on record to say this grand old house should be preserved and placed in an appropriate place.

Fannie Scarin, 12027 SE 31st Place, Apt. 8, Milwaukie, went on record to say the house should be preserved in its original condition

Greg Arquit, 1000 SE 15th Avenue, Portland, Emmert International employee. Terry Emmert acted in good faith, initially, by agreeing to a contract that put the burden of the house on him. No one can argue that he has not tried to perform his due diligence by not looking for different lots for the house. In addition to staff time and resources, Emmert has incurred a tremendous monetary amount of debt just trying to place this house, an extraordinary amount. He is not sure if

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anyone realizes just how much money has been sunk into this project. Emmert International did go past some deadlines, and everyone has gotten frustrated. People driving by and business owners see the house sitting there. Council is under a lot of heat from its constituency about removing the house. In addition the festival is coming up, and the City does not want it there. Emmert International seems to have come up with a feasible solution for moving the house to a good lot. He is not sure Emmert was given a chance to put it on a lot that will work. A decision was made to go ahead with the demolition. So, if given the choice of demolishing or putting it onto a lot that will work, we at least owe it to ourselves, given all the work that has gone into the project, to see if it is feasible. There was dialogue about posting a performance bond, and he believes Mr. Emmert was going to agree to that. He fully believes the new lot needs to be given a fair shake before the house is demolished. It seems to be a one-sided decision. There are some Council members who are willing to consider the new lot, while others have already made up their minds. He encouraged the City Council, given the fact Emmert International has a lot in place that appears to be perfect, to take it into consideration.

Councilor Stone asked how much debt Emmert has incurred in trying to get this house moved and purchasing new lots?

Arquit deferred to Mr. Emmert for the answer. Three to four staff people have worked on it along with realtors. Earnest money has been involved and lot acquisitions. Emmert International has made a substantial investment on this project.

Councilor Stone asked Arquit, as he understands it, the status in terms of this lot being a viable lot.

Arquit has not dealt directly with the City, but it is his understanding Emmert International has submitted a plot plan that shows the proper setbacks. Everything is in order for this new lot. The decision was made to go ahead with the demolition, and they are not looking at the plans to even see if it is a feasible solution. That is his understanding.

Councilor Stone asked Swanson to clarify the statement about staff's not looking at the plans.

Swanson said the Planning Department is proceeding completely separately from the abatement proceedings. The department is working on it.

Howard Tikka, 14690 SW 106th Avenue, Tigard. He is a concerned citizens who has spent many years working the Milwaukie area, and he sees a lot of charm in the older houses. He especially enjoys Sellwood for example. They have made great efforts to preserve historic structures. He thinks it would be a shame to demolish this house. He shared Julie Wisner's point of view.

Stephen Vaughn, 10509 SE Rex Street, Portland, Emmert International employee. Although his point of view may seem biased, his affinity to his house goes back to when he started with Emmert International. There were two houses. One mover got the house this far, and Emmert International moved the other moved to 3845 SE Jefferson. Emmert went through all the code compliance work, spent money, and put people to work. There is no litter, and the home is well preserved. It is an asset to the City and adds to the tax rolls. Previously there was a burned out house on that lot. He has been through the Marinos house, and there will not be a huge profit to Mr. Emmert. Now he is involved because historic preservation is the right thing to do. He appreciated Ms. Wisner comments; she did some great research. To address a couple of concerns expressed by the first speaker. Emmert International's involvement has been recent, so now a few deadlines have been passed. He strongly suggested the City Council consider the whole timeframe, and then the length of Emmert's involvement to reach some reasonable conclusions. He sees strong community support concerned about the loss of historic assets. Here is something that can be saved and last for an indefinite period of time. There has been some bad press and conflicting personalities. He would like to have those difference set aside for the sake of saving this home. It would be good for the community and an excellent effort by the Council to vote in a positive manner. The City and City Council will benefit from the positive press that will far outweigh the risk of a few weeks or whatever time it might take to save this house.

Bob Wisner, 15695 SE Dana Avenue, Oak Grove. He is a lifelong resident of Milwaukie and the surrounding area. The City Council has an opportunity to be recognized as the people in the City who are working for the City, who actually halted the destruction of historic properties. As one reads publications about Milwaukie and its history in the development of Oregon, the City has played a prominent role. There were houses of very significant architectural styles that are no longer existent. There is a problem with legacy, history, and the preservation of all these things that mean so much to a lot of people. When one drives through a city, one sees vegetation, architecture, and pavement. If the architecture goes away, all that is left is vegetation, which may be beautiful, and pavement. To destroy this house would be a mistake. With so few styles of architecture left in Milwaukie, the City Council needs to act to preserve something that will be a legacy to the entire City. He believes Emmert has a viable plan. When dealing with an expert who is known for completing a job in an expeditious manner, he does not see how the City can lose. He is ready to go, and the City needs to help him make that happen. With the amount of money Mr. Emmert has personally told him he has personally spent on this, it would be a mistake to cut it short just on the verge of probably making it happen. It is right on the cusp. At the City Council meeting at the end of January, the City Council gave him a deadline. He recalls it was mentioned that if Emmert ran up to the deadline, there may be consideration given for a small extension. The City

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Council needs to extend the deadline and help Emmert make it happen to preserve the history and heritage of Milwaukie.

Bob Brady, 3200 SE Washington Street, Milwaukie. As newcomer to the Milwaukie area, he was struck by the charm of the architecture and older structures. If there is a vacant lot, building ticky tacky boxes all in a row would be an error in his opinion. He is in favor of saving this house.

Ron Evans, 2895 SE Oak Glen Court, Oak Grove. He and his family have lived in Milwaukie for 17 years, and he and his wife have spent considerable time talking about this house and are aware of the possibilities. He and his wife are in favor of keeping this house especially after learning how close it is to being successfully moved. He does not believe the house is dangerous. He and his family have participated in the Festival Daze parade, and he is not concerned about any danger in going by it. There is certainly an expert who can get the house moved quickly. He has never attended a City Council meeting, but he and his wife feel strongly about this issue. They love this City – its smallness and progress which can both happen at one time.

Councilor Lancaster appreciated Evans' coming to this meeting during a busy day in order to provide input and asked how he found out about this meeting.

Evans said he saw the announcement in the paper, and his wife heard about it from a neighbor.

Councilor Lancaster asked Evans that question because the City tries so many avenues of communication on every issue, but City Council feels many times that no one is listening.

Roy Emmert, 11811 SE Hwy. 212, Clackamas, Emmert International employee. He requested the City Council save the building and employ people. He grew up in Milwaukie near Railroad Avenue, and he would like to see these older buildings saved for the future. We need to save historical buildings, and Emmert International has put a lot of time and effort in making this happen. He would like to see the City Council vote in favor of keeping the house and turn it into tax revenue for the City.

Patty Wisner, 3325 SE Wister, Milwaukie. She is currently a Milwaukie Design and Landmarks Commission member, although she is speaking tonight as a citizen. After attending the previous night's work session, she is again voicing her support for a reasonable extension to allow Mr. Emmert to move the house to the new lot. She understands John Gessner finds the proposed lot the correct size for the structure. Based on what was said during the work session, there are concerns the festival is coming soon. The house has been up on blocks in storage during this event for a couple of years without incident. There are no crimes on the books from the Milwaukie Police Department, and there is no loss

in property value with the house being stored at that site. We are at the 1-yard line at the goal. We have to snap the ball and make the touchdown now. We have the man who can do it, and he says he will negotiate to take on additional costs if there is a conflict with the demolition contractor. He said he will clean up the site and get the house on wheels and put a moving sign from his company on the house to make it more presentable for the festival. This can be a win-win situation. She understands the exasperation and frustration because she has been dealing with this since January 2001 when she began the process to preserve the house. She is very appreciative of all the effort the Planning Department has gone to through the whole long process – the documentation, the work of the city manager and staff to try to resolve the conflict as well as the support of the City Council. We are ready to make a touchdown here. She asked the City Council for its support to extend this deadline to its reasonable conclusion. She hopes the application process could be expedited and give Emmert the time to get utility company approval to lower the lines and get the house moved and permanently sited. We can all go on to our next order of business for the City of Milwaukie once this is completed. She serves as a volunteer to preserve historic architecture and significant landmarks in this City and to promote quality architecture in this town. To save each viable, older home of significant architectural design is a boon to this community. It says a lot about us as people and will say a lot about us in the future as we preserve these significant homes. This is the first, and we have learned a lot on this whole project. We will have to face this again some time, and she wants us to work our hardest as leaders and volunteers to send the message that Milwaukie cares about cultural heritage, architectural heritage, and quality of life. We will make the effort to live up to our vision statement, to preserve our heritage, to preserve our built structures, and to live those words by the deeds that we do. This is our chance; this is our defining moment as leaders and volunteers in Milwaukie to really stand up and make a tangible testimony to living up to those values we have all pledged to serve this community with. She encouraged the City Council to vote and to allow this extension. Let's make this house happen and make it a permanent part of our landscape.

Patty Scruggs, 6942 N. Villard Avenue, Portland. She did not wish to speak but was present to support saving the house.

Larry Scruggs, 6942 N. Villard Avenue, Portland. He did not wish to speak but was present to support saving the house.

David Aschenbrenner, 11505 SE Home Avenue, Milwaukie, Hector Campbell Neighborhood District Association (NDA) Chair. He has no problem saving and preserving houses. He asked why, when this house was first moved, was a non-profit group not formed to solicit money from the community in order to find a suitable location where it could serve as an historic resource. No one came to him or the NDA about moving this house to the Hector Campbell neighborhood. Emmert International looked at two lots, and in one instance the adjacent

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property owners said flat out they would not give up additional land. To put the house on the currently proposed lot, it will have to be modified. He is upset because he believed that neighborhood associations were valued in this community, and that people would go to the neighborhoods to talk to them about this type of proposal. It never happened. It did not happen on the other house that was moved into the Hector Campbell neighborhood. That house was supposed to have been a single-family residence, but, in fact, it is a drug and alcohol rehab house. He hopes this will not happen again. He does not want a bunch of those types of houses in his neighborhood. This is difficult. He wants to save historic houses. The question is, is this the place to put this house? How will others know this is an historic house after it is moved? Will it be open for tours once a year like some houses in Portland are? This house is being stuck on the back side of Jackson Street which is unimproved. How will people know this is a significant house? Will there be a plaque? All we know is the house is being moved. There is no foundation or non-profit group behind it that could use this house for other purposes. We know the museum needs more space. Was there any thought of forming a non-profit that would locate the house near the museum, so it could be used as an annex? It is a slap in the face to the neighborhood association when no one talks the members. The NDA has to track down information by talking to the neighbors about what is going on around them. He wished when it first became public that this house would have to be moved from school property, that those who are concerned about this house would have stepped forward to create a non-profit organization to find a suitable location and make the house nice and use it as a centerpiece of historic architecture. This never happened as far as he knows. It has been wait to the time limit and then plead for an extension. The attendees at the Hector Campbell NDA meeting were not really in favor of putting the house on Jackson Street and do not know the value of putting it there. It is not a convenient place to tour because there is no parking, and the house is being squeezed onto a lot. It is difficult to support the house being moved to that location. Maybe it should be moved to a temporary location somewhere else until an appropriate site can be found. If there is another historic house like this that needs to be moved, he hopes the backers will step up to the plate and forma a non-profit to try to raise funds and place it on an appropriate site. The plan now is to cut off part of the house, shoe horn it in, drop it on the ground and leave it. The question is, what will go on there? Will it be like the last house moved into his neighborhood? He hopes not because residents were told one thing, and then something else happened. He understands there are federal laws regarding group homes, but he sees it coming again.

Councilor Lancaster how many residents attended the neighborhood meeting last night?

Aschenbrenner said about 10 people attended, and all were opposed.

Councilor Stone responded to some of Aschenbrenner's comments. Is it the Planning Department's responsibility to notify NDAs of land use changes? Should the neighborhood liaison be in touch? She understands his frustration with not knowing from the City when these kinds of things happen because she believes it should.

Aschenbrenner said it is his understanding that people filing for permits are encouraged to meet with the neighborhood associations. No one involved with this house, other than the City, let the NDA know what was going on.

Firestone added, if there is a land use application, there is notice. If something is going in as an outright permitted use, such as a single-family residence in a residential neighborhood, there is no land use procedure, just a building permit.

Councilor Stone understood from Aschenbrenner this house would have to be altered structurally. This was discussed at the work session, and it seems the sun porch was built right on to the existing exterior wall. The original structure would not be changed. In terms of having a non-profit group rescue this house, she knows the family was involved from the beginning and worked closely with North Clackamas School District to try and find a suitable owner for this house. It is not like at the eleventh hour people are just stepping up to the plate. Patty Wisner testified she has been working on this since 2001, so people have been involved. She understands Aschenbrenner's frustration in terms of things coming into his neighborhood, but she would certainly rather have a beautiful historic arts and crafts home her neighborhood than a mobile home. Lots of those have been going in. As of this date, the house has not been designated an historical site.

Aschenbrenner knows the Wisner's have been involved for a long time. He has not seen anyone going through the process of forming a non-profit to do something in the way of a community outreach to save this house. He knows they have done it personally, but he has not seen the Wisner's do anything to rally the community behind this house.

Councilor Stone knows there has been a big campaign on the Wisner's part. She has not been privy to everything but knows they have been diligently working toward preserving this house.

Joe Johns, 1806 SE St. Andrews Drive, Portland, Clackamas County. He belongs to neighborhood association Sellwood Moreland Improvement League (SMILES). The group is currently working on the car barns located at 13th Avenue and Linn. The building itself was sold by Reed College for \$2.5 million. SMILES found a developer to restore the building, and this is the place to go if the Council wants to see what can be done with old buildings. The clubhouse has been restored, and it is absolutely amazing. You want to save old buildings. The neighborhood association has created an economic development committee to help save that building. Why is this important? It is no different than what the

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federal government has done in Washington D.C. when it spent \$30 million to restore an old warehouse. What can be done to help the citizens? He read letters from Parks and Recreation Department/State Historical Preservation regarding the availability of funds for structures put on the registry. There are three banks willing to put up the funds for this building. He referred to letters from Portland Mayor Vera Katz, Diane Linn, and Senators Gordon Smith and Ron Wyden urging Reed College to save the building. The point is, save the building. It will pay for itself. The National Historical Preservation Act of 1966 established a program to save additional historical properties throughout the nation. When you preserve something like that through them, you get money from the architects association because they help fund these projects. There is money available, and there are investors who will put money in to these projects for tax purposes. It is a win-win situation, and something the City needs will be saved.

Councilor Stone requested Johns leave a business card with Swanson.

Councilor Barnes understands Johns is saying there are grant opportunities for the owner of the house to get into some kind of historical situation.

Johns said the City of Portland has a Landmarks Commission, and it helps with historical buildings. State Parks and Recreation has an historical arm, and if a representative determines it is eligible, it will get on there. He discussed Portland's proposed denial of demolition ordinance.

Councilor Barnes understands there is money available to owners of historical properties.

Johns said that was correct. He recommended the City Council look at the clubhouse. It is very beautiful and original.

Councilor Stone asked its location.

Johns replied it is at 12th and SE Linn in Portland just behind the Molded Container building.

Katie Daniel, 9900 SE Lawnfield, Clackamas. She has been working on this project for months, and she would like to see the house moved just as much as anybody on this Council and in this town. Several points were brought up at this meeting and the work session regarding Emmert's due diligence on this project. It has been stated Emmert International did not fill out any paper work or turn in any building permits. We did not work on this project; we have been stalling. She had in front of her all the applications she personally tried to turn in to Mr. Gessner and were denied. It was flat out denied. They are signed and dated if the Councilors would like to see for themselves because it has been said they do not exist. Well, here they are. The applications started in November with Renee

Bagley, and he was told not to turn in those applications because there was a property line adjustment and a variance that was going to be needed in order to get the house to the first original property that we wanted to move the house to. Later, as a few months rolled by and the house was still there, the reasons for Mr. Gessner not accepting those applications seemed to change. She actually had a letter from Mr. Gessner as to why he says he did not accept the applications after the fact. Basically stating, if it was just the property line adjustment, it would be one thing. A property line adjustment and the setback variance, it would take too much time. He used the City building code in order to shut down every opportunity Emmert had to move that building. It was as if he was not trying to work within the code to make it happen. He was trying to use and bend the code in order to stop the project and to put up roadblocks the entire way. She looked up the variance codes herself, and with the little amount of variance Emmert needed, Mr. Gessner himself could have approved it over the counter according to the Council's own code. In a letter he stated to her it would take up to 90 days, so that was why he would not accept the application. That was the first attempt. Then Emmert had a piece of property that was disputed for three weeks if it was even a legally created lot. We had to do a title search and prove it was created legally. This was the Balfour property. Emmert had a backup property off Malcolm if something did not go right with the Balfour property. The wire costs were prohibitive, and Emmert could not reasonably move that building there. Emmert has finally found the lot that fits into the box that Mr. Gessner has put in front of us to fit into. It has not been an easy process; it has not been prompt dealing with the planning department. She understands they have very difficult jobs, but we were expected to promptly move a building that has been sitting there for a year and a half. Yet, when it is within his power to approve something with his signature – an 18-inch variance would have had this house moved by the end of December like they wanted – he would not do it.

Now, here it is. The entire package tied up with a bow, right in front of him and the City to make sure this project goes through – is completed. Otherwise, we are basically just giving up. It is not Emmert who is giving up. It has not been Emmert who has been putting up roadblocks. We have been jumping them, hurdling them as fast as we possibly can and come up with four possible alternatives. Here we are, and we finally have it. Mr. Swanson understood that prior to executing the contract with the contractor to demolish the house. This has not been a secret. We have been in communication with both sides of the government here hoping they would communicate with each other. Let the other know what is going on. Like she said, it has been claimed many times that we have not even filled out paperwork until just now. Everyone was aware we had this lot and were going forward with it. Still the contracts were executed to have the house demolished and not because he had to by the letter of the law but because he had the option to. That she does not understand.

Councilor Stone asked Daniels what she has learned as of this date in terms of the viability of this lot from the planning department.

Daniel responded this is viable lot and fits within the code. She spoke with the building department regarding the transportation permit, and it is being approved. The traffic control plan has just been approved, and that is a huge issue. All utilities have been notified. We are at the 1-yard line; we are there. It is a matter of weeks, not months.

Councilor Stone understands planning has approved it.

Daniel said planning has not denied it. Every one of the check marks is going just as planned. Everything is fine. It should be approved within 14 days.

Councilor Stone asked if PGE is contacted once the permit is approved in terms of lifting wires.

Daniel said PGE has been contacted as well as the other utilities. At this point in time, Emmert needs to give them deposits to do the engineering. That does not take long at all. Emmert has a great relationship with the person who will engineer the project to get this on its way.

Councilor Stone asked Daniels, in her best estimate, what could be expected in terms of moving the house if approved in 2 weeks.

Daniel said the house could be moved within 5 weeks.

Councilor Lancaster asked what could go wrong at this point.

Daniel replied the only thing that could go wrong is for you to say "no."

George Van Bergen, 12366 SE Guilford Drive, Milwaukie. He heard about this meeting last night as a sidebar to a work session, not as a specific meeting. He has been to all of the meetings about this piece of property that he once owned and worked out of for over 20 years. He bought the house, paid for it, remodeled it as well as the one next door, and doubled the size of a then 3-car garage. He has some knowledge of the property. It will require a lot of effort to put it back in any kind of a livable condition. He has never been opposed to moving the house to an acceptable site that complies with all City ordinances. He used part of the money he got from the sale of the property to the School District in condemnation build a house in Milwaukie. He paid over \$10,000 for permit approval which was gone over in detail including architects plans, special earthquake bracing, setback inspections, and sewer, plumbing, wiring, concrete, and water inspections. He thought it was inspected to death, but that is part of the deal. Will this house required to qualify for that type of inspection on the new site that will permit commercial uses or a single-family dwelling unit? The City is in this

position because it got boxed in on a deal that never went forward as expected. All of the moving timelines and promises failed. It has been talked to almost the point of absurdity, and he has been a participant. That brings us down to the what-ifs. If the City does go to abatement and demolition, there should be no risk given to the persons who own the fence, trusses, and blocks because that is not part of the house. Those people need to be notified. The whole matter has become a rather large debacle. If the City Council decides to give Emmert more time, Van Bergen recommended putting a commitment on the person seeking that extension with something on the table that can be approved and within a specific period of time and backed with a cash surety bond. He would like the City Council to comply with ex parte communication laws of the State of Oregon and that, in Council members' beliefs, these ex parte communications have not prejudiced their votes on this matter.

Firestone said this is not a land use proceeding, so the ex parte rules do not apply. The rules that do apply are the Government Standards and Practices Commission rules primarily concerned with financial interest and benefit.

Van Bergen said Firestone's interpretation is different than his.

Terry Emmert, 10470 SE Hillcrest Drive, Portland. One of the most important things is to remember is that the City came to Emmert International last fall to ask for help in saving the house. This was not Emmert's problem. No citizen has ever been hurt in over 35 years and 10,000 projects Emmert has completed. The company has never failed to complete a project. He mentioned the company's history in Milwaukie. It started here. His first residency after high school was here. Not only did he coach at LaSalle High School but also Milwaukie, Gladstone and Putnam players on his summer teams for 15 years. Emmert International has been involved with almost every civic fundraiser from LaSalle to St. John's to every high school around. The company helps every one of them. This is becoming a matter of principle. Emmert International moved the Brownell house, the Eric Ladd house, Boeing Delta 4 rockets, PT boats, Paul Bunyan, The Bomber, Corvallis railroad depot, Pier 42 in San Francisco, Troutdale railroad depot, Oregon City depot to Portland then back to Oregon City for restoration for former Oregon City Mayor Dan Fowler, the Simon Benson house, Spruce Goose, Triest submarine, and many others. Never did the company have to go fight to save something. There was usually cooperation. He has never been stonewalled so much nor his staff. He would be more than happy to furnish the documentation, but someone said maybe it lies halfway in between. It does not lie halfway in between; his company was refused the applications. They could not even be turned in; the answer was "no." He thought if they had gone before the Planning Commission, the house would have been moved, set up, and in business today.

He sees that it is prejudicial because they do not like the house that was moved to Jefferson Street. This is still America, and you have a right to occupy under

the laws and federal guidelines. He commented he does not chose who moves into his neighborhood and starts a crack house or something. He is stuck with those turkeys until the law gets them out. An Oxford House is a rehabilitation center. He has helped set up seven of them. They are not profitable, but Emmert is doing something good. He has never had a problem with any of them unlike rentals in other places where he has constant problems. He has an Oxford House set up on his farm on Springwater Hwy. where he tries to spend every spare minute. He has his grandkids and relatives there along a \$1 million worth of animals. That house is a pride of ownership. They are good neighbors who police themselves.

He talked to the demolition contractor as he promised. He agreed and has called the City with the numbers and is willing to void the contract to save the house. He truly believes that extra time is warranted, and if Council really looks it will see where the roadblocks were. Before it goes a lot farther, the Council should see those things and make a fair judgment on how much money was spent and wasted because of the lack of help. No home has to go to a homeowners' association to be built. If he builds or removes a home, he hopes it will not come to the point of being prejudicial. As far as being set up as an Oxford House, the answer is "no."

Councilor Stone said Katie gave an estimate of approximately 5 weeks to move the house if everything is okay. Is that on the mark?

Emmert said it is just as accurate as the amount of time the City told him when he took the project on that the City could approve his permit. It did not happen; it was not approved. In this particular instance, he thinks that Katie's idea of a 5 – 6 week window is probably realistic. The utilities will all have to be scheduled on the same day. No more money will be thrown in until a building permit is issued. Every time he has done it before, he has eaten the whole cost. He thinks the Council is looking at a real short window. Emmert will go as fast as it can, but remember, these are public utilities and do work on their own agenda. One of them was owned by Enron, so sometimes they are not the easiest to work with. We do get good cooperation, and Emmert has never had any problem with the City's road department. Emmert is at the City's mercy to issue the building permit. He does not pour the foundation until the building is moved to the site. As far as Katie's timing, he believes 5 – 6 weeks is realistic.

Councilor Stone asked about the contract for demolition. The city manager has not yet authorized demolition, but the City does have a viable contract. She understood Emmert to say he has spoken with this contractor, and he is willing withdraw the contract without any financial obligation to the City.

Emmert talked to him, and he is willing to void the contract. There is a cost because he has spent money at the instruction of the City to do certain things even though he was not given an order to proceed. He expressed surprise no

one has told Council this. The contractor gave those costs directly to the City today. He thought maybe staff would have informed Council. He asked Mr. Swanson if he had that information.

Swanson believes the cost incurred by the contractor was about \$135. He will provide other costs later.

Emmert said the expenses are insignificant and are about one one-hundredth of what Emmert International has wasted so far.

OTHER BUSINESS

Municipal Building Code Changes – Ordinance

Tom Larsen, Building Official, provided the staff report in which the City Council was requested to approve minor amendments to Municipal Code Titles 2, 15, and 16 relating to the building code. Amendments outlined the process for appealing the building official's decision and deleted reference to the Construction Board of Appeals, replaced references to the county plumbing code with Oregon Plumbing Specialty Code, and amended language relating to seismic conditions. The proposed amendments would bring the municipal code in line with the State Building Codes.

Councilor Lancaster asked if everything is fixed or will other inconsistencies emerge.

Larsen believes it is updated as far as the building division goes.

It was moved by Mayor Bernard and seconded by Councilor Stone for the first and second reading by title only and the adoption of an ordinance amending Municipal Code Title 2, Administration and Personnel, Title 15, Buildings and Construction, and Title 16, Environment.

The motion passed unanimously.

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

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

ORDINANCE 1923:

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON,
AMENDING THE MUNICIPAL CODE TITLE 2, ADMINISTRATINO
AND PERSONNEL, TITLE 15, BUILDING CODES AND**

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CONSTRUCTION, AND TITLE 16, ENVIRONMENT TO AMEND THE PROCEDURE FOR APPEAL OF DECISIONS OF THE BUILDING OFFICIAL.

House Stored on 21st Avenue

Mayor Bernard commented the City Council has already made the decision this structure is a nuisance, and the city manager is authorized to deal with it. He asked Swanson to provide a status report.

Swanson believes he has three options. One is to issue a notice to proceed with the demolition. Second would be to wait for 5 days to see what happens and postpone the notice to proceed for that period of time. His third option would be more in line with Council deliberations on January 21, 2003. A number of times at tonight's meetings, there were comments about giving Emmert the time to make the move; that we are ready to make the touchdown; and the entire package is tied up with a bow. He would have to say this is not just about time, which is only one element. It is about a number of issues. His third option is where he deals with those issues. If he were using a sports analogy, we are not on the one yard line ready to make a touchdown. We are playing a game of golf, and we are still trying to get a tee time. The entire package is not yet tied up with a bow; we are still trying to find the present. We can get there. We can get the tee time and complete 18 holes of golf. We can find the appropriate present, get the wrapping, and tie it up with a bow.

Time is merely one of the elements. This is not about Festival Daze. This is not about the timing to coincide with what is happening later this month. The timing of Festival Daze was the farthest thing from anyone's mind on January 21 when April 27 was selected as a trigger date. If he were trying to do something to coincide with Festival Daze, he would have moved a lot faster after April 27; he would not have dragged his feet. He would have preferred to get something done earlier in the month of May than playing chicken with the date of Festival Daze.

This is not about Festival Daze. This is about the nuisance provisions, about the municipal code and how we chose to effect those provisions, and whether or not we wish those provisions to mean something. As we sit here, the City has other nuisance situations that are as serious or even more serious. It is a provision of the code upon which we rely.

Swanson clarified comments made at the previous night's work session. One person said this house is not a nuisance. That is true. The situation constitutes a nuisance, and it is not the house that is a nuisance. It is the situation in which the house and the property find themselves together that constitutes the nuisance. The fact that a nuisance complaint was filed is not a statement about the house or about the value or lack of value of the house. The fact that a

nuisance complaint was filed is indicative of the fact that we have a code, and that it is part of our obligation to enforce that. Secondly, one person on staff took some pretty hard hits at the work session. That person is John Gessner. He and Mr. Gessner have worked together for a number of years, and he knows him to be one of the most conscientious, hard working, worrisome people in terms of doing the right thing. He personally felt bad that he did not say something about that at the work session. He has a great deal of faith in Gessner, what he does, his word, and his professionalism. He needs to make that up.

Having said that, the third option is to in fact open up the possibility, once more, for saving the structure, as we talked about last January, in terms of deadlines and measurements by which accountability can be determined. It is not about time; it is about accountability. He outlined his proposal to Emmert International as an option for saving the structure, some of which were suggested earlier by Councilor Lancaster. Swanson noted he had left some of the dates and costs blank at this time.

Basically, the process would be that Swanson would exercise his discretion to hold off on issuing a notice to proceed, but under certain conditions. The first: immediate action, within days, to clean up the property where the house is currently stored and to make the house presentable. Mr. Emmert had mentioned skirting at the work session. Others commented on adjacent properties which are not accessible, and those have to be cleaned up. We can talk about nuisance/not nuisance, saving the house/not saving the house. It is not presentable, and that has to change. That is a condition. The legal status remains where it is as a second condition. Number 3 is that we finalize all necessary filings and payment of City fees and charges to secure building and moving permits. Gessner believes everything is mostly in place. He will underline this includes payment of systems development charges. Number 4, once Emmert International has secured those permits, the City of Milwaukie will be provided with dates certain for utility moves and given permission to inquire with those utilities to ensure things are moving forward. He understands Emmert International would be, to some extent, at the mercy of PGE and other utilities. He does believe, however, an outside date needs to be set beyond which it is simply inappropriate. He will work on those dates. The next condition is to secure the agreement of the City's demolition contractor to both an extension of the contract and a termination of the contract without a cost to the City if the abatement occurs pursuant to these terms. The City would have to give necessary authorization to Emmert International to contact the contractor to talk to him about adjusting the contract between the City and the demolition contractor. Another condition is payment of costs. Swanson will refine and evaluate a list of costs incurred by the City to determine what Emmert will be assessed. He is considering reducing the total costs he has at this time. Additionally, a condition of the agreement is payment of a performance bond. He has yet to determine the amount. The bond would secure the move from the present site pursuant to deadlines, secure the move itself, and be for the purpose

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of ensuring the process was completed to a certificate of occupancy. One can drive around the region and see a number of structures on blocks. If this one is going to move, it must be completed. One way to do that is through the performance bond. Finally, a failure to meet the deadline, which he will establish on the move, will result in the notice to proceed and demolition. This is a power granted under the code. If the certificate of occupancy is not secured within the deadline, then the City could elect to execute on the performance bond.

Swanson said at this point in time his intention is to reduce his notes to writing with the blanks filled in, and send a completed document to Emmert International tomorrow. It would result in things being aligned so that the house could be saved. In constructing the agreement, one must remember his first client is the City, and that bias probably shows through.

Mayor Bernard commented the codes were developed by a community process, and he constantly hears that code enforcement is a priority in this community. Swanson has the right to negotiate, and the City Council asked Swanson to abate. He personally supports any negotiation Swanson may work out at his discretion.

Councilor Lancaster commended the city manager for putting together a well thought out, balanced, fair, and appropriate final proposal to make this work. He believes Swanson is on the right track.

Councilor Loomis agreed with Lancaster's comments.

Councilor Stone had a question in terms of timelines that were discussed. Is that sort of where he is heading, and would that be 6 weeks?

Swanson responded yes. The successful removal of the house is a much more positive outcome for staff as well. He will call or e-mail the City Council when he has the agreement finalized.

The group discussed how the public would be informed, and Swanson will contact *The Oregonian* and possibly publish something on the City website.

Councilor Stone had a question in terms of legality. Is a motion necessary to accept Swanson's proposal?

Firestone said in this process there were basically 3 options. One option is that a Council member voting with the majority could have moved for reconsideration. That would have been the formal action, and the only action that could dictate the outcome. Another option is to do absolutely nothing with the assumption Swanson would proceed as suggested. The other option is to pass a non-binding motion to support the position as stated and expresses the Council's general thoughts and concerns.

It was moved by Mayor Bernard and seconded by Councilor Barnes to support the city manager's negotiating what is best for the community. Motion passed 4 – 1 with the following vote: Mayor Bernard, Councilor Barnes, Councilor Lancaster, and Councilor Loomis aye; Councilor Stone nay.

Councilor Stone clarified she voted against the motion because it seemed so general. It is not that she is not in support of what the city manager is doing. She wants to make sure that all the "i's" are dotted and "t's" are crossed in terms of we are doing everything possible to try to save this historic structure. Hopefully, when it does get moved, it will be designated officially as an historical home in our City.

Councilor Lancaster suggested a sign on the house identifying it as a Centennial preservation project, and **Councilor Stone** supported that as good public relations.

ADJOURNMENT

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

Mayor Bernard adjourned the meeting at 7:50 p.m.

Pat DuVal, Recorder

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MINUTES

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**MILWAUKIE CITY COUNCIL
JUNE 16, 2003**

OATH OF OFFICE

Municipal Court Judge Ronald L. Gray administered the Oath of Office to Councilor Joe Loomis who was elected to office at the May 20, 2003 election.

CALL TO ORDER

The 1912th 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 Barnes
Councilor Lancaster

Councilor Loomis
Councilor Stone

Staff present:

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

Grady Wheeler,
Public Information Specialist

PLEDGE OF ALLEGIANCE

PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

Mayor Bernard read a summary of the minutes of the November 12, 1903 and April 14, 1904 Council meetings. Milwaukie Museum Curator Madalaine Bohl is preparing this series of historical notes in honor of the City's Centennial Year.

CONSENT AGENDA

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

- A. Contract for Municipal Court Judge Services**
- B. Contract for Newsletter Printing**

The motion to adopt the consent agenda passed unanimously.

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AUDIENCE PARTICIPATION

No participants.

PUBLIC HEARING

2003 – 2004 Budget Hearing

Mayor Bernard called the public hearing on the 2003 – 2004 Budget and 2002 – 2003 Supplemental Budget to order at 6:05 p.m.

The purpose of the hearing was to consider resolutions required to effect the adoption of the FY 2003 – 2004 Budget and a resolution amending the FY 2002 – 2003 Budget.

Swanson provided the staff report. As a precondition to adopting the annual budget and supplemental budget, there are certain statutory notice provisions, one of which requires publication in a newspaper of general circulation. The City generally uses *The Clackamas Review* for this particular publication because the notice itself is very lengthy. Apparently that newspaper is in the process of moving. Staff sent the notice, and it was not published in last Thursday's edition. As a result, the notice did not meet the deadline for this particular hearing. The City will have to re-notice and hold the budget hearings on the evening of June 30, which is the last possible adoption date. Finance Director Smith will present the staff report. The non-represented employee cost of living adjustment will also be rescheduled. He advised the City Council to adopt a resolution resetting the budget hearing to June 30, 2003.

Swanson provided a brief background of the events leading up to the budget before Council for adoption. This budget has been part of a very lengthy process that began with the local option tax measure on the November 2002 ballot. During the campaign, citizens were respectful; however, there was a great deal of criticism of local government in general and how it has dealt with elections and money matters. In the past when a money measure was defeated, cuts promised during the campaign did not materialize. A number of positions were lost during this budget process with a significant amount of money being cut from the general fund. The City did not lose at the polls and continue to do things the same way. There are very real differences in this organization between November 2002 and June 2003. Those differences are a direct result of meaning what was said during the campaign. At the same time, the commitment is first and foremost to provide public services. That will be the last thing to go. A good group is doing everything it can to be timely in providing the services Milwaukie residents have come to expect. There will be a significant staff reduction.

Mayor Bernard added there were no threats during the November campaign to cut staff. The City hoped to win by facing the facts and being positive. The fact is, local option tax supporters knew there would be staff cuts but did not want to use that as a tool to win the election.

Councilor Stone asked Swanson to discuss positions that were affected by this budget cut.

Swanson said one police patrol position was lost, three library positions, and some police support services. The library was hit particularly hard, and a change at the Budget Committee approved a transfer from contingency into the library fund. A big difference has already been seen in terms of meetings where meals and refreshments are very modest or nonexistent. The neighborhood services manager position will not be filled, and existing staff will assume that work and continue to coordinate neighborhood activities. *The Pilot* will still be published monthly, but it will be 6 pages instead of 8. One position that will be lost is the person who does a lot of deliveries between buildings, and others will have to pick up that job. The planning department is down one position because of the hiring freeze. At one point, because of vacant positions and an illness, there was only one planner on duty for a period of time. This is difficult both for public and the planners who must provide counter assistance while getting their other work done. The organization is somewhat thin, but that is the way it is going to be in terms of staffing.

Councilor Stone asked for clarification of the positions lost at the library. Two of those were through retirement and were simply not filled. They were not actually let go, and their work is being absorbed. She asked people to think about volunteering at the library.

It was moved by Councilor Stone and seconded by Councilor Loomis to adopt the resolution providing public notice of a special City Council meeting on June 30, 2003 to consider the fiscal year 2003 – 2004 Budget and the 2002 – 2003 Supplemental Budget. Motion passed unanimously.

RESOLUTION NO. 23-2003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, PROVIDING PUBLIC NOTICE OF A SPECIAL CITY COUNCIL MEETING ON JUNE 30, 2003.

OTHER BUSINESS

Comments from Milwaukie City Council to Clackamas County Commissioners Regarding MTIP Funding

Mayor Bernard and Rouyer attended a Metro Joint Policy Advisory Committee on Transportation (JPACT) meeting, and the Lake Road Multimodal Project Milwaukie submitted for MTIP funding was not approved. He felt there was an opportunity to fund the Milwaukie project when Portland offered Clackamas County \$750,000 for its Sunnyside Road project. The County Commissioner could have suggested the Lake Road Project be funded at \$470,000, but nothing was mentioned. The money was given back. Bernard spoke to the Commissioner about this issue, and the Commissioner indicated he did not know Lake Road was not selected for funding.

CITY COUNCIL MEETING – JUNE 16, 2003

DRAFT MINUTES

Page 3 of 7

III. A. 23

Mayor Bernard believed the City Council should send a letter to the Commissioner asking Clackamas County to look to helping its partners in situations like this. The Councilors agreed sending a letter on this subject to the Clackamas County Commissioners would be appropriate.

Centennial Project

Mayor Bernard thanked an incredible citizen from the Linwood neighborhood, who wishes to remain anonymous, for her work on a Pioneer Cemetery project. The names and plot locations of those buried in the cemetery are available to interested persons at the Milwaukie Museum, Ledding Library, and City Hall.

House Stored at Lake Road and 21st Avenue

Mayor Bernard asked the city manager for an update on the Marinos house.

Swanson reported he prepared and forwarded an agreement to Mr. Emmert based on the principles he addressed at the June 10 City Council meeting. He and Mr. Emmert spoke on June 13, and there were a number of disagreements on some of these principles. He is currently preparing a response. One of the things he required in the agreement was the payment of all systems development charges. Mr. Emmert noted a house move in 2001 to a Jefferson Street address, and the total building permit cost was \$975. The proposed Jackson Street move totals in excess of \$14,000. The Jefferson move was to a property that did have a house on it but was demolished. The municipal code is clear that exemptions are required when one is only replacing a structure. SDCs did not apply to the Jefferson Street move. The code assumes these charges have somehow been covered because service already exists to those structures. Jackson is different in that it is a vacant lot with no previous structure; therefore, the SDCs would have to be charged on the Jackson move. Another rather large expense is the transportation system plan fees that were adopted three months after the Jefferson move. When the Jefferson move occurred, there was no provision in place.

Swanson will provide a detailed listing of fees when he presents Mr. Emmert International with the final agreement in the morning. The agreement does provide a framework for saving the house. Swanson will set a deadline and ask Mr. Emmert to sign the agreement, or he will take another action. He did make some changes per Mr. Emmert's request including a removal date extension from July 15 to July 30. In addition, Mr. Emmert claims he is not the owner of the structure until it is moved. The October 31 agreement clearly states it contemplates a transfer of Mr. Peterson's "entire interest in the building" to Mr. Emmert. He will e-mail copies of the final agreement to Council.

Councilor Barnes asked Swanson what deadline he had considered for Mr. Emmert's signing the agreement.

Swanson would need to know by Wednesday, June 18 at noon. Mr. Emmert was concerned about the difference in fees between the two properties; however, they are justifiable. Mr. Emmert had good points on some of the issues, but Swanson could not accept others.

Councilor Stone said Emmert initially proposed moving this home to another vacant lot. She understands Emmert would have been subject to these systems development charges if he had moved it to the Balfour Street property.

Swanson said Emmert International would have been subject to systems development charges if there were no house on the Balfour lot. These charges include water, sewer, and parks district.

Councilor Stone asked if \$14,000 was a typical amount.

Swanson said \$5,300 of that amount is transportation system charges. He will provide a complete list of these charges with the final agreement. In this case, the transportation system plan fees cover future transportation improvements such as streets, curb, gutter, and sidewalk. This, he added, was a fairly recent adoption.

Councilor Stone asked if part of the agreement required sidewalks.

Swanson said at this time it is a deposit for future construction when it becomes feasible.

Councilor Stone asked if this charge could be waived since there are no other sidewalks on that street. She asked if that is how it is when someone buys a house in an area with no sidewalks.

Swanson said one would be exempt if they were replacing a home. The code imposes an SDC on any development in the City, which is defined as making a physical change in the use or appearance of a structure or land or creating or terminating or creating a right of access. Merely purchasing a home would not require that, but if one developed a vacant lot, one would be subject. That is the critical difference between the Jackson lot and the Jefferson lot.

Councilor Stone thought it was odd these charges would come as a surprise to an experienced developer like Mr. Emmert.

Swanson believed most developers are aware of these charges.

Mayor Bernard noted that Mr. Van Bergen said he paid \$10,000 in fees when he built his home.

Councilor Stone asked for clarification of the clause requiring a certificate of occupancy.

III. A. 25

Swanson responded the performance bond is intended to ensure compliance with the move from the current property and securing a final inspection at the destination property. Throughout the region, one can see moved homes that are left on blocks. This clause is to make certain the process is complete and the house set on its foundation.

Councilor Stone asked the amount of the performance bond.

Swanson replied it is \$10,000 and is based on the amount of the demolition contract.

Councilor Barnes asked who is the legal owner of the property if not Emmert.

Swanson believes Emmert is the legal owner. To say one is not currently the legal owner but is after the move is to place oneself in the best of both worlds. The October 31 agreement is clear; the transfer was for the entire interest in the building.

Councilor Barnes understands the new deadline is July 30. Since Mr. Emmert would have to sign by June 18, she asked why there was a need for an additional week.

Swanson wants to make this work. His interest is in moving the house and making sure it is abated through this process, not through demolition.

Councilor Barnes commended Swanson and staff for their patience. She wanted it made clear that the staff has suffered some personal attacks that never should have happened and should never be repeated. She is glad this is coming to an end, so the City can move on to economic development projects for the future of Milwaukie. She would like to put the energy on something that is productive.

Traffic Changes

Councilor Loomis asked the process for making traffic changes and noted traffic tends to stack up at the right turn arrow at 32nd Avenue and Harrison Street.

Swanson asked Rouyer to have staff look into this. The City tries to make things not too bureaucratic and encourages contact with staff on questions such as this. Swanson does want to know if people feel they did not get a response to their questions.

Councilor Barnes reminded the community of the Centennial Celebration and parade June 20 - 22. She asked the Council to consider having photos taken at the June 30 meeting to put in the City Hall lobby.

Mayor Bernard announced the Clackamas County Tourism event at the Kellogg Treatment Plant on June 17 to discuss development opportunities.

Councilor Loomis encouraged people to look at the treatment plant property because it is really quite nice with trails and picnic tables.

ADJOURNMENT

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

Mayor Bernard adjourned the meeting at 6:45 p.m.

Pat DuVal, Recorder



To: Mayor and City Council

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

From: Paul H. Roeger, Civil Engineer *PHR*

Subject: 2003/2004 Waterline Improvements – Phase 1
Bid Award

Date: June 18, 2003

Action Requested

Authorize the City Manager to sign a contract in the amount of \$289,740.00 for the 2003/2004 Waterline Improvements – Phase 1 with Landis & Landis Construction. The contract amount includes a ten percent project contingency.

Background

The adopted Water System Master Plan and the adopted Capital Improvement Plan identify waterlines that need to be upgraded to improve fire protection and domestic water flows. The Harlow Street portion of this project replaces an old 4-inch cast iron line with a new 6-inch poly vinyl chloride (PVC) line. This completes the 6-inch loop system through the residential neighborhood in this area. In the Logus Road portion of this project an old 6-inch sand cast lead joint iron line will be replaced with a new 8-inch PVC line. This project will improve flows for fire protection at Lewelling School and the First Congregational Church on Logus Road. Throughout both projects, all water service lines and meters will be replaced and new fire hydrants will be added. A vicinity map is attached

The project was advertised for competitive bid according to State law and City administrative rules. Nine sets of plans went out to contractors for bidding, and five bids were received for the June 12, 2003 bid opening. A brief bid summary follows. The

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engineer's estimate was slightly higher than the low bidder's price. All bids were within approximately \$33,000 of the engineer's estimate.

The low bid was submitted by Landis & Landis Construction, LLC, a company with whom the City of Milwaukie has a successful work history. Staff checked references and is satisfied with this contractor's performance.

Contractor	Bid
Landis & Landis Construction	\$263,400.00
CivilWorks NW, Inc.	\$273,685.00
Moore Underground, Inc.	\$283,012.85
Wystan Brown Excavating, Inc.	\$288,200.00
Dunn Construction, Inc.	\$296,478.00
Engineer's estimate	\$269,450.00

Fiscal Impact

This project is funded at \$265,000 in the 2003/2004 budget for the water fund. The proposed bid can be covered by the approved budget.

Work Load Impact

This project is scheduled in the 2003/2004 work plan. A staff engineer will manage the project with all inspections completed by the Water Operations Supervisor.

Alternatives

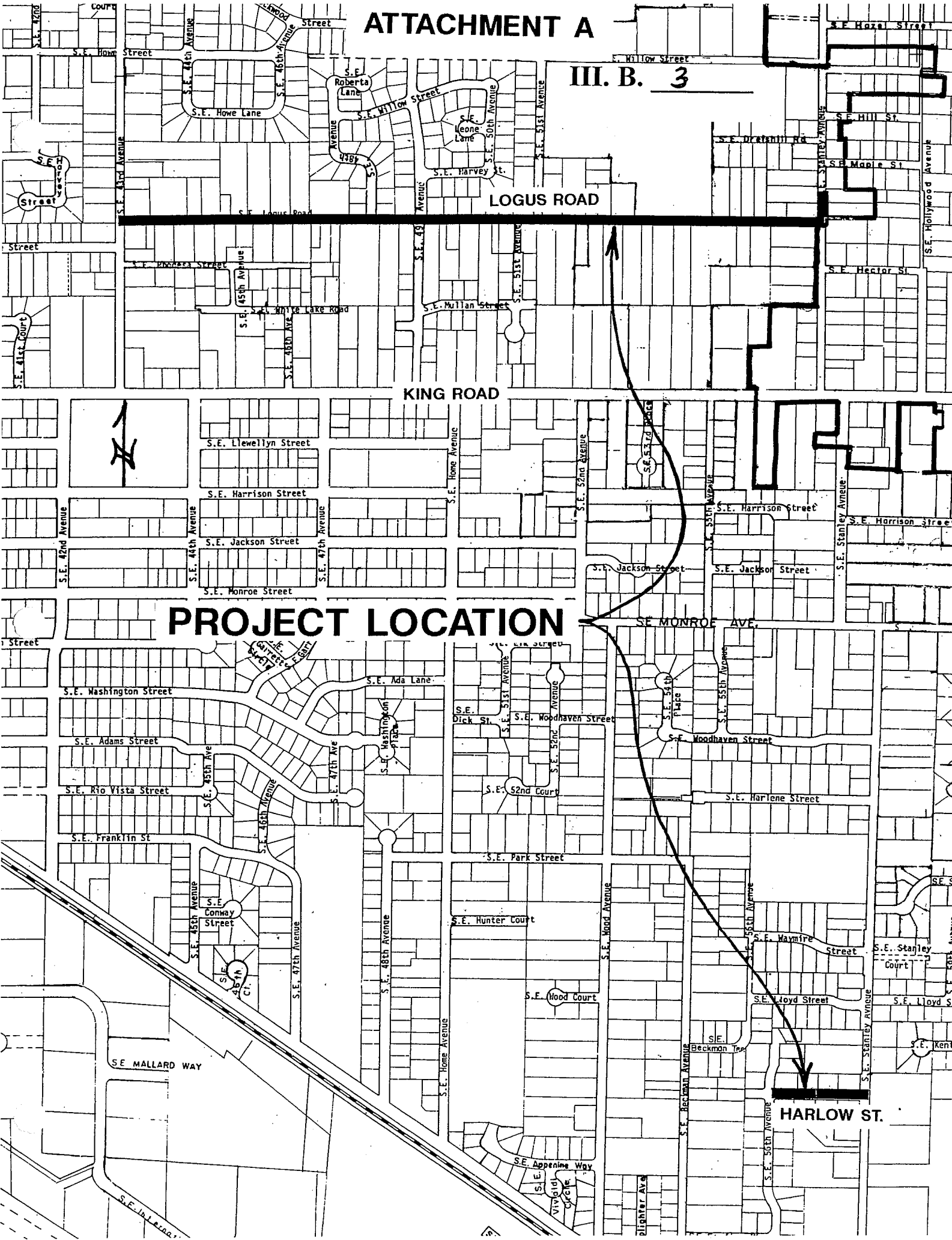
1. Accept the proposed bid.
2. Reject the bid and postpone the project.

Attachment

- A. Vicinity Map

ATTACHMENT A

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PROJECT LOCATION



III. C. 1

To: Mayor and City Council

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

From: Jack R. Ostlund Jr., Associate Engineer *JRO*
Paul Shirey, Engineering Director *PS*

Subject: Limited Sewer Rate Adjustment for Small Area of Milwaukie

Date: June 9, 2003 for July 1, 2003 Meeting

Action Requested

Adopt a resolution revising the rate structure for sewer/water customers of City of Milwaukie that have sewage treated by City of Portland.

Background

On April 15, 2003, City Council adopted a resolution amending the rate structure for City of Milwaukie customers who have their sewage treated by City of Portland. The rates adopted in the April 15th resolution were taken from the City of Portland residential rates instead of actual rates charged to Milwaukie by Portland. The City of Portland charges the City of Milwaukie a slightly lower rate than Portland customers. In addition, the City of Portland adopted a rate increase on June 4, 2003. The proposed rate structure will correct these discrepancies.

The major differences between Portland and Milwaukie rates are as follows:

City of Portland's base rate is factored on a per day basis for each billing period, as opposed to City of Milwaukie's fixed sixty-day billing cycle rates. For example, if a two-month billing period has sixty days in the period, the residential base rate would be \$5.63 and commercial would be \$17.68. Again, these figures would change according to the number of days billed on the City of Portland invoice.

In addition, City of Portland charges residential and commercial customers a sewer volume charges for every CCF (hundred cubic feet) of water used for all billing periods during the year. The City of Milwaukie bills sewer volume charges for residential

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City Council Report – Sewer Rate Adjustment

July 1, 2003

Page 2

customers based on a winter average of water usage and commercial customers based on actual water usage per billing period year round. Under the new rate structure, the proposed volume charge has been increased to \$4.43 for residential and \$4.553 for commercial per every CCF used, regardless of the month.

The following chart illustrates the difference between the Portland and Milwaukie rates:

CURRENT RATE STRUCTURE	MILWAUKIE RATES		RATES FOR MILWAUKIE CUSTOMERS WITH TREATMENT IN PORTLAND PROPOSED RATES	
	Fixed (Bi-monthly)	Volume (per ccf)	Fixed (per day)	Volume (per ccf) includes \$.05
Residential (Incl. MFR)	\$22.00	\$1.40	\$0.09375	\$4.43
Commercial	\$22.00	\$2.75	\$0.29474	\$4.553

These rate include passing through the cost of City of Portland's treatment services. The proposed rates also reflect an additional \$0.05 per CCF in the revised rate structure to capture the cost of installing the collection piping and pump station serving these customers, the cost of maintenance, capital project costs in the area and billing. The proposed \$0.05 per CCF is projected to yield an additional \$8,000 per year to cover City of Milwaukie costs in this area.

Concurrence

Engineering, Community Development, and Finance staff all concur with this recommendation.

Fiscal Impact

Adoption of this resolution will allow the City of Milwaukie to recover its costs for operating and maintaining service to these customers and to fully recover the cost of City of Portland treatment expenses for the properties involved.

Work Load Impacts

No additional staff time would be needed upon adoption.

Alternatives

1. Adopt revised City of Portland sewer rates plus a charge to cover City of Milwaukie maintenance and administration expenses for customers that are served by City of Portland.
2. Adopt only City of Portland sewer rates without a charge for Milwaukie expenses.
3. Take no action.

Attachments

- A. Resolution adopting new rates

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING RESOLUTION 292001 AND AMENDING SEWER SERVICE CHARGES FOR PROPERTIES RECEIVING SERVICE FROM THE CITY OF PORTLAND; CLASSIFYING THE FEES IMPOSED BY THIS RESOLUTION AS NOT SUBJECT TO ARTICLE XI, SECTION 11B OF THE OREGON CONSTITUTION.

WHEREAS, Milwaukie Municipal Code Section 13.12.070A authorizes the City Council to establish sewer service charges by resolution; and

WHEREAS, the City Council by Resolution No. 29-2001 established sewer service charges for sewer customers billed by the City; and

WHEREAS, the City Council has from time to time adopted resolutions amending the service charges for sewer customers billed by the City; and

WHEREAS, the City's goal in rate-setting is to recover the costs of service; and

WHEREAS, the City Council has, by Resolution No. 14-2003, further amended the sewer charges for sewer customers billed by the City to provide that sewer service charges for those City customers who, for technical reasons, are connected to the City of Portland sewage system and have their sewage processed by the City of Portland will be equal to the fees charged for such service by the City of Portland; and

WHEREAS, the City of Portland has amended its sewer service charges;

NOW, THEREFORE, BE IT RESOLVED that the Milwaukie City Council further amends Resolutions No. 29-2001 and 14-2003 by deleting the rates therein established to be charged to persons billed by the City but who are connected to the City of Portland sewage system and have their sewage processed by the City of Portland, and inserting in their place and stead the following rates currently charged by the City of Portland:

Section 1: From and after the effective date of this Resolution, and until further amendment, the Milwaukie City Council establishes that the sewer charges for persons billed by the City who sewage is processed by the City of Portland system shall be as set forth in the following chart:

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CURRENT RATE STRUCTURE	MILWAUKIE RATES		RATES FOR MILWAUKIE CUSTOMERS WITH TREATMENT IN PORTLAND PROPOSED RATES	
	Fixed (Bi-monthly)	Volume (per ccf)	Fixed (per day)	Volume (per ccf) includes \$.05
Residential (Incl. MFR)	\$22.00	\$1.40	\$0.09375	\$4.43
Commercial	\$22.00	\$2.75	\$0.29474	\$4.553

Section 2: The fees imposed by this Resolution are not taxes subject to the property limitations of Article XI, Section 11B of the Oregon Constitution.

Section 3: This Resolution amends Resolution No. 29-2001.

Section 4: This Resolution is effective upon adoption.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon on _____, 2003.

James Bernard, Mayor

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

ATTEST:

By: _____
City Attorney

Pat DuVal, City Recorder

Resolution No. _____
Page 2 of 2

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, AUTHORIZING THE CITY MANAGER TO EXECUTE CERTAIN CONTRACTS FOR FISCAL YEAR 2003 - 2004.

WHEREAS, the City of Milwaukie, by adopting Ordinance No. 1865 and Resolutions 8-2002 and 21-2002, has put into place purchasing procedures; and

WHEREAS, contracts for certain services which have projected annual expenditures in excess of \$25,000 require City Council review pursuant to purchasing procedures; and

WHEREAS, the City Council has reviewed the listed services and the projected annual expenditures for such services; and

WHEREAS, the City Council finds such services needed and vital to the operations of the City of Milwaukie;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board:

SECTION 1. The City Council authorizes the City Manager to execute purchase orders for the following services.

Vendor	Service Provided	Projected Amount
American LaFrance	Parts and Services-Fire Trucks	\$ 30,000.00
ASAP Software	Computer Software	\$ 35,980.50
City of Portland	Sewage Treatment Charges	\$ 300,000.00
City of Portland	Yearly Access Fees	\$ 15,523.00
City of Portland	800 KHz Repair & Maintenance	\$ 30,000.00
City of Portland	PPDS Access Fees	\$ 38,000.00
Clackamas Cable Access Board	Operation of Public Access Studio	\$ 30,000.00
Clackamas County Fire Dist. #1	Fire Protection Services	\$2,820,869.00
Clackamas County Service District #1/WES	Sewer Treatment Charges	\$1,300,000.00
Clackamas River Water	Annual Water Use per intergovernmental agreement	\$ 76,000.00
D & A Janitorial	Janitorial Services	\$ 85,000.00
Don Thomas Petroleum	Unleaded & Diesel Fuel & Oil Products	\$ 80,000.00
Goodyear Commercial Tire	Tires & Tire Repair	\$ 25,000.00
Grove, Mueller & Swank, P.C.	Annual Audit Services	\$ 30,000.00

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Interactive Computer Designs	Incode Annual Software Maintenance	\$ 35,000.00
Les Schwab Tire Center	Tire Purchases for Fire Trucks & City Vehicles	\$ 25,000.00
Marsh USA Inc	Insurance Premiums	\$ 230,000.00
Metropolitan Area Communication Commission	Comcast Franchise Administration	\$ 45,000.00
NW Natural	Gas for City Facilities	\$ 37,180.00
Office Depot	Office Supplies	\$ 7,000.00
Office Depot	Office Supplies	\$ 8,000.00
Office Depot	Copier Paper JCB, PSB, & City Hall	\$ 4,500.00
Office Depot	Office Supplies for RIM & NST	\$ 5,000.00
Office Depot	Office Supplies	\$ 10,000.00
Portland General Electric	Electricity for City Facilities	\$ 594,550.00
Printing Today	PILOT Printer	\$ 26,800.00
Qwest	Telephone Service	\$ 92,400.00
Ramis, Crew, Corrigan & Bachrach, LLP	City Attorney Services	\$ 140,000.00
State of Oregon	Small Energy Loan Program #L-499	\$ 35,292.00
State of Oregon	Small Energy Loan Program #L-499B	\$ 7,176.00
State of Oregon	Small Energy Loan Program	\$ 15,000.00
US Postal Service	Postage for Utility Billing	\$ 16,200.00
US Postal Service	Postage for PILOT, Other Permit #30 Mailings	\$ 25,000.00
Xerox Corporation	Rents & Leases for all Copiers	\$ 32,882.00
Xerox Corporation	Per Copy & Supplies Cost	\$ 9,025.00

SECTION 2. The effective date of this resolution is July 1, 2003.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon, on July 1, 2003.

Mayor James Bernard

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:

Ramis, Crew, Corrigan & Bachrach, LLP

Resolution No. _____
Page 2 of 2



To: Mayor and City Council

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

From: Jack R. Ostlund Jr., Associate Engineer *JRO*
Paul Shirey, Engineering Director *PS*

Subject: Sanitary Sewer Volume Based Billing

Date: June 16, 2003 for July 1, 2003 Meeting

Action Requested

Adopt a resolution revising the Sanitary Sewer Rate schedule.

Background

In September 2001, City Council passed a resolution that changed residential sewer billing from a fixed to a variable charge system. The third phase of this program along with a rate increase is scheduled for July 2003 to meet the adopted rate schedule. The variable rate structure was intended to be revenue neutral; however, in the last year, revenues exceeded projections. The City retained Financial Consulting Solutions Group (FCSG) to analyze the issue and, if necessary, make recommendations to correct the problem.

The structure has two components. The first is a fixed charge, which covers the costs that are distributed equally among all users. Some of these costs include such things as reading meters, postage, and processing bills. The second component is a volume charge based on the average water use during the months of December through March, typically low demand periods.

When the volume-based system was originally adopted, it was decided that the structure should be "phased-in" over three years. At the beginning of each fiscal year

VI. A. 2

City Council Report – Sanitary Sewer Volume Based Billing
 July 1, 2003
 Page 2

the fixed rate would go down, and the volume charge would go up. This was done to avoid higher consumption customers getting “sticker shock” when their first bill arrived. The volume-based rate program is designed to gradually move to a lower fixed charge and a higher volume charge along with a slight rate increase.

During the last fiscal year the sewer billing system generated approximately an additional \$200,000 over original projected system revenue. This resulted from customers consuming more water than originally estimated, based on past system records. This revenue was needed to cover outstanding payments to Clackamas County Service District #1 for sewage treatment at Kellogg Treatment Plan and to build a healthy capital reserve fund.

The third prescribed rate adjustment is scheduled for July 1, 2003 and includes a rate increase of 4.5%. Due to the additional revenue generated over the past year, it is recommended that the rate increase be postponed to an unspecified future date.

FCSG also recommended that City of Milwaukie continue implementing the rate structure as originally adopted in order to achieve greater emphasis on the volume portion of the rates. This can be achieved by implementing the recommended \$15.00 fixed charge and reducing the volume charge (see table below)- provided consumption remains the same, revenue will be about the same next year.

The following rate table was created after reviewing current and future sewer operating and capital needs. As noted above, the fixed rate has not changed, and the volume charge has been decreased \$0.14 from the projected \$2.10 for residential to \$1.96. The commercial rate was reduced \$0.02 to \$2.93 from the scheduled \$2.95.

RATE STRUCTURE	2002/2003 SCHEDULED RATES		2003/2004 SCHEDULED RATES		2003/2004 REVISED RATES	
	Fixed *	Volume (per ccf)	Fixed *	Volume (per ccf)	Fixed *	Volume (per ccf)
Residential (Incl. MFR)	\$ 22.00	\$ 1.40	\$15.00	\$ 2.10	\$ 15.00	\$ 1.96
Low-Income Residential	\$ 11.00	\$ 0.70	\$7.50	\$ 1.05	\$ 7.50	\$ 0.98
Commercial	\$ 22.00	\$ 2.80	\$15.00	\$ 2.95	\$ 15.00	\$ 2.93

*Fixed Charge is imposed per unit for residential, per account for Commercial

The proposed revised rate should aid in our goal of maintaining a revenue neutral system. By shifting to a lower fixed rate and a higher revised volume charge, customers with lower than average consumption will see a decrease in their bills, and higher consumption customers will experience an increase.

Under the current system, customers with no consumption history are billed a new customer rate. This amount is considered the minimum amount of sewage a household would generate in a given billing period until a consumption history can be established. Currently this amount is four CCF. Staff has observed over the past year, that consumption for these customers averages much more than four CCF. Therefore, the Citizens Utility Advisory Board recommends increasing the minimum lifeline rate to twelve CCF for these new customers.

Concurrence

The Engineering Department has coordinated with Finance staff on this recommendation. During the next fiscal year a Sanitary Sewer Master Plan will be completed that will revisit rate revenue and recommend action if needed. In addition, a study assessing options for consolidating North Clackamas sewage treatment facilities is currently underway and should be completed by November 2003. The resulting financial requirements necessary to divert Kellogg flows and possibly decommission the Kellogg facility will be incorporated in the Master Plan and rate analysis.

Fiscal Impact

In accordance with original Council direction on the volume based rate structure, this recommendation was designed to ensure that the new rates are revenue neutral and fully recover the cost of providing service. If trends indicate that this rate structure is not revenue neutral, staff will revisit this issue with Council.

Work Load Impacts

The new volume based rate structure requires additional staff time to recalculate the winter averages every July. Additional staff time will be required to complete the Sanitary Sewer Master Plan and the Kellogg consolidation study.

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City Council Report – Sanitary Sewer Volume Based Billing
July 1, 2003
Page 4

Alternatives

1. Adopt modified rate structure to adjust volume based sewer rates and increase the minimum rate for new customers.
2. Maintain original rate table as called for in Resolution 29-2001.
3. Take no action.
- 4.

Attachments

- A. Resolution adopting new rates
- B. Report from Financial Consulting Solutions Group

ATTACHMENT A

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING RESOLUTION 29-2001; CLASSIFYING THE FEES IMPOSED BY THIS RESOLUTION AS NOT SUBJECT TO ARTICLE XI, SECTION 11B OF THE OREGON CONSTITUTION.

WHEREAS, Milwaukie Municipal Code Section 13.12.070A authorizes the City Council to establish sewer service charges by resolution; and

WHEREAS, the City Council by Resolution No. 29-2001 established sewer service charges for sewer customers billed by the City; and

WHEREAS, the City Council has from time to time adopted resolutions amending the service charges for sewer customers billed by the City; and

WHEREAS, the City's goal in rate-setting is to recover the costs of service; and

WHEREAS, City staff has compiled data establishing that it is appropriate to amend the sewer service charges for those persons served by the Milwaukie sewer system and for those persons connected to the sewer system of the City of Portland;

NOW, THEREFORE, BE IT RESOLVED that the Milwaukie City Council further amends Resolution No. 29-2001 by deleting the volume based rates therein established, and inserting in their place and stead the following:

Section 1: From and after the effective date of this Resolution, and until further amendment, the Milwaukie City Council establishes the following volume based sewer charges for persons billed by the City whose sewage is processed by the City of Milwaukie system:

RATE STRUCTURE	2002/2003 SCHEDULED RATES		2003/2004 SCHEDULED RATES		2003/2004 REVISED RATES	
	Fixed *	Volume (per ccf)	Fixed *	Volume (per ccf)	Fixed *	Volume (per ccf)
Residential (Incl. MFR)	\$ 22.00	\$ 1.40	\$15.00	\$ 2.10	\$ 15.00	\$ 1.96
Low-Income Residential	\$ 11.00	\$ 0.70	\$7.50	\$ 1.05	\$ 7.50	\$ 0.98
Commercial	\$ 22.00	\$ 2.75	\$15.00	\$ 2.95	\$ 15.00	\$ 2.93

*Fixed Charge is imposed per unit for residential, per account for Commercial

Section 2: The fees imposed by this Resolution are not taxes subject to the property limitations of Article XI, Section 11B of the Oregon Constitution.

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ATTACHMENT A

Section 3: This Resolution amends Resolution No. 29-2001.

Section 4: This Resolution is effective upon adoption.

Introduced and adopted by the City Council of the City of Milwaukie, Oregon on _____, 2003.

James Bernard, Mayor

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

ATTEST:

By: _____
City Attorney

Pat DuVal, City Recorder

Resolution No. _____
Page 2 of 2



Memorandum

To: Jay Ostlund, City of Milwaukie
From: Jeanette Hahn, Bryan Kean, and Ed Cebren, FCS Group
RE Sewer Rate Update for Fiscal Year 2003/2004

Date: June 13, 2003

Background and Scope of Work

In 2001, FCS Group performed a sewer rate study for the City of Milwaukie that included recommendations for changing to a volume-based billing structure. As a result of that study's recommendations, the City adopted a 3-year graduated implementation, during which the fixed charges decreased as greater reliance on volume-based rate revenue was phased in. During each of these annual rate structure changes, a small increase was also built into the structure to ensure that the utility continued to collect revenues sufficient to cover full operating, capital, and policy-related costs and obligations.

For fiscal year 2003/2004, the City was scheduled to implement its final rate step, in which the fixed portion of the rate dropped to \$15.00 per unit (from \$22.00), and the volume charge increased to \$2.10 per hundred cubic feet (ccf) for residential and \$2.95 per ccf for commercial (from \$1.40 and \$2.75). This final step also included a roughly 4.5% increase in annual rate revenues, based on needs projected in the 2001 study.

During the past fiscal year, the City has become concerned that revenues are exceeding the rate study's original projections and that customer volumes may be higher than originally estimated, with the result being excess revenue generation. In the fall of 2002, FCS Group assisted the City with an audit of the billing system to ensure that the software was accurately calculating and imposing the sewer rates as intended. That audit found that there appeared to be no malfunction of the billing system, but that indeed, residential volumes billed exceeded those used to design the adopted rate structure, generating roughly \$200,000 in revenue in excess of original rate study projections. At this time, there is no explanation available as to why residential volumes are higher than history available at the time current rates were designed, but it can be assumed that the billing software itself is implementing the rate structuring properly.

In June 2003, the City hired FCS Group to conduct an update to the sewer rate study, as a follow-up to the volume-based sewer rate implementation conducted for the City in 2001. Our scope of work for this update included reviewing and validating current and budgeted financial and customer data provided by the City, forecasting rate revenue requirements based on updated operating and capital needs, restructuring sewer rates as needed to continue policy goals developed in 2001 and recover sufficient revenues, and recommend an updated strategy for the utility as it enters the 2003/2004 fiscal year.

Data Sources and Key Assumptions

Data for the analysis was provided by the City and included monthly revenue collections and volume reports across customer classes, sewer fund balances projected at the beginning of the upcoming fiscal year, proposed budget for the upcoming fiscal year, and the capital improvement program (CIP).

The data was used to update the 2001 rate model, including revenues by customer class, revenue requirements, CIP funding analysis, and key assumptions that drive future forecasts in the model. While the model is largely unchanged structurally, there were several assumptive changes made:

- o Interest earnings rate was reduced to 2%, reflective of current economic conditions.
- o Customer growth was reduced to 0.05% -- the level necessary to match to current SDC collections.
- o Debt interest rates were reduced to 4%, reflecting the current market.
- o Inflation was left at 3%. Given the interest earnings assumption of 2%, this is a conservative choice.
- o Customer consumption volumes, as reported during the twelve months between May 2002 and April 2003, were projected to remain the same in coming years, adjusted only for growth.
- o Assessments and loan payments tied to assessments were set to zero, reflecting the budget.

The revenue requirements forecast projects utility needs through fiscal year 2007/2008, based on the City's fiscal year 2003/2004 budget, escalated by inflationary factors. Several line items in the budget were altered for future years, based on discussion with City staff, in order to generate a realistic picture of future needs. (The detailed forecast is included as an attachment to this memo.)

Revenue Sufficiency Test Results

There are three categories of obligations we examine in our rate revenue requirement analysis:

- o Capital program funding,
- o Ongoing operating, maintenance, and administrative expenditures, and
- o Policy requirements.

Capital Program Funding: In its current CIP for 2003/2004 to 2007/2008, the City has identified \$1.7 million in needed infrastructure improvements. Our forecast indicates that all of those needs can be met by existing and future cash reserves, with the utility still maintaining a healthy reserve at the end of the forecast period (roughly \$4.2 million by 2008). At present time and throughout the forecast, the sewer utility has no debt repayment obligations. It should be noted that the utility will be undertaking a master planning effort in the near future, which will likely identify additional capital projects; the results of that new CIP will change this forecast.

Ongoing Operating Expenditures: For fiscal year 2003/2004, the City anticipates total operating expenditures of \$2.77 million. Based on projected rate revenues for the end of fiscal year 2002/2003 and assuming minor growth, we can anticipate \$2.81 million in rate revenues for the upcoming fiscal year. Thus, in the upcoming budget year, rate revenues are able to cover total operating costs. By the end of the analytical forecast period, we project that, without inflationary-level rate increases, costs will outstrip rate revenues. Throughout the forecast period, the utility is able to sustain its minimum working capital of 45 days of annual operating expenses (roughly \$350,000).

Policy Requirements: Finally, as described during the 2001 rate study, it is the City's policy to generate cash from rates on an annual basis to be used strictly for capital reinvestment in system infrastructure. That amount is linked to the utility's annual depreciation expense, which is nearly \$150,000 per year. This policy continues to be prudent fiscal management, giving the utility the capability to cash-fund capital improvements and demonstrate willingness and ability to repair, replace, and maintain capital facilities in a systematic, proactive fashion.

After assessing the sewer utility's ability to fund its currently identified CIP, existing levels of ongoing operating expenses, and policy of annually generating cash to reserve for future capital needs, our test of cash flow sufficiency indicates a need for moderate, inflationary-level rate increases over the next several years. Given the City's concerns about perceived "over collection" of rate revenue during the past year, we recommend that the utility forego the previously adopted 4.5% rate increase that was to become effective July 1, 2003. The implication of this decision is that, if operating costs are incurred as budgeted, the utility will not be able to fully fund its depreciation expense and dedicate it for future capital. (A little less than half that policy can be funded with no increase.) As mentioned, though, projected rate revenues for 2003/2004 exceed budgeted operating costs.

In subsequent years beginning with fiscal year 2004/2005, we find that annual rate increases on the order of 2% to 3% are needed to meet rising operating costs and the capital funding policy. To the extent budgeted expense inflation is lower, required rate increases will be a lower; conversely, if there is a future increase in the level of service (e.g., new personnel, higher level of maintenance, etc.) not implicit in the 2003/2004 budget, these rate increase may not be sufficient to cover those programs.

These projected increases after the upcoming fiscal year are stable and consistent with the projected 3% inflation rate. Given the funds available in the construction fund and the moderate CIP, this is a reasonable and expected result from the rate analysis. In comparison to the original projections from the 2001 study, actual revenues received are higher, but so too are expenses.

Rate Structure

While we are not recommending a rate increase for fiscal year 2003/2004, we believe the City should continue the phased-in restructuring of the actual rate structure, started in 2001. That approach ultimately targets a \$15.00 monthly fixed charge, versus the current \$22.00 charge, completing the conversion to a reasonable volume-based pricing structure.

However, because we're recommending that no additional rate increase be implemented while completing this restructuring, we needed to recompute the appropriate volume rates to accompany that \$15.00 fixed charge. Volume rates were computed to generate the same amount of revenue by class as the current rate structure. Under the rate structure displayed in the following table, the City will generate 59% of revenues from volume charges from the residential class, as opposed to 41% in the current structure. (In the commercial class, 96% of revenues are derived from the volume charges, versus 93% in the current structure.)

Recommended 2003/2004 Monthly Sewer Rates

<i>Customer Class</i>	<i>Fixed Rate per Month</i>	<i>Volume Rate per ccf</i>
Residential (Including Multi-Family)	\$15.00 per unit	\$1.96
Low-Income Residential	\$7.50 per unit	\$0.98
Commercial	\$15.00 per account	\$2.93

These rates are based on statistics taken directly from or derived from utility billing reports for the 12 months ending April 2003. Because no reports are available which show actual units billed (i.e., only the number of accounts were available), we derived the number billable residential units based on revenues received.

It is important to recognize that while these rates should result in a revenue neutral position for the utility as a whole (roughly \$2.81 million), individual customers will see changes in their bills, either an increase or a decrease from current rates, depending on their volumes. Customers with volumes lower than average will see a decrease to their bill, while customers with above average volumes will pay increased sewer bills.

Recommendations

Our recommended action plan focuses on three areas: rate revenues needed, rate structure, and future financial planning.

Rate Revenues: We recommend that the City sustain rate revenues at current levels for the 2003/2004 fiscal year. Projected rate revenues currently exceed budgeted operating expenses; though, without a rate increase in the upcoming fiscal year, the utility will not be able to fully fund depreciation as a cash contribution to its capital reserves. Nonetheless, with concerns about revenues realized at levels higher than originally projected and healthy fund balances on-hand, it is reasonable for the City to forego the previously adopted 4.5% rate increase for the coming fiscal year. In subsequent years, we project annually inflationary-level rate increases needed to fully fund operations and policy requirements. Should the City identify additional levels of service required in operations and maintenance or capital, it may need to revisit this forecast of rate increases.

Rate Structure: We recommend that the City continue to modify the sewer rate structure to lower the fixed charge to \$15.00 from the current \$22.00 rate. This step completes the transition to the volume-based rate structure approved by the City Council in 2001. We have recomputed the

appropriate volume rates to accompany that charge yet sustain rate revenues and existing, projected levels. (The recommended rates are displayed in the above table.)

Future Financial Planning: Given the utility's healthy reserves throughout the forecast period, we recommend that utility management identify needs for those reserves as it continues and plans its capital program. It is our understanding that the utility will be preparing a master plan in the coming year, which will inevitably identify needs which can be funded at least partially by cash on-hand. It should be noted that the utility's existing reserves are not excessive, in light of continued capital investments that will need to be made to the system.

It has been a pleasure assisting the City with this update. We look forward to supporting staff in presenting these findings at the City Council's July 1st meeting. Please contact us at (425) 867-1802 with any questions or comments regarding these findings.

(Analytical exhibits are attached.)



To: Mayor and City Council

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

From: Jeffrey King, Project Manager

Subject: North Main Redevelopment Project Update

Date: June 20, 2003 for July 1, 2003 Meeting

AR

Action Requested

To review and comment on North Main Redevelopment Project status report.

Background

At the July 1 Council meeting, staff will provide an update on the North Main Redevelopment project. This includes a status report on the project schedule and a proposed community outreach plan.

On April 1, 2003, the North Main Developer Selection Committee presented the City Council with a development team recommendation. At that meeting, Council:

- 1) Accepted the Committee recommendation;
- 2) Selected the Peak Development team for exclusive negotiations for the development of the North Main site; and
- 3) Authorized staff to begin negotiating with Peak.

Since that date, a negotiating team composed of Community Development & Public Works Director Alice Rouyer, Project Manager Jeff King and project management consultant Kim Knox has been meeting with the Peak Development team every other Tuesday.

VI. B. 2

Council Staff Report --North Main Mixed Use Redevelopment Update

July 1, 2003

Page -- 2

The next steps in the project include the drafting and agreeing to a Memorandum of Understanding (MOU) with Peak Development. The MOU is a non-binding agreement that gives Peak the right to negotiate exclusively with the City. It also outlines the goals and responsibilities of both parties. The MOU will be considered by Council in mid-July for approval. Following a successful execution of the MOU, staff will proceed in developing a Disposition and Development Agreement (DDA). The DDA is a legally binding agreement that defines the terms of the real estate and development agreement with the City and the formal obligations of each party. Council will need to formally approve this document as well.

This summer, staff will also begin working with the project architect in the design development phase. Over the summer, the project architect will present a more refined development plan that addresses the issues raised in the developer selection process. Because the project may receive grant funding from Metro under the Transit Oriented Development (TOD) Program, Metro staff will also participate in the design development.

Because of the different parties involved, staff is working to insure that the City's downtown design goals are strongly reflected in the process. To that end, staff plans to hire a design consultant to represent the City in the design process. Michael McCulloch, an architect with Waterleaf Design firm, has strong experience with mixed-use and urban projects. He will be used on an as-needed basis throughout the process.

Staff is also seeking Council approval for the continued involvement of the North Main Developer Selection Committee in the critical stages of the design. This Committee has a strong cross-section of expertise and community interests. And its members served the City exceptionally well during the initial developer selection process.

Lastly, staff proposes to hold an Open House and other community outreach meetings in September and October (see attached community outreach plan). Out of this process will come a final design that will be ready for submittal for site plan review in October or November and eventual permitting. A final key step will be the completion of a financing package and consideration of City financial participation. Once these steps and process are completed we are projecting construction to begin in the spring of 2004.

A projected schedule at this time is as follows:

July 2003:	Approval of the MOU
August-October 24, 2003:	Updated design, community input including Open House, finalization of design
Late Summer 2003	Completion and Council approval of DDA
Late October/Nov. 2003:	Formal City Site Plan Review begins
February 2004	Building Permit Submittal
May 2004	Building Permit -issued by City
May 2004	Construction Start

April/May 2005

Construction Complete, Occupancy

Concurrence

Community Development staff and the City Manager's office concur with the current process and schedule.

Fiscal Impact

Staff will keep Council apprised of the details of the real estate transaction and project financing.

Work Load Impacts

This project is being managed by existing staff and consultant. They are part of existing Community Development staff work plan and budget.

Attachments

- A) Project Schedule from Peak Development
- B) Community Outreach Plan

ID	Icon	Task Name	Duration	Start	Finish	April	May	June	July	August	September
						Apr	May	Jun	Jul	Aug	Sep
1	Task	Schematic Design	3 mons	Mon 5/12/03	Fri 8/1/03						
2	Task	Negotiate MOU	26 days?	Tue 5/6/03	Tue 6/10/03						
3	Task	Negotiate DDA	44 days?	Wed 6/11/03	Mon 8/11/03						
4	Task	City to Obtain Transit Dist. Designation of Tax Abatement	84 days?	Tue 5/6/03	Fri 8/29/03						
5	Task	Cost Estimating & Formulate Proforma	87 days?	Mon 6/2/03	Tue 9/30/03						
6	Task	Negotiate Assumption of CIF Loan w/ City State	39 days?	Tue 6/10/03	Fri 8/1/03						
7	Task	Obtain Commitment From State on Predevelopment Loan	44 days?	Tue 6/10/03	Fri 8/8/03						
8	Task	Obtain Letter of intent from the Bank of The West on	44 days?	Tue 7/1/03	Fri 8/29/03						
9	Task	Obtain Tax Abatement Approval	45 days?	Mon 9/1/03	Fri 10/31/03						
10	Task	Design Development	3 mons	Mon 8/4/03	Fri 10/24/03						
11	Task	Design Review Submittal	0 days	Fri 10/24/03	Fri 10/24/03						
12	Task	Design Review	3 mons	Mon 10/27/03	Fri 1/16/04						
13	Task	50% Construction Documents	2 mons	Mon 10/27/03	Fri 12/19/03						
14	Task	Order Construction Loan Appraisal	45 days?	Mon 9/1/03	Fri 10/31/03						
15	Task	75% Construction Documents	2 mons	Mon 12/22/03	Fri 2/13/04						
16	Task	Building Permit Submittal	0 days	Fri 2/13/04	Fri 2/13/04						
17	Task	Building Permit	3 mons	Mon 2/16/04	Fri 5/7/04						
18	Task	95% Construction Documents	60 days	Mon 2/16/04	Fri 5/7/04						
19	Task	Start Construction	12 mons	Mon 5/10/04	Fri 4/8/05						
20	Task	Close Construction Loan/Equity Injection Payoff Predevelopment Loan to State	71 days?	Mon 2/2/04	Mon 5/10/04						

ATTACHMENT A

VI. B. 4

Project: Milwaukie-Sched-043003
Date: Tue 5/6/03

Task		Milestone		External Tasks	
Split		Summary		External Milestone	
Progress		Project Summary		Deadline	

NORTH MAIN MXD REDEVELOPMENT
Community Outreach
 As of 6/16/03

Community Outreach Plan Peak MXD Project	
Date	Item
8/15/03	Design Study: City Developer Selection committee, Other community leaders
8/18, 9/18/03	Pilot Newsletter Article (September, October issue)
Mid Sept?	Meeting with MDDA/Downtown, Regular Meeting
September?	Meeting with NDA Chairs, Regular Meeting
Sept?	Meeting with Historic Milwaukie, Regular Meeting
Late Sept.	Open House Unveiling, comment cards
9/23/03	Joint Planning Commission/DLD meeting
10/6 or 10/20/03	City Council Update Meeting
TBD	Clackamas County Review Article
TBD	Oregonian Article
10/24/03	Design Review submittal



To: Mayor and City Council

From: Mike Swanson, City Manager

Subject: Non-represented Employees Fiscal Year 2003-2004 Salary Schedule and Negotiated Salary Schedule for Represented Employees

Date: May 20, 2003

ACTION REQUESTED

Adoption of the City of Milwaukie 2003-2004 Pay Table (attached) with salary schedule effective July 1, 2003 for non-represented employees.

BACKGROUND

The City annually adopts an updated salary schedule that reflects adjustments that result both from contracts with its bargaining units and between the City and its non-represented employees. The latter include management, confidential, and seasonal employees.

The 2003-2004 Pay Table reflects a 3% cost of living (COLA) for both of the bargaining units. The agreements that provide for this were finalized during the summer of 2001 and expire on June 30, 2004.

The 2003-2004 Pay Table includes a 3% COLA for non-represented employees.¹ The City's pay plan was established with a 5% differential between ranges. If the COLA granted to the non-represented employees is less than that received by represented employees, the salary differential between supervisors and their employees begins to compress.

¹ I am recommending that the City Manager classification be similarly increased in order to maintain the salary schedule differential between job classifications but that the individual salary not be changed in order that I not benefit from this recommendation.

FISCAL IMPACT

A 3% COLA was calculated into the personnel schedule for all employees. Thus, sufficient funds have been budgeted. The cost of providing a 3% COLA for non-represented employees is \$34,186.

WORK LOAD IMPACTS

There are nominal work load impacts to input salary adjustments.

ALTERNATIVES

Council can choose to grant a COLA that is different from that recommended. The effect is to create compression issues within the salary structure between the non-represented and represented employees.



Ledding Library Board

May Minutes

6:30 PM
Ledding Library

Meeting called by: Pat Healy

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

Agenda topics

Approval of minutes

Approved as written

Librarian's report

Library Aides Gabi Cuda and Sharon Bradshaw retired April 30th. Both have been employed by the city for over 25 years. A reception was held on their last day, and a staff farewell dinner was held on Saturday, April 26.

The Milwaukie Kiwanis Club has donated \$150 to be used for parent/infant programs during May. Children's librarian Kim Carroll has planned a month long selection of programs which include lap-sit story time, infant massage, and teaching sign language to infants.

Volunteer Kim Olson organized a plant sale to raise money for the Friends of the Library. The event was held on Saturday, May 10, and over \$800 was collected.

The city budget is scheduled for final discussion and approval on Monday, June 16th. It will include an additional \$50,000 for the library.

Loan periods

Finalizing loan periods throughout the network continues to be discussed at PLC meetings. The Board has expressed the importance of changing the loan period for videos/dvds to 7 days as practiced by neighboring libraries. Tom moved that Ledding Library change to the 7 day loan and to retain a limit of 2 renewals on all items. Ed seconded. Motion passed unanimously. Cynthia will notify the network office of this decision. Changes to fines and loan periods will be effective July 1, 2003.

HB 3101

HB 3101 currently being reviewed by the State Legislature requires filtering software on all publically used internet stations in libraries. Ledding Library has filtering software on the station for children, but not on the pcs in the adult library. The library has a policy recommended by the Library Board and approved by the City Council dealing with unauthorized and illegal use of internet stations. Board members are concerned that mandantory filtering would hinder freedom of speech and expession and has been ruled unconstitutional in some court cases nationwide. Chair. Pat Healy agreed to write a letter to Milwaukie legislators expressing the Board's concerns about this bill.

